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A view of the Madras State Legislature Building

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The photograph on the reverse shows the portrait of Sardar Vallabhbhai Patel being unveiled by the President, Dr. Rajendra Prasad, in the Central Hall of Parliament House. The ceremony was held on the 23rd April, 1958, with a large and distinguished gathering including the Vice-President, the Prime Minister, the Speaker, the Maharajah of Gwalior and several Members of Parliament participating.

The portrait, which had been drawn by Mr. Subbukrishna of Mysore, was presented to Parliament by the Maharajah of Gwalior and was accepted by the Speaker on behalf of both the Houses. The speakers on the occasion, who included the President, the Vice-President and the Prime Minister, besides the Speaker and the Maharajah of Gwalior, paid high tributes to the great qualities of Sardar Patel not only as a national leader who fought for the country's freedom but also as the chief architect of national consolidation.

President Dr. Rajendra Prasad unveiling the portrait of Sardar Vallabhbhai Patel in the Central Hall of Parliament House on 23rd April 1958.

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Development of Parliamentary Democracy

(The Conference of the Presiding Officers of the Legislatures in India was held at Darjeeling from 8th to the 10th October, 1958 and was presided over by Shri M. Ananthasayanam Ayyangar, Speaker of the Lok Sabha. Important excerpts from his inaugural address to the Conference are given below.)

Friends,

It gives me great pleasure in welcoming you to this lovely place, where we have assembled to deliberate on the various questions affecting the proper development of parliamentary democracy in the country.

Democratic way of Life

A democratic way of life is not only necessary for India, but it must spread throughout the world, as that is the only solution for avoiding conflicts as far as possible in the world. I have always felt that at our annual conferences and at other conferences, we should address ourselves to devising ways and means of spreading the democratic spirit in the country, besides addressing ourselves to matters of parliamentary practice and procedure.

Role of the Majority

The essence of parliamentary democracy is that all issues should be decided by discussion, deliberation and persuasion and all shades of opinions should have ample opportunities to place their views in the Assembly and before the public. If ever this is interfered with or free scope is not given for discussion or the matter is not properly considered before the decision is taken, trouble arises. The mere existence of the majority, however big it may be, is not enough to remove these difficulties. The majority party must begin to consult more and more the Opposition in all matters of importance, before legislation is undertaken or before any policy is enunciated, unless it is a matter of fundamental policy, where there is a marked difference of opinion between the parties.

Special Majorities for decisions:

It is also for consideration as to whether more than a simple majority might not be required to decide issues of vital importance to the country, *i.e.* whether the subjects which are dealt with by the

Legislatures may not be divided into groups according to their importance, and different majorities required for deciding them, by convention though not by an amendment of the Constitution. This may oblige the Government to carry a portion at least of the Opposition with them on important matters. It may also be considered whether Consultative Committees may not be appointed for various Ministries consisting of representatives from all groups, so that before any subject is actually brought up before the House, the Opposition may be consulted and their advice taken.

Role of the Opposition

While the Government drawn from the majority party should consult the Opposition in all important matters and carry them with them, it is also necessary to consider what exactly is the role of the Opposition in a democratic country. For the sake of mere opposition, no Opposition ought to be obstructive. They must offer co-operation, wherever it is possible for them to give, by giving constructive suggestions. They have only a right to persuade. If a decision is ultimately taken which is not in keeping with their advice, the question is whether they can take the law into their own hands and obstruct the implementation or execution of the decision. That attitude seems to be opposed to all principles of parliamentary democracy. They have got a right to demonstrate or carry on propaganda in favour of their views, but it does not appear that they have a right to resort to 'direct action' except in cases where it is a matter of conscience with them.

Union and State Subjects

A matter which is constantly giving cause for irritation is the want of realisation that we are working under a Federal Constitution. Steps will have to be taken to settle the lines of demarcation of the powers, obligations and responsibilities between the States and the Centre in regard to various subjects. In the absence of any such demarcation, confusion occurs regarding the spheres of responsibility between the Centre and the States. Members make motions with very high hopes of getting redress in the legislature which is not the proper forum. When that matter is not admitted, they develop a sense of frustration. I have therefore requested the Union Ministers in charge of certain portfolios to submit memoranda defining their powers and obligations in regard to certain State subjects like food, agriculture, health, education etc. and after those memoranda are received, I propose to discuss the same with the heads of the groups and the representatives of the Government and fix up the limits and the extent to which the Central Government is responsible for the matter. With regard to concurrent subjects also, I have undertaken the task of collecting under each item on the concurrent list the Acts passed both by the Centre and by the States, the duties undertaken under those Acts so far, so that from time to time if any question arises the difficulty can be resolved by a reference to that collection.

Role of Presiding Officers

The Presiding Officers of the legislatures can play a great part in bringing about reconciliation between all the elements and happier relations between

various political groups in the community. By holding the scales even and by allowing proper representation to all shades of opinion and by handling the situation with sympathy, they could to a large extent relieve the tension which may otherwise arise between the ruling party and the rest. The Presiding Officers should so conduct themselves that the groups have implicit faith and confidence in them. They should act without fear or favour and see that justice is done.

Members and Citizens

In a democratic State, every citizen must be made to feel that he is both the ruler and the ruled. He must be made to realise that he is superior to the citizens under any other forms of government. This attitude will develop only when their representatives act as representatives and the servants of the public and constantly react to public opinion on all important matters and keep themselves in close touch with their electorates. There ought to be greater contacts between the representatives and the Ministers. Citizens in a democracy must have an assurance that no wrong will go without a remedy and that in the ultimate analysis the legislatures will set things right. There must be a greater and greater halo created around the legislatures and a feeling in the minds of the public must grow that the legislatures are temples of democracy, justice and fairplay.

Consultative Committees

It is necessary that Members should try to enrich their knowledge so as to represent their constituents better and to bring to bear on topics that come up before Parliament sufficient knowledge and experience. I consider that with a view to create interest in the Members more and more, they must be associated in a larger measure with the working of the various Ministries. Of course, this association cannot be in the executive field, but their advice on all important matters that come up before Parliament may be sought. It is worth considering if a number of standing committees consisting of representatives from various groups in the legislatures may not be formed for studying the various problems arising in each Ministry for consideration and to give their advice from time to time on those topics. These standing committees will also give opportunities to the legislators to specialise in the subjects relating to them.

Governor's Address

In the Lok Sabha and in some of the Legislatures, there are no rules to regulate the proceedings when the President or the Governor, as the case may be, addresses the joint sittings of both the Houses. In recent years incidents of walk-out and other types of disturbances have begun to take place, when a Governor addresses the Legislature. Such incidents must be avoided. In parliamentary democracy, specially in a country with the glorious traditions of tolerance and culture behind it, the members of a legislature should maintain a level of conduct which is becoming and dignified.

A Governor is the Constitutional Head of the State and is above party politics. His address is merely a statement of Government policy and he delivers it under special statutory provision embodied in

the Constitution itself. Solemnity and dignity on this occasion are of the utmost importance. Moreover, when a Member takes his oath, he affirms his allegiance to the Constitution. Any untoward action on his part is not only unbecoming of him but is also at variance with the oath taken by him. It is therefore open to the Legislature to take action regarding the conduct of a Member at the time of the Governor's Address on the ground that he has not shown proper respect to the Constitution and that his action has been below the dignity of a Member and contrary to the oath taken by him.

It is also a matter for consideration whether the Governor himself should not exercise all the powers of the Speaker at the time of his Address to the Members at their joint sittings and maintain order during that meeting, as the Legislature comprises of the Governor and the two branches of the Legislature. Then and there he may ask the disturbing Member to withdraw from the House and he should be able to get him removed from the House, in case of default on the part of the Member to leave the House. so that further proceedings may go on smoothly and his Address, which is enjoined by the Constitution. is delivered without obstruction. If any further action than mere expulsion is called for, he may ask that branch of the Legislature, to which the Member belongs, to take such further action as they may be advised.

No-Confidence Motions

Another question that merits consideration is the still very large number of no-confidence motions tabled from time to time, very often on feeble grounds. The purpose of these motions is merely to criticise the Government without having the faintest notion or chance of replacing it. In the circumstances, the term 'no-confidence motion' is a misnomer and the types of motions that we have should be called by another name. Anyway, it is highly necessary that such motions should not be allowed unless they are supported by a substantial number of legislators.

Financial Control

In a Welfare State, responsibilities of the Legislature increase enormously. Methods have, therefore, to be devised for effecting a stricter parliamentary control, in particular, over the financial affairs of the Government. With this is linked the question of budgetary reform, which was recently examined by the Estimates Committee of the Lok Sabha who have made a number of useful suggestions. I have no doubt that Governments at the Centre and in the States will give their earnest consideration to these suggestions.

An important suggestion of the Committee relates to the preparation of 'Development Budget' to ensure continuity of finance in regard to such developmental projects as take several years to complete. We may also consider whether we can suitably adopt the U.K. practice of taking a Vote on Account for a period of about four months, so as to enable Parliament to discuss the Annual Budget over a longer period and consequently more thoroughly than at present.

I have been considering whether soon after the budget is presented and after the general discussion is over, the whole budget may be referred to a Committee of the Whole House for consideration and the House may divide itself into various sub-committees according to the respective Ministries. The recommendations of the Estimates Committee will be before them. They may ask the Ministers concerned why the earlier recommendations of the Committee have not been implemented.

Public Undertakings

In my last address at Jaipur, I mentioned about the constitution of a sub-committee of the Estimates Committee of the Lok Sabha to keep a continuous watch on the working of the Public Undertakings. There has been a feeling amongst the Members of Parliament, as well as the public, that the records and papers made available to them by these Undertakings do not contain adequate information about their activities. This lacuna should be remedied and reports comprehensive in facts and figures should be made available to Parliament. In a recent report, the Estimates Committee have also suggested that the Undertakings should prepare a performance and programme statement for the financial year and that it should be made available to Parliament at the time of the Annual Budget. It would be desirable to give opportunities to Members of Parliament to discuss the various reports of the Undertakings.

The scope of admissibility of Questions in the Lok Sabha relating to statutory corporations or private limited companies in which Government hold either full or majority shares was considered by me recently. I have laid down that questions involving policy matters or actions for which Ministers can be held responsible or involving matters of public interest or a point of principle even though seemingly they relate to an issue of day-to-day administration or an individual case, should normally be admitted. Otherwise, questions which clearly relate to day-to-day administration should be normally disallowed. I have also suggested that in regard to such questions a convention might be established, as in the U.K., whereby Members of Parliament may directly address these bodies for supply of the required information, which should be furnished by them unless it was considered desirable to withhold it in the public interest or for any other sufficient reason. The Ministries of the Government of India were accordingly requested to issue necessary instructions to the management of these bodies functioning under them. Nine Ministries have so far issued the instructions and others are expected to do so shortly.

New Rules and Practices

I might mention here some new practices and rules adopted by us in tackling certain problems of procedure. One of these related to the question of presentation of credentials by members-elect in order to establish their identity before they make the prescribed oath or affirmation in the House. The matter was examined by the Rules Committee of the Lok Sabha which recommended that a copy of the return of the election, which is being supplied to the Secretary of the Lok Sabha, might also be given to the successful candidate for being presented

at the Table at the time of making the oath or affirmation. This recommendation has been accepted by the House and the Government have made necessary rules under the Representation of the People Act, 1951.

With a view to enabling Parliament to devote more of its time to general discussion and matters of policy, a healthy practice now followed by the Lok Sabha is to refer all important Bills to Select/ Joint Committees for detailed consideration. Sometimes these Committees appoint sub-committees to examine in detail some particular provisions of the Bill.

Recently, I suggested to the Government that whenever important events take place which are of sufficient public importance, the Ministers *suo motu* must make a comprehensive statement in the House after giving prior intimation to the Speaker. This is now being done.

The very essence of law is that it is a system of rules embodying the social experience of a people and based upon popular consent.

—SIR ALFRED ZIMMERN in the Symposium "Parliamentary Government in the Commonwealth", p. 12.

Short Notes

House of Commons (U.K.): Statement on the Televising of the State opening of Parliament.

Mr. Harold Macmillan, the British Prime Minister, made the following statement in the House of Commons on 31st July, 1958 regarding the proposed televising of the State opening of Parliament:*

"Her Majesty's Government have been considering requests that facilities should be granted this year for televising this ceremony (State opening of Parliament). They have decided in principle that such facilities should be granted, and the Queen has been graciously pleased to give her consent.

"To avoid undue disturbance, the facilities will be given only to one operator. The British Broadcasting Corporation will prepare the broadcast, but it will make the results available to the Independent Television Authority.

"The necessary arrangements will now be concerted with the Lord Great Chamberlain. It is intended that inside the Palace of Westminster the television should be confined to the Royal Gallery and the House of Lords Chamber.

"I should like to make it clear that the Government regard this ceremony as a State occasion, quite distinct from the day-to-day work of Parliament, and that they have no intention of proposing that facilities for the televising of those day-to-day proceedings should be allowed".

Clarifying a point raised by the Leader of the Opposition, Mr. Gaitskell, the Prime Minister added that the constitutional position of the Queen in making the Gracious Speech—*viz.* that the Crown is in no way involved in party politics—would be made clear by the B. B. C. commentator, while broadcasting the proceedings.

* * *

House of Commons (U.K.): Life Peerages Bill Passed

The Life Peerages Bill, which passed the second reading stage in the House of Commons on the 13th February. 1958,† was given a third reading on April 2, 1958.

Moving the Bill for the third reading, Mr. R. A. Butler, Secretary of State for the Home Department and Lord Privy

*Parliament will be opened by Queen Elizabeth on October 28, 1958, when she drives in State from Buckingham Palace to take her place on the throne in the House of Lords (*Hindustan Times*, 2-8-58).

†A summary of the debate on the 12th & 13th February, 1958 is given in Vol. IV. No. 1 (April 1958 Issue) of this Journal, p. 45.

Seal said that the majority of members in the House believed that "a second chamber had a vital part to play in its constitutional role of revising legislation". He added that the Government rejected the view that the House of Lords should be abolished, since such a step would not be in the interests of the Constitution, the preservation of British liberties or the efficiency of the laws produced by the Commons. He did not claim that the present House of Lords was an ideal second chamber, but pointed out that in its influence, its work, and the manner it exercised its power, it added to the dignity and efficiency of public life. There would be no limitation, he said, on the number of life peers to be created, nor would their selection be confined to only one party. The Bill would enable life peerages to be offered to people of distinction widely representative of the national life, and thus enrich the quality of debates in the House of Lords. The intention of the Bill was not to enlarge the powers of that House, but only to make its revising powers more efficient and effective, he added.

After several members belonging to both the Government and the Opposition had taken part in the debate, the Bill was finally passed by 292 votes to 241. It received Royal Assent on April 30, 1958.*

* * *

House of Lords (U.K.): Grant of Leave of Absence to Peers

In accordance with a resolution passed by the House of Lords on 10th December, 1957† a Select Committee was appointed to draw up Standing Orders for the grant of leave of absence to peers. The provisions of these draft Orders, published on April 11, 1958, were as follows:

(1) A committee should be appointed to supervise arrangements for leave of absence.

(2) Peers should either attend the sittings of the House or obtain leave of absence, but a peer who was unable to attend regularly need not apply for leave if he proposed to attend "as often as he reasonably can."

(3) Applications for leave of absence might be made at any time during a Parliament, either for the whole session, the remainder of the current session, or the remainder of the Parliament.

(4) On the issue of writs for a new Parliament, the Lord Chancellor would write to each peer to whom he issued a writ requesting him to say whether he wished to apply for leave. He would do the same at the beginning of each session in respect of every peer who had been granted leave ending with the preceding session, or who had not attended during the session.

(5) Peers should reply to this communication after 28 days' notice. Those who failed to do so within seven days from the expiry of this period would be considered to have applied for leave of absence during the remainder of the Parliament.

*Keesing's Contemporary Archives, p. 16250.

†*Vide* Journal of Parliamentary Information, Vol. IV, No. 1 (April 1958 issue), pp. 50—52.

(6) A peer granted leave of absence should not attend sittings until the period had expired, but he might give notice in writing to terminate it earlier, in which case the leave would expire three months later, or sooner if the House so directed.

The report embodying the above proposals was formally approved by the House of Lords on April 24, 1958. The new Standing Orders were adopted by the House on June 16, 1958 with the amendment that the terms of the Lord Chancellor's letter to peers, requesting them to answer whether or not they wished to apply for leave of absence, should be reported to the House.

The House of Lords also accepted a Government motion to appoint a Select Committee of the Chief Whips of the three parties for the general supervision of arrangements relating to leave of absence. This Committee would report to the House from time to tome.

* * *

Private Members' Legislation (United Kingdom)

Bills introduced or sponsored by Private Members are called Private Members' Bills. They are different from Private Bills which are solicited by the parties who are interested in promoting them and originate from petitions. A private member may not, of course, promote a Bill involving finance. During a Parliament session, ten days (Fridays) are allotted to Private Members' Bills. At the beginning of each session, a ballot is held to determine the precedence which is to be given to private members wishing to introduce Bills. A member who is successful in the ballot but who has no Bill of his own to introduce may promote a Bill on behalf of another member. Private Members' Bills are also introduced under the 'ten minutes rule' but this procedure is usually adopted when only some publicity is desired to a proposed measure. Private Members' Bills pass through the same stages as all other Public Bills but for the committee stage they are referred to a Standing Committee which gives precedence to these Bills.*

The following Private Members' Bills** were enacted between the period 1956 and 1958:

The Advertisement (Hire Purchase) Act.—The Bill laid down that advertisements of hire-purchase goods giving price figures must state certain other details (H.C. second reading February 1, 1957; enacted July 17, 1957).

The Arundel Estate Act.—As enacted this Bill enabled the Duke of Norfolk (sponsor of the Bill) to break the entail imposed on the Arundel estates by an Act of 1627 and put the owner in the same position as an ordinary landowner. (H.C. second reading July 17, 1957; enacted July 31, 1957).

The Cheques Act.—This Act, *inter alia* abolished the need to endorse cheques paid direct by the payee into

*Norman Wilding and Philip Laundy: An Encyclopaedia of Parliament (1958), pp. 446-451.

**Keesing's Contemporary Archives, p. 16190-91.

his own bank. (H.C. second reading April 12, 1957; enacted July 17, 1957).

The Road Transport Lighting (Amendment) Act.—This Act sanctioned the use of amber-coloured reflectors on the pedals of bicycles and tricycles as an additional safety precaution. (H.C. second reading Dec. 6, 1957; enacted April 30, 1958).

The Sanitary Inspectors (Change of Designation) Act.—This provided for sanitary inspectors to be known in future as "health inspectors". (H.C. second reading June 15, 1956; enacted August 2, 1956).

The Small Lotteries and Gaming Act.—This legalized small lotteries, whist and bridge drives, etc., run by registered charitable and non-profit-making societies, sports clubs, or churches. The Act also provided certain other conditions. (H.C. second reading November 25, 1955; enacted July 5, 1956).

The Thermal Insulation (Industrial Buildings) Act.—This Act provided that all industrial buildings where fuel is used for space heating must be insulated against loss of heat. It also authorised the Minister of Power to make regulations prohibiting the use of non-fireproof material for insulating purposes. (H.C. second reading March 15, 1957: enacted July 17, 1957).

Evolution of Administrative and Financial Autonomy of the Lok Sabha Secretariat

By

M. N. KAUL, Secretary, Lok Sabha

The question of the financial control over the Secretariat of Parliament has been discussed from time to time since 1947. Mr. Speaker Mavalankar was of the view that Speaker was not only Head of the Legislature but represented the sovereignty of Parliament, and on that basis the Speaker's autonomy in his Department in all matters including finance should be recognised. He was of the opinion that the approach to the question of the Speaker's autonomy should not be legalistic or financial in a narrow sense of the word. Whatever may be the implications of the provisions in the Constitution, it was always open to the Government to come to an arrangement with the Speaker and recognise by convention his autonomy in financial matters. Having stated the position of the Speaker, he made it clear at the same time that he on his part was prepared to accept the normal financial rules and regulations and provisions in regard to the orders that were applicable to the Ministries and Departments of Government. In his opinion the autonomy of the Speaker did not imply the abrogation of normal checks, which the Speaker did himself gladly accept, as such acceptance on his part would assure not only Members of Parliament but all concerned that the Speaker's Department was being administered under normal provisions and normal checks were provided for.

The Speaker further made it clear that if he thought it necessary that there should be certain changes in the normal rules and provisions, so far as the Speaker's Department was concerned, these matters could be discussed first at the Secretary level, *i.e.* between Secretary, Lok Sabha and the Finance Secretary, and if it was unresolved or there was difference of opinion, the matter could be discussed between the Speaker and the Finance Minister. He felt that if a procedure of that kind was evolved there would be no difficulty in coming to a certain arrangement both from the point of view of autonomy of the Speaker and of the necessity of having normal financial control.

This position has now been accepted, and in point of fact has worked in a satisfactoiy manner.

Clause (1) of Article 98 of the Constitution states that each House of Parliament shall have a separate Secretarial staff. This provision carries the necessary implication that as soon as such a separate Secretariat staff is creat-

created, rules and regulations governing it should be framed in respect of all matters including financial matters. This is a specific provision of the Constitution creating a separate self-contained Secretarial staff for each House of Parliament, and therefore such staff does not form part of the normal Executive machinery of Government. Otherwise there would have been no need for a provision of this kind. This provision obviously means that each House of Parliament must have its own staff and if it is to have that staff, then financial and other provisions must be made for it. The Constitution does not expressly provide for making specific rules in this behalf and therefore no such rules have been made. Since, however, the President is the custodian of public money, there has been an arrangement arrived at between the Government and the Speaker that the Secretary of the Lok Sabha Secretariat should have all the powers that a Secretary of a Ministry of the Government of India enjoys, and if the Speaker thinks that any change or variation in those powers is necessary changes to that effect can be made by agreement with the Government, and have in certain cases been actually made.

Under clause (3) of Article 98 of the Constitution, rules have been made in regard to the recruitment and conditions of service of the Secretarial staff of the Lok Sabha. These rules have been made by the President after consultation with the Speaker. In fact the rules were so framed as to give complete autonomy to the Speaker in the matter of recruitment of persons to the posts in the Lok Sabha Secretariat and to allow the same conditions of service to the staff as were in force in the case of Government servants of corresponding ranks, with such modifications as were considered necessary. For the future, power was given to the Speaker to determine such changes as he might consider necessary, with the only proviso that prior consultation with the Ministry of Finance would take place before any such change was made, thereby ensuring that, broadly speaking, the principle of equality between the Lok Sabha Officers and the corresponding Government servants would be maintained at all times. The rules also recognise the possibility that in certain circumstances the former might be treated in a preferential manner in respect of certain conditions of service in view of the peculiar position of the Secretariat and the nature of duties assigned to it.

One very important feature of the Conditions of Service Rules is that this is a self-contained code. The normal Government rules and regulations relating to services do not automatically apply to the Lok Sabha. The conditions of Service Rules themselves state clearly as to what provisions of the Fundamental and other rules shall apply to the Secretarial staff of the Lok Sabha, and then in regard to other matters, powers have been vested in the Speaker under rules 9 and 23. For instance, Government issue orders from time to time which either relate to conditions of service or are merely executive orders and are not embodied formally in rules and regulations. Now. so far as the Lok Sabha Secretariat is concerned, where a Government order is treated as condition of service. we issue our own order either adopting it *in toto* or modifying it after consultation with the Ministry

of Finance. Even in the case of executive orders, separate action is taken under rule 23 and we promulgate that executive order under our own provisions without consulting anybody. In other words, no order of the Government automatically applies nor is the Speaker bound by such orders, unless by his own decision and after consultation with the Ministry of Finance in the case of matters relating to conditions of service, he adopts the Government orders either *in toto* or with such modifications as may be considered necessary.

If our democracy is to flourish, it must have criticism. if our government is to function it must have dissent. Only totalitarian governments insist upon conformity and they do so at their peril. Without criticism abuses will go un-rebuked; without dissent our dynamic system will become static.

——H. S. COMMAGER in "Freedom, Loyalty, Dissent", p. 97.

Comptroller and Auditor-General of India and the U. K. A Comparison*

By

S. L. SHAKDHER, Joint Secretary, Lok Sabha Secretariat

The Comptroller and Auditor-General of India is appointed by the President by warrant under his hand and seal and he can only be removed from office in like manner and on like grounds as a Judge of the Supreme Court.[1] The President makes the appointment to the office of the Comptroller & Auditor General on the advice of the Prime Minister. The incumbent of the post is usually one who has held high appointments in the Central Government Secretariat, for a wide knowledge and experience of the administration of the Government Departments are considered indispensable to this office.

The Comptroller & Auditor General, before he enters upon his office, makes and subscribes before the President or some person appointed in that behalf by the President an oath or affirmation according to the form[2] set out in the Constitution.

The Comptroller & Auditor General has full administrative control over all the officers and staff serving in the Audit Department except that first appointments to the Indian Audit & Accounts Service are made by the President and powers regarding major disciplinary action in regard to the officers of that service, *viz.*, dismissal and removal from service vest in the President. The President can prescribe by rules the conditions of service of persons serving in the Audit and Accounts Department and the administrative powers of the Comptroller & Auditor General only after consultation

*This article is based on my first hand knowledge of the working of the Public Accounts Committee in India and on the discussions which I had in London some years ago with late Sir Frank Tribe, Comptroller & Auditor General of the U.K. and with the Clerk of the House and the Clerks of the Financial Committees of the House of Commons and the written material supplied.

[1]Clause (4) of the Art. 124 of the Constitution says :

"A Judge of the Supreme Court shall not be removed from his office except by an order of the Presiden passed after an address by each House of Parliament supported by a majority of the total membership or that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity."

[2] The form of oath/affirmation is as follows :

"I,....., having been appointed Comptroller & Auditor General of India do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

with the Comtroller & Auditor-General.[3]

The Comptroller & Auditor-General submits his Audit Report relating to the accounts of the Union to the President and that relating to the accounts of a State to the Governor of the State. The Constitution requires the President and the Governor to cause it to be laid[4] before each House of Parliament or before the legislature of the State as the case may be.

The salary and other conditions of service of the Comptroller & Auditor-General are required to be determined by Parliament[5] by law and neither his salary nor his rights in respect of leave of absence, pension or age of retirement can be varied to his disadvantage after his appointment. The Comptroller & Auditor-General (Conditions of Service) Act, 1953, regulates certain conditions of his service in the matter of term of his office and pension. Other conditions of service, save as otherwise expressly provided for in the Act, are as specified in the Second Schedule of the Constitution. Under the Act, his term of office is fixed at six years. He is debarred[6] from eligibility for further office either under the Government of India or under the Government of any State after he has ceased to hold his office. The administrative expenses of his office are charged[7] upon the Consolidated Fund of India.

No Minister represents the Comptroller & Auditor-General in the Houses of Parliament and no Minister can be called upon to take any responsibility for any actions done or omitted to be done by him.

All the foregoing provisions go to show that the Comptroller & Auditor-General is an independent authority, free from control by any executive department of the Government or the Government of the day.

The Comptroller & Auditor-General is required to perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law by Parliament, and until provision in that behalf is so made, to perform such duties and exercise such powers as were conferred or exercised by the Auditor-General of India immediately before the commencement of the Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.[8] Parliament has not so far prescribed by any law[9] the duties and powers of the Comptroller & Auditor-

[3] Art. 148(5) of the Constitution of India.
[4] Art. 151 *Ibid.*
[5] Art. 148 (3) *Ibid.*
[6] Art. 148 (4) *Ibid.*
[7] Art. 148 (6) *Ibid.*
[8] Art. 149 *Ibid.*
[9] It has been stated recently that a Bill on the subject is under preparation and will be brought before Parliament in due course. It is likely that the comments of the Public Accounts Committee may be invited on the Bill. In this connection, it may be noted that in the U.K. the first Exchequer and Audit Department Bill was prepared by the Treasury with the assistance of the Board of Audit and was introduced in the House by the Prime Minister. The Bill was committed by the House to the Public Accounts Committee which was then five years old. The Committee considered the clauses of the Bill, took evidence on it and made certain amendments.

See paragraph 2 of the historical memorandum prepared by the Comptroller & Auditor-General which wasattached to the Report of 1916 Public Accounts Committee

General. Some Acts[10] of Parliament constituting corporations or other bodies have in individual cases prescribed that the Comptroller & Auditor-General should conduct the audit of such corporations or bodies. In the main, therefore, his duties continue to remain the same as were being performed by the Auditor-General of the Dominion of India before the Constitution came into force in accordance with Government of India (Audit & Accounts) Order, 1936, as adapted by the India (Provisional Constitution) Order, 1947.

Before the Constitution came into force, the functions of the Auditor-General of the Dominion of India included keeping of accounts for Civil (except Railways) and Posts and Telegraphs Departments of the Government and also making of payments in certain cases on their behalf—functions which normally belong to administrative departments. The transfer of accounting functions relating to Railways from the Auditor-General to the Railway authorities was completed by stages in 1929. The Defence accounts have always been under the control of Financial Adviser—Defence Finance—a wing of the Ministry of Finance of the Central Government. The Initial & Subsidiary Accounts Rules[11] placed the responsibility for keeping the initial accounts on Treasuries and Departmental officers. The responsibility for payment by the offices under the control of the Comptroller & Auditor-General (*i.e.* Civil Accountants-General and Accountant-General, Posts and Telegraphs) related to only a few provincial Headquarters stations.

The above position still continues despite the fact that Parliament and the Public Accounts Committee have repeatedly pointed out the desirability of transferring the remaining accounting

[10] (*a*) Damodar Valley Corporation Act, 1948.
(*b*) The Employees' State Insurance Act, 1948.
(*c*) Industrial Finance Corporation Act, 1948.
(*d*) Rehabilitation Finance Administration Act, 1948.
(*e*) Air Corporations Act, 1953.
See also Section 619 of the Indian Companies Act, 1956 which provides as follows :

"619. *Application of sections* 224 *to* 233 *to Government Companies.*—(1) In the case of a Government Company, the following provisions shall apply, notwithstanding anything contained in sections 224 to 233.

(2) The auditor of a Government company shall be appointed or re-appointed by the Central Government on the advice of the Comptroller & Auditor-General of India.

(3) The Comptroller & Auditor-General of India shall have power—

(a) to direct the manner in which the company's accounts shall be audited by the auditor appointed in pursuance of sub-section (2) and to give such auditor instructions in regard to any matter relating to the performance of his functions as such ;

(b) to conduct a supplementary or test audit of the company's accounts by such person or persons as he may authorise in this behalf ; and for the purposes of such audit, to require information or additional information to be furnished to any person or persons so authorised, on such matters, by such person or persons, and in such form, as the Comptroller & Auditor-General may, by general or special order, direct.

(4) The Auditor aforesaid shall submit a copy of his audit report to the Comptroller & Auditor-General of India who shall have the right to comment upon, or supplement, the audit report in such manner as he may think fit.

(5) Any such comments upon, or supplement to, the audit report shall be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.

[11] The rules were made under sub-para (3) of para (11) of the Government of India (Audit & Accounts) Order, 1936.

and payment functions to the administrative departments. Through the concerted efforts of the Comptroller & Auditor-General and the Government to bring about this obvious reform, some headway in a small measure has been made recently. But the scheme of separation of accounts from the audit shows no marked progress or early fulfilment on the ground of deficiency of trained manpower and extra cost involved.[12] Therefore, in spite of the constitutional provisions placing the Comptroller & Auditor-General in an entirely independent position, a certain subordination on his part to the Government in so far as accounting and payment functions are concerned is implied, though under a well regulated convention which Government fully and scrupulously observe, Government seldom interfere in the discretion of the Comptroller & Auditor-General in his day-to-day administration.

The combination of audit functions with the accounts and payment functions is likely to bring—and it frequently does bring—the Comptroller & Auditor-General under an indirect control of the Minister of Finance, for the Minister is very often called upon to answer questions in Parliament on matters which are handled by the Comptroller & Auditor-General on his behalf. Speaker Mavalankar ruled that so long as the Comptroller & Auditor-General was responsible for maintaining accounts in addition to conducting audit, admissibility of questions relating to the former must be regulated as in the case of any other Ministry. In regard to audit functions of the Comptroller & Auditor-General, questions relating to day-to-day administration are not normally admitted, but questions involving supply of factual data or statistics or on matters which have a bearing on policy may be admitted. Normally such questions are

(12) Sometimes other arguments against the separation of accounts from audit are put forward. In my opinion they seem to be based on expediency and practical difficulties in the working of the scheme as opposed to the fundamental principle of having a small, compact, efficient and totally independent audit organisation in accordance with the spirit and provisions of the Constitution. Such arguments, briefly summarised, are as follows :

(*i*) Accounting and audit functions are inter-related. The pre-check of claims before admission for payment the examination of contract documents, etc. with reference to financial principles and practices undertaken in accounting are essentially audit processes. Therefore, there is nothing inherently wrong in combining the two functions.

(*ii*) An audit independent of administration is necessary to ensure that the internal accounting organisation has not slurred over its responsibility and has not been coerced by the administration in admitting questionable claims and overlooking irregular practices. Where the accounting organisation itself is outside the control of the administration, there does not appear to be any objection in the combination of the two functions.

(*iii*) Under the rules at present in force, certain responsibilities in the field of accounts have been imposed on the Comptroller & Auditor-General. Therefore, arrangements will have to be made for the consolidation of departmental accounts and the compilation of finance accounts of the Central and State Governments as a whole. This co-ordinating role will imply that uniformity in accounting principles and processes in the units dispersed in the various Ministries has to be maintained. In this connection, the recent reorganisation of the States on linguistic basis where official business is transacted in the language of the States, has raised yet another obstacle in the way of uniform accounting procedure.

(*iv*) As the Constitution provides for a single Comptroller & Auditor-General unlike other federal Constitutions the implication of the disintegration of a specialised department which has been built up over a period of a century with traditions of integrity and efficiency have to be studied carefully.

admitted for written answer only so that the need for raising supplementaries may be avoided. The Minister of Finance, who is responsible for answering such questions in the House, in practice gets the material for answer from the Comptroller & Auditor-General and places it before the House and may answer supplementaries from such additional material as the Comptroller & Auditor-General may have furnished him. In case the Minister has no information, he informs the House that he will request the Comptroller & Auditor-General to look into the matter.

In the U.K., the Comptroller & Auditor-General—his full title being "Comptroller-General of the Receipt & Issue of Her Majesty's Exchequer and Auditor General of Public Accounts"—is appointed by the Crown by Letters Patent on the advice of the Prime Minister but he is not required to make and subscribe an oath or affirmation before he enters upon his office. Like his Indian counterpart, the person appointed to the office has always held senior appointments in the Civil Service. The Comptroller & Auditor-General holds his office during good behaviour, subject however to his removal therefrom by the Crown on an address from the two Houses of Parliament. The Comptroller & Auditor-General is regarded as an officer of Parliament and his functions are set out in the Exchequer and Audit Department Acts of 1866 and 1921.

The duties and functions of the Comptroller & Auditor-General are or can be imposed upon him by (1) statutes, and (2) the Treasury. In carrying out the first of these, the Comptroller & Auditor-General is not responsible to the Executive. Questions in Parliament about his activities in this respect would be out of order as involving no Ministerial responsibility and therefore would not be received at the Table. If it were to be alleged that the Comptroller & Auditor-General is not carrying out these duties properly, it will be in order, though in fact it has never been done, for the Member making the allegations to put down a motion for an address to the Crown asking for the removal of the Comptroller and Auditor-General. In considering the Comptroller & Auditor-General's functions, it must be borne in mind that the questions arise from the desire for information of an individual Member, not of the House. Since the Comptroller & Auditor-General is regarded a servant of the House and not of an individual Member, a question is not the appropriate method for eliciting additional information from him. The proper procedure is to move for a Return ordering him to produce the required information. But, here again, this procedure has never been adopted.

As regards the second category of the Comptroller & Auditor-General's duties, however, he is differently placed since the executive lays those duties upon him and so, to the extent Ministerial responsibility exists, questions are in order. Questions asking, for example, whether accounts not previously subject to the audit should in future be made so subject, have frequently been admitted.

Questions concerning the establishment[13] of the Exchequer and the Audit Department, the staff of which are civil servants, can similarly be asked. Such questions would be addressed to the Chancellor of the Exchequer and answered by the Financial Secretary to the Treasury. He would, of course, take the responsibility for answering any supplementary questions although in case of doubt it would be for the Chair to decide whether the supplementaries to the questions are in order.

In the U.K., the Comptroller & Auditor-General is concerned with the Audit and Exchequer functions only. Every appropriation account[14] is examined by him on behalf of the House of Commons and in the examination of such accounts the Comptroller & Auditor-General satisfies himself that the money expended has been applied to the purpose or purposes for which the grants made by Parliament were intended to provide and that the expenditure conforms to the authorities governing it.[15] The Comptroller & Auditor General is required to report to the House of Commons any important change in the extent or character of any examination made by him.

The Comptroller & Auditor-General is also required to examine on behalf of the House of Commons all the statements of accounts showing the income and expenditure account of any ship-building, manufacturing, trading or commercial services conducted by any Department of the Government, together with such balance sheets and statements of profit and loss and particulars of costs as the Treasury may require them to prepare and he shall certify and report on them to the House of Commons.

Both in India and the U.K., the Comptroller & Auditor-General may undertake by consent the audit of accounts[16] of *ex-officio* transactions of Public Offices in non-voted money; of semi-independent or independent bodies and certain international bodies.

In the U.K., the dates when the accounts should be compiled by the Departments concerned and transmitted to the Audit Department and the report thereon submitted by the Comptroller & Auditor-General to the House of Commons are laid down by the Exchequer and Audit Department Act and all concerned are required to conform to these dates. The time table is so devised that the accounts relating to civil services and revenue departments including all other trading accounts relating to ship building, manufacturing, trading and commercial accounts should be presented to the House of Commons by the 31st January and the accounts relating to army, navy and air force should be presented to the House of Commons by the 15th March, after the termination of the financial year to which the relevant accounts relate.

In the U.K., the Comptroller & Auditor General audits the accounts of the receipts of revenue and of every receiver

[13] The total staff of Audit Department is 500 of which 400 are auditors.
[14] There are 160 Appropriation Accounts.
[15] Section 26(7) of the Exchequer & Audit Department Act, 1866.
[16] In the U. K. such accounts cover a wide range of activity, some like the Hospital accounts directly financed from Votes and others like the Insurance Fund Account financed mainly from contributions. There are a number of semi-public accounts such as those of the Church Estates Commissioners. In all, he certifies about 370 accounts each year.

of money which by law is payable into the Exchequer. In India, however, several important categories[17] of revenue are still not audited.

Both in India and the U.K. details of the expenditure out of the secret service are not examined by the Comptroller & Auditor-General and Parliament is content with a certificate to the Appropriation Account saying that the amount shown in the account to have been expended is supported by certificates from responsible Ministers or officers as in India the Secretary of the Ministry concerned gives the prescribed certificate.

In the U.K., it is laid down in the letter of appointment of Accounting Officers, who are as a rule permanent Heads of Departments and generally recognized by Ministers. that it is their duty to represent to Ministers their objections to any course of action which they regard as involving inefficient or uneconomical administration. If such objections involve the Accounting Officer's personal liability on a question of formal regularity or propriety, he has to set out his objections to the proposed expenditure and his ground for it, in writing, to his Minister, and he only makes the payment upon a written instruction from his Minister overruling the objection. After making the payment he informs the Treasury of the circumstances and sends the papers to the Comptroller & Auditor-General for the information of the Public Accounts Committee, which would no doubt then acquit him of any personal responsibility for the expenditure.

In India since the 20th August, 1958, when revised arrangements for financial control were introduced whereby wider financial powers were given to administrative Ministries and financial advice was decentralised, it has been laid down as follows:

> "All cases in which the advice tendered by the Financial Adviser of the Ministry is not accepted should be referred to the Secretary of the Ministry for his orders and if the Secretary also differs from the advice, the case should be brought to the notice of the Minister. A monthly statement of cases, if any, where the Financial Adviser's views have not been accepted, giving a summary of the differences and the final decision should be forwarded by the Secretary of the Ministry to the Ministry of Finance for information, a copy being endorsed to the Comptroller & Auditor-General simultaneously."

Both in the U.K. and in India audit reports of the Comptroller & Auditor-General stand automatically referred to the Committee of Public Accounts which in the U.K. consists of Members of the

[17] At present, except in regard to customs, no test audit of revenue is being conducted by the Comptroller & Auditor-General. In his latest audit report, the Comptroller & Auditor-General has suggested that it would be desirable to conduct such checking of other revenue heads, especially income-tax.

In this connection, it is useful to bear in mind the following quotation from the review of the working of the Exchequer & Audit Department Act of 1866, prepared by the Comptroller & Auditor-General in the U. K. in 1916 :

"the knowledge that the Comptroller & Auditor-General was cognizant of the manner in which the dispensing power was exercised and might report to the Public Accounts Committee any case in which he considered that the particular excercise of the power ought to be brought to the knowledge of the Committee or of Parliament would of itself act as a check against any undue inclusion owing to leniency on the part of the different revenue departments."

House of Commons only while in India it is a body composed of fifteen Members of the Lok Sabha, with which seven Members of the Rajya Sabha are associated at the request of the Lok Sabha, the request being renewed every year by a separate resolution of the Lok Sabha in which the Rajya Sabha is asked to concur before nominating its Members.

The functions of the Public Accounts Committee in the U.K. and India are respectively laid down in the Standing Orders of the House of Commons and in the Rules of Procedure of the Lok Sabha.

It is often stated that the function of the Public Accounts Committee—*i.e.*, the scrutiny of Audit reports—is merely *post mortem*. Speaker Mavalankar, while speaking at the inaugural meeting of the first Public Accounts Committee which was set up after the Constitution came into force, deprecated this approach and asserted that the "Public Accounts Committee can influence a good deal even the running administration as we always profit by past experience." As someone has said, the great progress which medical science claims today and has undoubtedly attained is mainly based on the detailed *post mortem* researches conducted all these years. Referring to the approach which the Public Accounts Committee should adopt in doing its work, Speaker Mavalankar made the following significant observations:

"(i) 'I have always believed that after all, whatever the quality and quantum of expert knowledge, it has to be tested by the service it renders to the common consumer and therefore the consumer's or the layman's ideals in this respect have to be taken into consideration.

(ii) Members of Parliament will better understand the intention and the mind of Parliament than the Comptroller & Auditor-General and they can better exercise their discretion and judgment.

(iii) We are divided, opposed, so long as we discuss a matter and so long as finality is not reached. The moment finality is reached it should be the effort of everyone to support that. You are sitting in the Committee to go by what the Parliament has laid down. The direct corollary is that there must not be any party politics so far as examination of the accounts is concerned.

(iv) Even in cases where the Committee finds that money has not been properly spent or proper sanction has not been obtained or that the interpretation put by the executive officers or the Audit Department is wrong, we have to see their point of view and unless one is convinced by proof, not by mere suspicion, that there is something wrong somewhere in the sense that there is some misappropriation or mishandling of the money, our approach has always to be one of sympathy and one of give and take."

These principles cast a heavy responsibility on the Comptroller & Auditor-General to so conduct the audit of accounts that a really objective analysis of his findings is available to the Committee and the facts on which his observations are based are undisputed. This

also means that only first class issues are brought before Parliament and the Public Accounts Committee through his reports and minor and technical details are eschewed.

Both in the U.K. and India, the reports[18] of the Comptroller & Auditor-General are the basis of the investigation of the Public Accounts Committee and, although they are necessarily brief, a whole year's work of the entire Department is available to the Committee. So far as the technical examination of the expenditure incurred by the Government Department is concerned, the Audit Department has delved deeply and brought to bear upon such examination all its expert knowledge and experience. It is then for the Committee of Public Accounts to apply its mind from the layman's point of view, as pointed out by Speaker Mavalankar, and to make its observations from the taxpayer's and consumer's point of view.

The Audit Reports, together with the connected Appropriation Accounts, are so voluminous that it is impossible for a layman to have an idea of all the facts and figures contained in the documents in a reasonably short time. In order to assist the Members of the Public Accounts Committee, a key of the Audit Report and the connected Appropriation Accounts and other papers (which used to be prepared by the Comptroller & Auditor-General until recently) is now prepared by the Secretariat of the Committee and copies thereof circulated to the Members in advance.

In paragraph 24 of the historical memorandum attached to the 1916 U.K. Committee's Second Report, it is stated that:

"The Public Accounts Committee have never considered that the Comptroller & Auditor General is limited in his Reports merely to those points which he is bound to bring to the notice of Parliament. The Committee of 1888 stated that while it is no doubt difficult in all cases to draw a distinction between questions bearing directly on audit matters and those which may trench on administrative functions, yet at the same time, if in the course of his audit the Comptroller & Auditor-General becomes aware of facts which appear to him to

[18] In paragraph 1 (Introductory) of Audit Report – Central Civil, 1955, the Comptroller & Auditor-General has stated as follows :

" Irregularities in respect of which adequate remedial measures, including suitable disciplinary action where necessary have been taken by Government, have been excluded from this report."

A similar para was included in the Audit Report Defence Services, 1957.

There is no such stipulation in the U.K. Audit Reports.

Thus the Comptroller & Auditor-General in India, has taken it upon himself to judge *finally* in every case of irregularity whether *adequate* (a) disciplinary action has been taken, and (b) steps have been taken to prevent such cases in future. Parliament and the Public Accounts Committee do not see the light of such cases. There is a danger that parliamentary control over public expenditure may be vitiated if facts relating to the irregularity committed and the action taken by Government are not included in the audit reports and the matter is left to be determined between Government and the Comptroller & Auditor-General departmentally.

indicate an improper expenditure or waste of public money, it is his duty to call the attention of Parliament to them. The Select Committee of 1902 on National Expenditure recommended the Public Accounts Committee, even more than in the past, to encourage the Comptroller & Auditor-General to scrutinise and criticise improper or wasteful expenditure."

The Comptroller & Auditor-General in India has construed his powers in a similar manner and he has in fact sometimes raised larger questions involving wiser spending and reforms in procedure, organization, change of rules, etc.[19]

In the U.K., accounts other than Appropriation Accounts audited by the Comptroller & Auditor-General are presented to Parliament as White Papers while in India they are laid on the Table of the House like any other documents.

In the U.K. the Comptroller & Auditor-General is not responsible for auditing of accounts of public corporations and therefore he has no access to the relevant books and makes no report on their accounts[20]. His advice to the Committee on these accounts is therefore necessarily restricted and often the Committee have to depend upon themselves for the examination of such accounts. In India, too, the Comptroller & Auditor-General is precluded from auditing the accounts of some of the corporations or statutory bodies and the Committee of Public Accounts have to proceed on the basis of the audit reports submitted by the commercial auditors whom the statutory corporations may have appointed as their auditors.

In the U.K., each year a number of accounts are considered without witnesses being summoned to answer for them. It is the ideal that the programme should be arranged so that, over a period of years, the Committee should have the opportunity to examine the accounting

[19] Examples of such matters are :

(1) The Comptroller & Auditor General suggested that for better organization and to secure efficiency it was worthwhile to introduce the administrative audit system by the departments concerned even if it entailed a little extra expenditure. [Para 21(i)(3) of Audit Report (Civil), 1950.]

(2) Government is not competent to regulate air travel for Ministers under executive orders. [Para 22(c) of Audit Report, 1950 (Civil).]

(3) It was improper to grant to Judges any emolument not provided by law. [Para 24(p) of Audit Report, 1950 (Civil).]

(4) Procedure with regard to placing of contracts should be changed. [Para 54 of Audit Report (Defence), 1950.]

(5) The Comptroller & Auditor-General should have the right to audit expenditure of the State-sponsored concerns, by whatever name they were called. (Comptroller & Auditor-General's statement at Appendix I, 3rd Report, First Lok Sabha.)

(6) Suggestions made regarding scrutiny of Budget Estimates and revision of financial control in the various Ministries. [Appendix to Audit Report (Civil), 1955, Pt. I.]

[20] In the U.K., Nationalised Industries, till the enactment of the Finance Act, 1956 (Section 42), were required primarily to raise the necessary capital in the market usually by issue of debentures and were responsible for servicing them. The Treasury had only to guarantee the payment of interest and the redemption of debentures. Under the Finance Act, 1956, the borrowing powers of the Nationalised Industries (other than National Coal Board) have been curtailed and they are expected to take advances from the Ministries concerned to the extent they had powers to borrow by the issue of Stock, and the Treasury in turn is expected to issue to those Ministries out of Consolidated Fund such sums as are necessary to enable them to make requisite advances. In India, on the other hand, Public Undertakings are financed largely, if not entirely, by the direct investment of public funds from the Consolidated Fund of India.

officer for every account, but the accounts are now so numerous that a greater degree of selection is exercised. Unless the Comptroller & Auditor-General makes some comments on the accounts in his reports, not even the accounts of some of the major departments are examined every year with a witness present.

A provisional programme usually prepared by the Comptroller & Auditor-General in the light of his knowledge as to what is likely to be contained in the report on his accounts is submitted by him to the Chairman of the Committee. The Chairman finalises the programme after taking into account his own ideas and also the current interest of the Members. Accounts which were taken without a witness in the previous session and which it is now proposed to take with one or *vice versa* are underlined. Any new accounts which have not been taken before are typed in capitals.

In India, the programme is prepared by the Secretariat of the Committee after the Audit Reports and Accounts have been presented to the House. The provisional programme, after approval by the Chairman, is circulated to the Members and the concerned Ministries. All accounts with the exception of those few which relate to minor departments are usually examined by the Committee each year. Thus all Heads of Departments have to appear before the Committee every year.

In the U.K., before the commencement of each meeting of the Public Accounts Committee, a conference is held in the room of the Chairman of the Committee. At this conference, the Chairman, the Comptroller & Auditor-General and the Clerk of the Committee are present. The conference discusses the important points which should be raised with the witnesses regarding examination of particular accounts. This is always a confidential meeting and no records are kept nor circulated to anyone. This meeting gives the background to the Chairman in the light of which the witnesses are examined. Other Members have no such knowledge and therefore most of the examination of the witnesses is done by the Chairman and most Members appear "rather in the role of a juror who will come later to some conclusion on the matters at issue".

In India, the Comptroller & Auditor-General prepares a list of important points arising out of the accounts and his comments thereon and this list which is marked 'confidential', is circulated to the Chairman and the other Members of the Committee. The Secretariat of the Committee, under the direction of the Chairman, prepares a further list and it is also circulated to the Members of the Committee. The latter list supplements the list prepared by the Comptroller and Auditor-General. Thus the examination of the witnesses is conducted by the Chairman and Members alike and Members feel the satisfaction of having participated to the full in the discussions.[21]

[21] Quite recently the Public Accounts Committee has adopted a procedure of dividing itself into working groups. Each such group is entrusted a particular subject. The members of the group study the papers on the subject and hold preliminary meetings among themselves to discuss points of importance on which questions might be put to the witnesses. At such meetings the Comptroller & Auditor-General or his officers are also present to assist the members.

In the U.K., the Comptroller & Auditor-General attends the meetings as a witness when evidence is being taken by the Committee. He does not sit next to the Chairman; but sits at the other end of the table, opposite to the Treasury officials, and intervenes in the discussion only when the Chairman asks him to clarify a point or some information is required from him. He does not put any question to the witnesses nor makes any comments or observations on the evidence given by a witness.

In India, on the other hand, the Comptroller & Auditor-General sits on the right hand side of the Chairman. He continuously holds consultation with the Chairman as the evidence is proceeding and very frequently asks questions from the departmental witnesses and also makes comments and observations in the course of such evidence. The Comptroller & Auditor-General is accompanied by his officers,[22] who also sit along with him or behind him and continuously assist him with papers, information, etc.

In the U.K., no formal procedure has been laid down governing the participation of the Comptroller & Auditor-General in the drafting of the Committee's report. The Committee are however free to call upon the Comptroller-Auditor-General and to make use of his help in any way they think proper.

In India, when a draft report is prepared by the Secretariat of the Committee under the direction of the Chairman, it is sent to the Comptroller & Auditor-General in advance for factual verification and when the report is considered by the Committee, the Comptroller & Auditor-General is always present to assist the Committee. His presence is recorded in the proceedings of the Committee. The Comptroller & Auditor-General is, as usual, accompanied by his officers on such occasions also.

In India, the minutes of the Public Accounts Committee are drafted by the Secretariat of the Committee and after approval by the Chairman are circulated to Members. The minutes form part of the Report of the Committee and supplement the recommendations contained in the main Report. The documents supplied to the Committee are also appended to the Report of the Committee; but the evidence given orally is not printed[23] nor laid on the Table of the House. The minutes are therefore

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[22] Para 19 of the Audit & Accounts Order, 1936, as adapted, reads as follows :

"19. Anything which under this Order is directed to be done by the Comptroller and Auditor-General may be done by an officer of his Department authorised by him, either generally or specially :

Provided that except during the absence of the Comptroller & Auditor-General on leave or otherwise, an officer shall not be authorised to submit on his behalf any report which the Comptroller & Auditor-General is required by the Constitution to submit to the President or the Governor."

Accordingly the Comptroller & Auditor-General has appointed several Accountants-General and Directors of Audit as his principal audit officers who act on his behalf and this explains the reason for their presence at the meetings of the Public Accounts Committee. In fact, the Audit reports are signed by the Accountant-General or Director of Audit concerned and countersigned by the Comptroller & Auditor-General.

[23] Before the Second World War the evidence used to be printed. It was stopped during the war as an economy measure. Since then except on one occasion (1952-53) the evidence has not been printed nor laid on the Table. The Committee have examined this matter from time to time; but have not yet made up their mind to make it public. Apart from printing difficulties, which have now eased, the main consideration for keeping the evidence confidential is the creation of a psychological atmosphere in the mind of a witness to say freely and frankly what he feels about a certain matter placed before him.

of a detailed character and embody a good summary of the discussions without mentioning actual questions and answers or the names of the members or the witnesses. In the U.K., on the other hand, the minutes are very brief and do not purport to summarise the evidence given before the Committee. The evidence is printed *verbatim* and presented to the House along with the Report. Neither in India, nor in the U.K., the Comptroller & Auditor-General is concerned with the drafting of the minutes of the Committee.

In the U.K., it is customary on the retirement of the Comptroller & Auditor-General and on the appointment of his successor to include a special paragraph in the Committee's final report. In India, the Committee includes a paragraph in each of its reports every year expressing its thanks to the Comptroller & Auditor-General for the valuable assistance rendered by him in the deliberations of the Committee.

In the U.K., periodically an epitome of the reports of the Public Accounts Committee is brought up-to-date by the Comptroller & Auditor-General. It is customary for the Chairman of the Public Accounts Committee to move in the House for a return containing the epitome of the reports from the Committee and of the Treasury minutes thereon with appendix and index. Before doing so, the Chairman writes to the Financial Secretary to the Treasury asking him to inform the Speaker that he has no objection to the motion. In India, a similar epitome is brought out by the Comptroller & Auditor-General. This epitome is kept in the Library of the Public Accounts Committee and is not laid on the Table of the House.

In India, six copies of all papers circulated to the Members of the Committee are usually forwarded to the Comptroller & Auditor-General and the Accountants-General or Director of Audit concerned. Any fresh note or memorandum which the Committee desires is invariably sent by the witness through the Office of the Comptroller & Auditor-General, who check the facts contained in the memorandum from the audit point of view before it is submitted to the Committee. The idea is that the facts should be settled between the Administrative Department and the Audit Department before they are placed before the Committee. Copies of the final memoranda which are circulated to Members of the Committee are also sent to the Comptroller & Auditor-General. The Chairman and the Committee have often commented[24] on this and also criticised the delays in submitting written material. Often the Committee has had to delay its report for this reason.

In the U.K., Supply is granted by the terms of the resolution of the House to "Her Majesty". Ways and Means are

[24] *See* introduction to 3rd & 4th Reports of the Public Accounts Committee (Second Lok Sabha).

It may be stated in this connection that in order to understand this difference in procedure the position in the U.K is that as far as possible complete information is given to the Public Accounts Committee by the departmental witnesses in oral evidence and there is seldom any occasion for them to submit any notes in writing. The departmental representatives generally attend the meetings of the Public Accounts Committee by themselves (and with one or two Assistants if necessary) and carry important and relevant papers only. In India, on the other hand, the departmental representatives, despite the fact that they attend the meetings with a larger retinue of staff, who carry voluminous records with them, do often ask for time to explain their position in writing by submitting notes later on.

granted by the Appropriation Act in the form of an authority to the Treasury to make the necessary issue from the Consolidated Fund. Before the grants become available to the various departments, a Royal Order "is issued by which the Sovereign authorises the Treasury to issue the necessary money to the persons charged with the payment of services", the order being limited to the amount of Supply actually granted by Parliament at the time of its issue. The Royal Order quotes the amount granted in each Supply resolution and the date on which it was agreed to by the House of Commons on report. But before it can draw the money from the Consolidated Fund to make the issues to the various Departments, the Treasury must receive from the Comptroller and Auditor-General credits on the Exchequer Accounts at the Bank of England.

The Treasury therefore send to the Comptroller & Auditor-General a demand every afternoon for the issue of such sums as are needed to finance the many activities of the Government. The Comptroller & Auditor-General examines these demands and if he is satisfied that they are in accordance with parliamentary authority issues credit notes authorising the Banks of England and Ireland to issue the money. The procedure today is exactly the same as that laid down by Parliament over 90 years ago.[25]

In India, by the provisions of an Appropriation Act, the money is granted to the President. After the relevant Appropriation Act comes into force, the Ministry of Finance communicate to the administrative departments (and the Accountants-General concerned) in the shape of a lump sum as primary units of appropriation the sum granted under the Appropriation Act to that Department to defray its expenses on Services & Supplies during the course of the year. The Administrative Departments then make arrangements for distributing the sanctioned funds, where necessary, among the controlling and disbursing authorities subordinate to them. The Accountant-General is required to render such assistance in the distribution of grants as may be settled in each case.[26] No procedure[27] has yet been devised whereby, as in the U.K., the Comptroller & Auditor-General in India has been vested with control over the issues from the Consolidated Fund. The responsibility for drawing the money from the Reserve Bank which maintains the Consolidated Fund on behalf of the Government of India and for watching the progress of expenditure is laid down on the authority administering a grant and for keeping the expenditure within the grant. When the Appropriation accounts are drawn up at the end of the year, then only the Comptroller & Auditor-General is in a position to know whether any authority has exceeded the grant, or whether the Government as a whole have drawn in excess of the sum specified in the Appropriation Act from the Consolidated Fund of India.

[25] Sections 14 and 15 of the Exchequer & Audit Departments Act, 1866.

[26] General Financial Rules Vol. I, Chapter V.

[27] On the coming into force of the Constitution in 1950, the designation of the Auditor-General was changed to Comptroller & Auditor-General as it was intended that, as in the U.K., he should also be responsible for control over exchequer issues.

Evolution of the Office of the Speaker in India : Sir Frederick Whyte and Shri V. J. Patel

By

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In Parliamentary democracy the office of the Speaker is held in high esteem. He regulates the deliberations of the House and interprets the rules of procedure in the conduct of its business. Through his fair-mindedness, impartiality and judicious exercise of his power of recognition of parties and groups in Parliament the Speaker can build up the best traditions of parliamentary democracy.

I

Sir Frederick Whyte

The title of the Speaker was assumed in India only in 1947 but the institution of the Speaker is a good deal older and dates from 1921. The Joint Select Committee of the British Parliament on the Government of India Bill, 1919, had recommended that the first President of the Indian Legislative Assembly, who should hold office for four years, should be a person possessing experience of the working of the House of Commons. Accordingly the Governor-General nominated Sir Frederick Whyte as the first President of the Central Legislative Assembly set up under the Government of India Act, 1919 for a period of four years[1]. He was a Member of the House of Commons and was chosen for his special knowledge of parliamentary procedure.

In England the functions of the Speaker of the House of Commons are three-fold: (i) as spokesman and representative of the House in all communications made in its collective capacity to the Crown; (ii) as Chairman of the sittings of the House; and (iii) as custodian of the rights and privileges of the House. However, in the peculiar conditions prevailing in India it was not possible to observe in all cases the precedents worked out in the House of Commons. It was considered necessary that the Indian Legislative Assembly should evolve its own practice and establish its own conventions for the discharge of its duties as a legislative body. The Indian Central Assembly was peculiarly constituted. It was hedged in on all sides

[1] The Central Legislative Assembly consisted of 145 members out of whom 104 members were elected and the rest nominated. Among the nominated members 26 were officials and the rest non-officials. The Indian Legislative Assembly was a non-sovereign law-making body but it was expected that it will develop into a true legislature in course of time and so it was to model its procedure on the procedure of the English House of Commons and to exercise greater influence on the Government of India than was done by the old Legislative Council.

by restrictions and could hardly bear comparison with the English House of Commons, which was a sovereign body. The Executive in India was irremovable and was not responsible to the Legislature. A large portion of the Indian budget consisted of non-votable items over which the legislature had no control. Under these circumstances it was natural that a good deal of hostility should develop between the Government and the Opposition. As a matter of fact when Sir Frederick Whyte was appointed, the Indian National Congress had decided to boycott the Assembly and it was not till the last year of his office that the Swarajist Members[2] decided to attend meetings of the Assembly. However, Sir Frederick Whyte fully understood the peculiar conditions under which he was called upon to discharge the responsibilities of his high office and he conducted his work as a President in such a manner that he elicited praise from all sections of the Assembly.

As Chairman of the House, Sir Frederick Whyte was a great success. He was an able controller and guide of the Assembly and was strictly impartial in the discharge of his duties. He gave a liberal interpretation to the rules and always endeavoured to observe the spirit and not merely the letter of the rules and standing orders. He kept speakers strictly to the subject under discussion and did not allow points of order to be confused with points of information. He was always ready to assist members in doubt or difficulty. He was fair in his rulings and displayed great solicitude for the rights of minorities to whom he allowed considerable latitude in the matter of discussion.[3] During his period of office Sir Frederick Whyte refrained from taking part in politics. On September 27, 1921 when a reference was made to an opinion he had expressed in a private letter which had been published in an English paper by inadvertence, Sir Frederick Whyte remarked that the letter was a private one and not meant for publication and that his private opinions should not be brought into debate, since so far as the House was concerned the Chair had no opinion. His conception of the Chair can be gathered from his memorable speech delivered on the occasion of the appointment of Deputy-Speaker in which he enjoined upon him (Deputy-Speaker) to exercise complete impartiality in the discharge of his official duties and not to take part in debates or contest elections.[4]

Sir Frederick Whyte's main contribution was the establishment of certain conventions and practices in regard to financial procedure. The first thing that Sir Frederick Whyte did was that he developed the convention of an Annual Finance Bill, so that the Assembly may have the power to review the whole of the budget every year, to see that its financial arrangements are justified or need modifications. The Government of India Act of 1919 provided for an annual financial statement of revenue and expenditure to be laid before the

[2] They were opposed to the reforms of 1919 and wanted to enter the councils, not to co-operate in the working of the reforms, but to non-co-operate from within and bring about a break-down of the Constitution.

[3] L.A.D., 18th March, 1921, p. 1276.

[4] L.A.D., 1st September, 1921, p. 34.

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Legislative Assembly every year and Sir Frederick Whyte helped materially in persuading the Government in establishing a convention, according to which the Finance Member reviews general economic conditions of the year and states important variations between the budget and revised estimates of revenue and expenditure of the year about to close. Sir Frederick Whyte also displayed liberality of spirit in the interpretation of the scope of the Finance Bill by not circumscribing the discussion to the narrow sphere of each individual Act.[5] He also helped in the establishment of the convention of the separation of Railway Finance from General Finance. This was introduced from the budget of 1925 and rests upon no statutory foundation.

Sir Frederick Whyte was also responsible for establishing the important convention of allowing free discussion on the non-votable items, although motions of reduction on non-votable items were not in order.

Sir Frederick Whyte is also credited with the establishment of the Committee on Public Accounts which was constituted at the commencement of each financial year to deal with the audit and Appropriation Accounts of the Governor-General-in-Council. In the beginning only the accounts of the voted expenditure of the Government of India were brought to the notice of the committee, but through the growth of a convention military expenditure, a non-voted item, was brought within the scrutiny of the committee. This helped to enlarge the authority of the Assembly.

Although Sir Frederick Whyte succeeded in conducting the deliberations of the House as an impartial Chairman, he could not discharge his other duties as spokesman and representative of the House and as custodian and protector of the rights and privileges of the members of the House. He disallowed the most essential discussion on fundamental issues connected with the administration of the Government by ruling out a cut-motion sought to be moved by Mr. P. P. Ginwala proposing a reduction in the Travelling Expenses and Miscellaneous contingencies of the Executive Councillors and remarked that on such a matter a Resolution should be moved.[6] Again the President failed to carry out the suggestion made by the non-official members of the House in 1922, 1923, 1924 and 1925 for the separation of the Secretariat of the Assembly from the Legislative Department of the Government of India, although in principle he agreed with members as to the desirability of the separation.

However, undue importance should not be attached to these instances and the fact that Sir Frederick Whyte was a nominated President must not be lost sight of. It would have been unnatural for Sir Frederick Whyte to play the role of a popularly elected Speaker of the Assembly and to protect and extend the rights and privileges of the members of the Assembly and it must be ungrudgingly acknowledged that Sir Frederick Whyte carried out successfully the purpose for which he was appointed, *viz.*

[5] L. A. D., 22nd March, 1922, p. 2605.
[6] L.A. D., 16th March, 1922, p. 2155.

that of establishing sound parliamentary traditions in the procedure of the House. In spite of the fact that he was a nominated President he gave equal satisfaction to all and earned congratulations from every section of the House at the end of the term of his office for the work done by him.[7]

II

The Hon'ble Mr. V. J. Patel—The First Elected President

At the end of the term of office of Sir Frederick Whyte in 1925 the Legislative Assembly in pursuance of the provisions of the Government of India Act, 1919 was called upon to elect their first non-official President in August 1925. The Swarajist Party put up Mr. Vithalbhai Patel as their candidate for election to the office of the President Mr. Patel defeated his rival candidate Diwan Bahadur T. Rangachariar, who enjoyed official support, by a narrow margin of votes, 58 votes to 56. His election was approved by His Excellency Lord Reading on 24th August, 1925 and he held office from 1925 to 1930. He was fully conscious of his role as the first elected non-official President of the Assembly. Notwithstanding the fact that the Indian Legislative Assembly constituted under the Government of India Act, 1919 did not possess vital powers enjoyed by Legislative Chambers in democratic countries, he was determined to discharge his duties not merely as a Chairman but also a custodian of the rights and privileges of the Members of the House and as its accredited representative. Mr. V. J. Patel interpreted the rules and standing orders of the Assembly liberally in order to safeguard the rights of non-official members of the House. In regard to the right of questions he was careful to see that legitimate use was made of this right by the members and that the Executive also gave satisfactory replies to questions and not simply tried to evade them.[8] He permitted amendment of certain standing orders for the smooth and efficient despatch of official and non-official business. He discouraged government members from transacting official business on non-official days.[9] He allowed members to table adjournment motions liberally for censuring the Government for its acts and omissions irrespective of the wishes of the Treasury Benches. He did not allow the Government to force legislative measures on the Assembly against the wishes of the members or to curtail debate in the House on Government Bills and tried to safeguard the rights of the Members against official encroachments.

A serious conflict took place between the Government and the President on the question whether reasonable debate was possible over the Public Safety Bill while the Meerut Conspiracy Case was still pending. The Government had earlier introduced the Bill in the Assembly in September 1928, with a view to vest the Government with the power to deport foreigners from India whose stay

[7] L. A. D., 24th August, 1925, pp. 26-28.
[8] L. A. D., 27th January, 1926, p. 335-37.
[9] L. A. D., 9th February, 1926.

was regarded as dangerous or undesirable. The Bill was ostensibly directed against the foreigners but it could also be used against nationalist Indians. The Bill was strongly opposed by non-official members and the proposal to postpone its consideration was carried with the casting vote of the President. However, the Government re-introduced the Bill with additional clauses in January 1929 and succeeded in getting the measure referred to a Select Committee and by the time the report of the Select Committee came up before the House the Government had launched the Meerut Conspiracy Case in which certain persons alleged to be communists were tried for conspiring against the Government established by law. President Patel took the view that the subject-matter of the Public Safety Bill and the Meerut Conspiracy Case was identical and it would not be possible to discuss the Bill without referring to the proceedings in the case which was *sub-judice*. He therefore withheld the consideration of the Public Safety Bill. The Government did not accept the ruling of the Chair and made it an occasion to deprive the Speaker of the power to give such a ruling in the future, by enacting Rule 17A that the President could not, except in virtue of express powers, prevent in future the progress of legislation.

President Patel also came into conflict with the Viceroy who criticised his ruling in the Assembly. He wrote to the Viceroy protesting against the action of His Excellency in criticising the Chair's ruling which was 'not only unprecedented and calculated to affect both the dignity of the House and the authority of the Chair, but also constitutes, in my opinion, a departure from constitutional usages and traditions'[10]. The Viceroy disclaimed any intention to criticize his ruling and assured the President 'that he fully shares your anxiety to maintain the dignity of the House and the authority of the Chair'.

President Patel found himself in complete disagreement with the Government in regard to the interpretation of the Fiscal Autonomy Convention in the debate on the Cotton Tariff Bill, 1930. According to this Convention as explained by the Joint Select Committee on the Government of India Bill, 1919, the Government should allow free expression of opinion to the legislature and final decision with regard to fiscal policies should rest with the latter. But the Government of India forced on the Assembly against its will the principle of Imperial Preference and violated the Fiscal Autonomy Convention. It came before the Assembly with the proposed Tariff Bill, in which a very small measure of protection was being given to the Indian industry, while British manufacturers were also granted equal protection. The Government stated openly that they would accept no other amendment except that of Mr. Chetty which imposed 15 per cent tariff in case of British manufacture and 20 per cent on non-British manufactures to help Lancashire interests and if the Assembly did not accept their proposal, they would not proceed with the Bill. President Patel expressed the view that the statement of the Government that they would not proceed with the Bill if Mr. Chetty's amendment was not accepted was

[10] L. A. D., 2nd September, 1929, pp. 109-112.

calculated to seriously interfere with the free vote of the House. He therefore suggested that the official members of the Assembly should not exercise their right of vote, so that the spirit of the Fiscal Autonomy Convention might be properly observed. The Government did not accept the suggestion made by the Chair and succeeded in passing the Tariff Bill embodying Mr. Chetty's amendments.

President Patel followed Sir Frederick Whyte in regulating the financial procedure in the House. He followed the convention established by his predecessor that on Finance Bill the whole of the administration of the Government of India could be reviewed and interpreted the convention in a liberal spirit. He also insisted that the report of the Public Accounts Committee should be discussed fully in the House and not ignored by the Government.[11]

Apart from interpreting rules of procedure liberally to safeguard the interests of elected Members of the Assembly, President Patel strove hard to enhance the authority of the House and to assert and consolidate the independence of the Chair. As soon as he was elected President, Mr. Patel took up the question of the separation of the office of the Assembly from the Legislative Department of the Government of India. He convened the Speakers' Conference to consider the question and the latter unanimously adopted his viewpoint. He took up the matter immediately with the Government in 1926, but progress was very slow. In 1927 President Patel was re-elected to the Chair with the unanimous support of both official and non-official members. Soon after, he took up the question again with the Government of India. The latter did not accept the views of President Patel in certain matters which he considered vital. The President therefore submitted his proposals direct to the Legislative Assembly and made the emphatic declaration that 'as the President, elected by the Assembly, I am responsible to the Assembly and to no other authority'. On 22nd September, 1928 the House carried a motion moved by Pandit Moti Lal Nehru for a separate Legislative Assembly Department under the President, and after reference to London a compromise was arrived at creating the Department legally in the portfolio of the Governor-General while the President[12] would have *de facto* control over it.

Another reform carried out by President Patel to assert the authority of the Chair was the maintenance of his authority and control over the precincts of the Assembly. The Government of India and the Chief Commissioner maintained that they were the sole judges of the adequacy of the protective measures in the House. The President did not accept this view and ordered the galleries to be closed till such time as a settlement was arrived at. After negotiations an agreement was reached: Government control of the outer precincts was unchanged but the inner precincts were placed in charge of a Watch and Ward staff who would be responsible to the President.[13]

[11] L. A. D., 18th Feb., 1929, p. 901.
[12] L. A. D., 28th Jan., 1929, p. 2.
[13] L. A. D., 20th Feb., 1930, p. 845.

These two reforms considerably enhanced the prestige of the Chair and secured efficiency in the administration.

President Patel, so long as he was in the Chair, tried to uphold the traditions of impartiality and party-neutrality evolved in England, in the discharge of his duties. On being elected to office he dissociated himself from the Swarajist Party of which he was an active Member prior to his elections and endeavoured to consult the best interests of the Assembly.[14] During his term of office President Patel kept himself aloof from party interest. In the election of 1926 he refused to stand on the Congress ticket but stood as an independent candidate from his old constituency and was re-elected President unanimously on 20th July, 1927.

During his tenure of office, President Patel tried to follow in the footsteps of the notable Speakers of the House of Commons in England. Just as the Speakers of the House of Commons had succeeded in ridding the office of royal influence and in raising the prestige and dignity of the Chair, similarly President Patel freed the high office of Speakership from the tutelage of the Executive in India. The first step in this direction was the separation of the office of the Assembly from the Legislative Department of the Government of India and the next was the vesting of the control over the precincts of the Assembly in the President. This was secured not without conflict. Like Speaker Onslow he enforced the rules strictly and prevented an abuse of the procedure of the House 'as nothing tended more to throw power into the hands of the administration' than a neglect of or departure from these rules.[15]

President Patel, however, found that it was not always practicable to follow strictly the British model, in view of the peculiarities of the Indian situation. In India, unlike in Britain, the Executive was neither representative nor was it responsible to the House or removable by it. Under the circumstances, the role of an elected President was not to facilitate the Government business but to safeguard and protect the rights, interests and privileges of the Members of the House from official encroachment. In doing so he had to depart from the stricter limits of Speakership of the English model and had to assume a role which was best suited to the peculiar circumstances of the country.

President Patel's conception of office of Speaker was realistic and appropriate to the political situation. He occupied the Chair as a true servant of the people, zealous on behalf of their liberties and prerogatives and as one who represented their feelings firmly, zealously and openly without fear of offending, or without any desire to conciliate the powerful bureaucracy. His tenure of office had throughout been a period of one continuous struggle between the Chair and the Assembly on the one hand, and the Government on the other, and in spite of the many limitations imposed upon the Assembly by the Constitution he always 'endeavoured to uphold the authority of the Chair and the dignity, rights and privileges of the House against

[14] L. A. D., 29th August, 1925, pp. 36-37.
[15] L. A. D., 25th April, 1930.

the powerful bureaucracy'.[16] President Patel regarded the constitutional machinery provided by the Government of India Act as a stepping-stone to reach the ultimate goal of India's independence and he helped to facilitate the march of the people of this country towards the achievement of political emancipation. After serving for a number of years, he found that despite his efforts he could not adequately safeguard the dignity, rights and privileges of the House against the bureaucracy. After the Government of India had forced down the throats of an unwilling Assembly the principle of Imperial Preferenee and as a protest against which Pandit Madan Mohan Malviya and other patriots tendered their resignations, he felt convinced that it was useless for him to preside over an Assembly which existed merely to register the decrees of the Executive and where it was not possible for him to safeguard even the freedom of vote and freedom of expression. On 25th April, 1930, he therefore tendered his resignation to take his proper place in the struggle for freedom initiated by the Indian National Congress. In carrying on the struggle with the British bureaucracy President Patel acted in the best traditions of Speakership established in pre-revolutionary England and in the British Dominions and Colonies.

The loyal party opposition which assumes the responsibility of ruling, when a change of popular opinion occurs, is the greatest political invention of the last two centuries and the essential principle of democracy on a large scale.

—A. LAWRENCE LOWELL in "The Evolution of Democracy".

[16] Porrit: *Unreformed House of Commons*, Vol. i, p. 450.

Vote on Account in the Lok Sabha

By

V. NARASIMHAN, Deputy Secretary, Lok Sabha Secretariat

There was no provision for Vote on Account either in the Government of India Act, 1919 or in the Government of India Act, 1935. The result was that after the presentation of the Budget on the last sitting day of February the Demands for Grants had to be voted by the House before the end of the financial year, *i.e.*, 31st March, so as to provide the Government with the funds necessary for the following year. This limited the time available to the House for a proper and satisfactory consideration of the Budget.

On the coming into operation of the Constitution of India a sovereign Parliament at the Centre and representative legislatures in the States came into being. In order, therefore, to ensure that the people's representatives in the legislatures were able to study, scrutinise and discuss in detail over an adequate period of time the annual financial proposals, the framers of the Constitution provided in it for the procedure of Vote on Account (on the lines of the House of Commons' practice) both at the Centre and in the States.

Article 116 of the Constitution lays down:

"116. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

* * * *

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure."

The procedure regarding the Vote on Account was introduced for the first time in Lok Sabha in the Budget Session (February-April) 1951 after the scheme was finalised through consultations between the Speaker and the Minister of Finance and approved by the Cabinet.

Rule 214 of the Rules of Procedure and Conduct of Business in Lok Sabha prescribes the procedure for a Vote on Account in the House as follows:

"214. (1) A motion for vote on account shall state the total sum required and the various amounts needed for each Ministry, Department or item of expenditure which compose that sum shall be stated in a schedule appended to the motion.

(2) Amendments may be moved for the reduction of the whole grant or for the reduction or omission of the items whereof the grant is composed.

(3) Discussion of a general character may be allowed on the motion or any amendments moved thereto, but the details of the grant shall not be discussed further than is necessary to develop the general points.

(4) In other respects, a motion for vote on account shall be dealt with in the same way as if it were a demand for grant."

Since the Vote on Account was new to the legislatures in India, the Secretary of the then Provisional Parliament (Shri M. N. Kaul) wrote to the Leader of the House (the Prime Minister) on the 27th January, 1951, explaining the procedure and its advantages as follows:

"This year it has been decided to introduce the procedure of 'Vote on Account' so far as the General Budget is concerned. The idea is that sometime in March the House will be asked to vote provisionally about a twelfth of the budgeted expenditure under various grants and for this and for a similar amount in respect of charged expenditure the necessary Appropriation Act will be passed. The detailed discussion on the Demands will then be taken up conveniently and voting of the Demands together with the passing of the Appropriation Act completed before the Session terminates.

Formerly, in the absence of the 'Vote on Account' the demands for grants had to be voted by the House by the 31st March. This system left very little time for adjusting the programme and was inelastic. Considerable difficulty was experienced if any urgent legislative measure had to be taken up when the Budget discussions were in progress. Under the revised system, not only the programme will be more elastic but there will be sufficient time for members to study the Budget papers, etc.

'Vote on Account' will be a formal business only and there will be no prolonged discussion in the House. Therefore, on the day on which the 'Vote on Account' will be taken up in the House other legislative business will also be put down.

So far as the Railway Budget is concerned it will be discussed and passed before the 31st March, 1951. Therefore, the procedure of 'Vote on Account' in connection with the Railway Budget is not being introduced."

Accordingly when the Demands for a 'Vote on Account' were presented for the first time in the Provisional Parliament on the 12th March, 1951, the Speaker

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explained to the House as follows the procedure to be adopted in this regard:

"As hon. Members are aware the procedure for 'Vote on Account' is designed to give the members a longer time for discussion on the Budget by putting the same off to convenient dates after the 31st March.

The principle of the practice is that the House ought to grant sufficient funds to Government to enable it to carry on till the Demands are scrutinised and voted upon. In this procedure, as full discussion follows, the grant of supply for the interim period on the Motion for Vote on Account is always treated as a formal one just like a Motion for leave to introduce a Bill or the introduction of a Bill. I trust hon. Members will appreciate this position and treat Vote on Account as a formal affair as they would have a full opportunity to discuss the Demands for Grants in a detailed manner later."

Thereupon a Member enquired whether this convention would be as binding on the House as the Rules of Procedure, the Speaker observed:

"Of course, this will be a precedent. The whole idea is that the Budget is coming up for scrutiny and discussion at greater length. In the present case, Government wants to carry on only for a month. I do not see that useful discussion can be had on a month's supply, when eleven months' supply is going to be discussed by the House and when there has been ample general discussion for four days. Any discussion on the motion for Vote on Account will mean repetition of the same discussion."

Upon the House agreeing to the above procedure the Speaker informed members that this decision meant that a motion for a Vote on Account shall be passed by the House without debate.

The General Budget of the following financial year is presented to the House on the last working day of February. The general discussion on the Budget follows sometime in March every year and the House is asked to vote on one month's supply, approximately about a twelfth of the total estimated expenditure under the various grants, for meeting expenditure likely to be incurred during April. Provision, however, is also made in the Demands on Account for certain charged items and payments that have to be made in the following month, such as Grants to States, Privy Purses to Rulers of Indian States, Purchase of opium, re-payment of debts, etc.

So far as the Railway Budget is concerned, as there is adequate time available after presentation it is usually discussed in detail and passed before the 31st March every year. There, is, therefore, in normal years, no necessity for a Vote on Account in respect of Demands for Grants—Railways.

Though, normally a Vote on Account is taken for only a month, occasions may arise when a Vote on Account has to be for a longer period. This usually happens when General Elections are to be held and a new House is to come into being. The House to be dissolved passes a Vote on Account for a sufficiently long period so as to enable the new House, when constituted, to consider the estimates in detail.

So far there have been two occasions in Lok Sabha when a Vote on Account was passed by the House for a longer period than one month on account of the then impending General Elections. During its last Session in 1952, the Provisional Parliament, before it came to an end. was asked to vote four months' supply representing broadly one-third of the total estimated gross expenditure included in the Demands for Grants for 1952-53, as it was not expected that the new Parliament when it assembled would be able to complete the detailed consideration of the Demands for Grants for the year 1952-53 before July 1952. Again during its last session in 1957, the first Lok Sabha. before it was dissolved towards the beginning of the financial year, was asked to vote five months' supply *i.e.*, from April to August, 1957 representing broadly 5/12th of the total estimated expenditure included in the Demands for Grants for 1957-58 as it was not expected that the second Lok Sabha when it met would be able to complete the detailed consideration of Demands for Grants for the year 1957-58 before August. 1957.

On these two occasions in 1952 and 1957 the Demands for Grants on Account in respect of Railways were also passed by the House. The Votes on Account were rendered necessary for the same reasons as in the case of the General Budget.

The President's recommendation is not necessary for moving the motions regarding the Demands for Grants on Account as these Demands form part of the main Demands in respect of which the recommendation of the President has already been obtained.

After the Demands for Grants on Account have been voted by the House, the connected Appropriation (Vote on Account) Bill is passed by the Houses of Parliament also as a formal affair and assented to by the President before the commencement of the new financial year. The main Demands *minus* the amounts already voted on Account are later on voted by the House. The connected Appropriation Bill also includes the sums voted on account earlier by the House and specified in the Appropriation (Vote on Account) Act. This is indicated in the Bill by the following provision:

> "From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule* amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Vote on Account) Act, 1958] to the sum of..... rupees towards defraying the several charges which will come in course of payment during the financial year ..... in respect of the services specified in column 2 of the Schedule."

*THE SCHEDULE

1	2	3		
		Sum not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total

A Vote on Account may be passed on any day subsequent to the presentation of the Budget. Generally, however, the Vote on Account is passed after the general discussion on the Budget is over and before the detailed discussion on the Demands is entered upon.

Since the introduction of the Vote on Account in 1951 the convention to treat it as a formal motion and pass it without debate has been adhered to by the House. Technically there is no bar, constitutional or under the Rules of Procedure, on Members tabling cut motions or raising a discussion on the Vote on Account. However, to facilitate its own procedure and with a view to economise time so as to utilise the same to discuss the main Demands, the House of its own free will has imposed upon itself the convention not to discuss the Vote on Account but pass it as a formal motion.

The Demands for Grants on Account (Railways) for 1952-53 related to a period of four months as General Elections were to be held and a new House was to come into being. When the Demands were under consideration, on a point raised by members, the Speaker permitted cut motions being moved as also discussion of the policy underlying the Demands*.

When, therefore, the Demands for Grants on Account relate to a period of only one month, according to convention, they have been passed by the House as a formal matter. But where the Vote on Account had been for a longer period and there was a time lag between the Vote on Account and the final voting of the demands due to dissolution or termination of one House and the constitution of a new House, the House has availed itself of its rights under rule 214. The Demands for Grants on Account in respect of the Railways as well as General Budget were discussed and cut motions were moved in the concluding sessions of the Provisional Parliament and the first Lok Sabha in 1952 and 1957 respectively.

In the present Lok Sabha, which came into being in May, 1957 after the Second General Elections, a Vote on Account came up before the House for the first time during the last Budget Session (1958). Being a new House some members expressed their apprehensions with regard to the convention that the House shall not discuss the Vote on Account and the connected Appropriation Bill. *Inter alia* the points raised were:

(i) the convention constituted an encroachment on the rights of members to discuss, reduce or reject a Vote on Account.

(ii) it would enable Government to obtain without discussion by the House a major part of their budget requirements in the guise of a one month Vote on Account.

(iii) it was conceivable that Government may incorporate in the Vote on Account provision for a totally new service, which the House may commit itself to without discussion or even knowledge thereof.

(iv) the convention was contrary to Article 116 of the Constitution.

*Parl. Deb. Part II, dated 26th February, 1952, Cols. 1283-84.

On a notice given by a member (Shri Naushir Bharucha) the Speaker permitted a discussion on the convention on the 5th May, 1958 in which the Ministers of Law and Finance explained the *raison d'etre* behind the convention to clear the misapprehensions of members.

The Minister of Law stated:

"It is only for the purpose of allowing the House a longer time to discuss the budget in detail as well as in its generality that this convention was evolved in the United Kingdom and was incorporated in the form of an article in the Constitution, so that the Government may carry on after the end of the financial year and as soon as the new financial year begins; and, in the meantime, the House will consider it according to the time it chooses for itself as sufficient, so that the budget may be discussed threadbare and considered from all its aspects.

Article 116 does not say how in fact the House should proceed to pass these votes on account. In fact, matters of procedure are left entirely for the House to decide. I do not see any relevance in quoting Article 116 whatsoever. Nobody doubts the power of the House to pass votes on account as laid down in article 116. But article 116 does not say how the House should control its own procedure."

As regards the point that a new service might be included in the vote on account, the Minister of Finance stated:

"The apprehension that some extra service or a new service may be introduced in the Vote on Account and the House has not given that sanction, is easily allayed by an undertaking given by the Minister that no new service will be introduced in the Vote on Account and that the Vote on Account will contain only one month's provision for normal and obligatory expenditure . . . . . .

We will not start any new services under the Vote on Account expenditure, because that will not be fair to the House. The House has not discussed any new expenditure; therefore, the House has not sanctioned any new expenditure."

Incidentally in this connection it might be mentioned that, prior to the debate, the Ministry of Finance informed the Lok Sabha Secretariat in reply to an enquiry that they were aware that the Vote on Account was intended merely to keep the Government functioning pending the voting of final supply and it could not, therefore, be normally used as the means of obtaining Parliamentary approval of a new Service. The Ministry gave the assurance that their practice had generally been in conformity with this principle and accordingly they had issued instructions for guidance to all Ministries/Departments.

After the discussion on the convention was concluded, the Speaker made the following observations. After referring to past rulings on the subject by his predecessor the Speaker (Shri M. Ananthasayanam Ayyangar) said:

"We have been following this convention since 1951. The other day when this matter was brought up, I said I will set out the limits within

which some discussion can be allowed. The limits are that if any hon. Member has got a doubt that it is not merely 1|12th that is for one month but for a longer period of, say, four or five months that a Vote on Account is asked for, then this House may go into all matters as if they were discussing the General Demands for Grants.

If a Vote on Account is for more than a month or a reasonably long period, a discussion has always been allowed.

The other point is this. We shall adopt it as a convention except in certain cases, as for instance when a new service is introduced. Hon. Members need not depend only upon the assurance of the Government. It is this House that is adopting the convention. It is for the Government to say what they will do, and if any assurance is going to be broken, the House is always there.

I shall of course see that the vote is not asked for before the general discussion on the Budget. This convention will continue in this manner on the understanding that a vote on account shall be asked for only after the presentation of the Budget and the general discussion on the Budget is over. The vote on account shall be restricted to a short period and the period shall normally be one month. If the period is longer, this House is entitled to express an opinion.

The next thing is, inasmuch as we are not allowing a regular discussion but all the same the House is called upon to vote, it must have fuller details. And the hon. Minister also has said that he will give fuller details regarding these items than have been given till now.

Subject to these limitations I would say the House should continue to follow the convention that has been observed all along. This convention is not contrary to article 116. There is no convention which cannot be revised, it is always open to the House to do so in the interests of proper working of the House. It is a matter of procedure, not a matter of substance. Hon. members are not altogether denied the opportunity; later on they have an opportunity to discuss the Demands. A vote on Account is only for the interim period.

Under these circumstances I do not think there is any necessity to deviate from the convention, except in so far as some opportunity may be allowed to ask for explanations if necessary, at the time the motion for vote on account is made."*

*L. S. Deb. Part II, dated 5th May, 1958, pp. 18403-430.

Interpellations in the French National Assembly

According to Article 48 of the French Constitution[1], "the Ministers shall be collectively responsible to the National Assembly for the general policy of the Cabinet and individually responsible for their personal actions."[2] It is the Assembly which votes Government into office, and the Assembly which, by withdrawing its support, compels the Ministers to resign. The National Assembly of France exercises control over the Government through procedural devices, one of which is *interpellation*, a device peculiar to that country.

***Definition and scope**

The term 'interpellation' means a request, addressed to Government for an explanation of its actions. It implies a certain peremptoriness and carries the threat that it may be followed by a vote reflecting favourably or unfavourably upon the conduct of the Government.[3]

It has also sometimes happened that an interpellation is put down by a member of the majority, with the previous agreement of the Government, when the Cabinet desires a specific question to be debated.

There are, on the other hand, quite a few "electoral interpellations" the authors of which know that there is very little or even no chance for the interpellation to be discussed. An interpellation may, however, not be addressed to a Deputy who is not a Minister.

How it may be raised

Under Article 89 of the Standing Orders of the French National Assembly the request for interpellation can be presented by a single Deputy only. Any Deputy who wishes to put an interpellation to the Government hands in a request in writing to the President of the Assembly explaining briefly the object of his interpellation. The President immediately notifies the Government of the request and acquaints[4] the Assembly on the first day of the sitting that follows the notification.

An interpellation is nearly always put directly although in exceptional cases an interpellation may also arise out of an Oral Question, *e.g.*, in the following circumstances.

The Minister concerned may be absent when the question included in the

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*Prepared by the Committee Branch, Lok Sabha Secretariat on the basis of the discussion by the "Study Group of the Lok Sabha Secretariat on Constitutional and Procedural Matters".

[1] Constitution of the Fourth Republic.

[2] Peaslee's 'Constitution of Nations', Second Edition, Vol. II, p. 12.

[3] Lidderdale's "Parliament of France'—Second Edition, p. 235.

[4] The announcement to the Assembly is made in the form of a "book entry" in the Verbatim Report of the Assembly, in the formula," I have received from Mr. X a request to put an interpellation on ....." The concluding words constitute a short description of the subject matter, *e.g.*, "On the foreign policy of the Government."—p. 236—Lidderdale's 'Parliament of France'—Second Edition.

Orders of the Day comes up for answer. In that case the Question is put down for the following Friday, and if, after two absences, he is again absent when the Question is put down for the third time, the questioner may transform the question into an interpellation and present forthwith an Order of the Day to be voted upon.[5]

Fixing of the date for putting the interpellation

If no request for the immediate fixing of the date is made at the same time as the request for permission to put the interpellation, the announcement ends with the words 'the date of the debate will be fixed later'. In that case, it is left to the Conference of Presidents to propose a date, unless the President is previously informed that the Government and the interpellator have agreed upon one, as the Government must be heard before the date is fixed. In either case, the date must be confirmed by the Assembly[6]

However, on a Tuesday afternoon, on a request in writing by the interpellator, handed in at the same time as the interpellation and supported by the signatures of fifty members, whose presence must be confirmed by roll call, the Assembly, informed without delay of the interpellation by the President, may decide, by means of a vote by open ballot without debate, whether the fixation of the debate for the discussion will be done immediately after the Government has been informed of the interpellation. The Assembly, after having heard the Government, proceeds to fix the date without a debate on merits.

For purposes of the fixation of the date those who take part in the debate may not speak for longer than five minutes. Only the author of the interpellation, the Presidents of the groups or their delegates and the Government may take part.

Procedure on an interpellation

The interpellation sets the subject for discussion; debates take place not on formal motions and questions, but on the subject so introduced. The right to speak as interpellator is personal. However, the President of the group to which the interpellator belongs or, failing that the interpellator himself may designate another member of his group to act on his behalf in the case of his being prevented from exercising the right.

If there are several interpellations to be discussed, the interpellators speak in the order in which the interpellations are presented. The Government may reply after each separate interpellation, or after certain of them, or may wait till all have been developed. When several interpellations relating to the same or allied subject are discussed at a time, the Government does not answer each one of them separately. The Government may, however, speak at various times and it does so on the bulk of the questions. The general discussion is open directly after all the interpellations have been developed. The Government usually replies not before but after this

[5] European Parliamentary System *by* Campion and Lidderdale, p. 125; Lidderdale's 'Parliament of France', Second Edition, p. 244.

[6] *Ibid*, p. 236.

discussion and sometimes during the discussion, if it thinks that the occasion is favourable. Here again, the Government may speak more than once. In the Council usually both the President of the Council and the Minister concerned speak in the debate.

The debate on an interpellation is a proceeding which illustrates clearly the French conception of the process of debate. It begins, not with any formal motion expressing a pre-conceived opinion, but simply with the expression of criticisms and inquiry by the interpellator who, by his speech, sets the subject of debate. Till such time as the Minister concerned has replied in the name of the Government and perhaps others have also spoken, no expression of opinion, in the form of an Order of the Day, is put forward to be decided upon by the Assembly. This procedure is logical as it provides that the members should not make up their minds either to acquit or to condemn a Minister until they have heard what he has to say.

How it is voted at the end

At the close of the general discussion, the Assembly must express conclusions reached as a result thereof. This is done by means of a motion, known as an Order of the Day, in which the Assembly, with or without comment, signifies that the matter has been sufficiently discussed, and is ready to pass on to the remainder of the Orders of the Day.

If such motion (Order of the Day) is presented, the President, at the end of the general discussion, "declares the incident closed". In that case the Assembly proceeds to the next business, without recording any statement of its views.

Very often, a reasoned Order of the Day is presented during the debate.[7] It may, however, be a complicated motion containing several paragraphs explaining the views of the movers, and ending not with an expression of confidence but with an adjuration to the Government to take certain action.[8] Such Orders of the Day are read out by the President when the general discussion is over. If

[7]The bare form of the reasoned Order of the Day would be clear from the following :
"The National Assembly
After hearing the statements of the Government,
Expresses its confidence in the Government,
and rejecting every addition,
passes to the Orders of the Day".
—Verbatim Report, 13th March, 1947, p. 900.

[8]An instance of the complicated form of motion of Order of the Day is given below:
"The National Constituent Assembly,
Saluting the efforts made by all
Frenchmen, Mussulman and European,
for the material and moral improvement of Algeria,
Saluting the heroic fighters of the
French Army of Africa, closely awaited,
whatever their origin, in their ardent
love of France,
Uniting in the same concern the
material and moral destiny of the
European and Mussulman populations of Algeria,
And taking note of the statements of the
Minister of the Interior,
Expresses its confidence that the Government
will at the earliest opportunity introduce
a bill to constitute the Statute of Algeria which will allow all
to realise in the same spirit the destiny
of the French Community,
And passes to the Order of the Day".
—Verbatim Report of the Second Constituent Assembly, 29th August, 1946, p. 3286

there is more than one Order of the Day, the Assembly decides, if necessary after a discussion and vote, the order in which they are to be taken. The Order of the Day pure and simple has priority, if proposed at the same time as Reasoned Order of the Day; and priority is given next to an Order of the Day containing a request for a Committee of Enquiry.

Before an Order of the Day is voted upon, the Assembly holds a further short debate. Every Deputy has the right to speak on Orders of the Day for five minutes only. An amendment to an Order of the Day may be presented any time before a vote is taken on that Order of the Day. An Order of the Day may also be withdrawn before it has been voted upon.

It would be thus seen that the procedure of the interpellation is extremely elastic. It can be used to clear up a minor administrative problem, to enable immediate discussion of a sudden crisis, or to provide the occasion of a long and weighty debate covering perhaps four or five days on a grave matter of policy. It fulfils functions which in the House of Commons are performed by various forms of procedure—'Private Notice' Questions, motions for the adjournment of the House, etc.[9]

The liberal State is to be conceived as the protector of equal rights by dispensing justice among individuals. It seeks to protect men against arbitrariness, not arbitrarily to direct them. Its ideal is a fraternal association among free and equal men. To the initiative of individuals, secure in their rights and accountable to others who have equal rights, liberalism entrusts the shaping of human destiny.

—WALTER LIPPMANN in "An Enquiry into the Principles of the Good Society" p. 367.

[9] Lidderdale's "Parliament of France", 2nd Ed., p. 240.

Government and the Opposition : British Practice for Joint Talks on Defence*

"The term, Her Majesty's Opposition", wrote Sydney D. Bailey[1] "is one of the most significant and important in British politics. It signifies that a single nation, one in a common allegiance to a common way of life symbolised by its Queen, is none the less also two—two as well as one, and two at the same time that is one. Her Majesty has her actual advisers, who form the Cabinet: she also has her potential advisers, who form the anti-cabinet. The existence of such an anti-cabinet or organised opposition to the acting Cabinet is the salt of the British System of Parliamentary Government."

Consultation on Policy or Projected Legislation

The Opposition has a vital part to play in the working of the Constitution. and it provides the constant stream of criticism which is as necessary as constructive creation.[2] No responsible government can afford to ride rough-shod of organised opinion of about one-half of the nation which is represented through the party in Opposition. The Government on occasions consult the opposition on policy or projected legislations, especially in cases where the matters are not sharply controversial, in the party sense. Contact of this nature may be upon the basis of conveying information of decisions reached as a matter of courtesy or of ascertaining and possibly taking into account the reactions of the Opposition. These contacts are private and as a whole useful within a proper field.[3] Sometimes the practice of consultation goes further than mere arrangements about business.[5] It is recognised, for instance, that matters relating to the 'Crown' should if possible be settled by agreement.[4]

In matters of defence and foreign affairs too, there is often consultation. "Matters of national defence and foreign policy", wrote Sir Winston Churchill, "ought to be considered upon a plane above party and apart from natural antagonisms which separate a Government and an Opposition. They affect the life of the nation. They influence the fortunes of the world".[6]

*Prepared by the Research & Reference Branch, Lok Sabha Secretariat.

[1]Bailey, Sydney D.: *The British Party System*, London. 1952.

[2]Morrison, Herbert: Government and Parliament.

[3]Jennings, Sir Ivor: Parliament (2nd Edition).

[4]*Ibid.* Mr. Baldwin consulted the Leader of the Opposition and the Leader of the Liberal Party on the abdication of King Edward VIII.

[5]The War Speeches of Sir Winston Churchill, Vol. I, 1951.

Sir Ivor Jennings[6] cites the following examples of joint consultation on defence and foreign affairs:

Examples of Joint Consultation on Defence and Foreign affairs

"The Duke of Wellington was often consulted by the Whigs. Mr. Joseph Chamberlain tried to persuade Sir Henry Campbell-Bannerman to support his policy against Kruger in 1899: 'It would be a game of bluff, and it was impossible to play that game if the Opposition did not support the Government.' Mr. Balfour was consulted by Mr. Asquith as to the various defence schemes in 1908. At the outbreak of war in 1914, paraphrases of despatches were sent to the Opposition to be read in the Shadow Cabinet. Mr. Austen Chamberlain assisted the Allied War Conferences on financial questions and discussed the first War Budget with Mr. Lloyd George. In 1915 Conservative leaders were summoned to the War Council to secure their agreement to the promise that Constantinople should go to Russia after the War. In 1938 and 1939 the Labour Opposition was frequently consulted by Mr. Neville Chamberlain and in 1949 Mr. Attlee consulted Mr. Churchill. As was pointed out on the last of these occasions, an Opposition leader who receives information in this way may effectively be stopped from disclosing it in the House, even though he could have obtained it from other sources. On the other hand, if the Government decides to 'go it alone', it must expect opposition as fierce as the opposition to the Eden Government's Suez policy in 1956."

While the proposition that there should be occasional consultation between the Government and the Opposition on defence seems to have been accepted, opinion has not crystallised in favour of holding regular talks on defence between the Opposition and the Government. Nor has the Government viewed with favour the proposal of discussions on defence matters in secret sessions during peace-time.[7]

Mr. Churchill's Proposals (1949)

It would be interesting to refer here to the move for collaboration on defence matters which was initiated in 1949 by Mr. (now Sir) Winston Churchill, then Leader of the Opposition. On December 1, 1948 during the course of the de-

[6]Jennings, Sir Ivor: Parliament (2nd Edn.)

[7](*i*) During the course of the Debate that followed the Statement made by the Minister of Defence (Mr. Alexander) in the House of Commons on the 23rd September, 1948, Mr. Bellenger (Labour) suggested a secret session to discuss defence.

(*ii*) As Leader of the Opposition, Sir (then Mr.) Winston Churchill said in the course of the Debate on the King's speech on 28th October, 1948:

"This (lack of official information on military matters) should certainly be the subject of severe debate, not only on the normal occasions which the Session affords, *but perhaps also in Secret Session.* But there are advantages in having a free and unpublished discussion of these vital topics, and it might place the House of Commons in a better position to judge of them correctly without at the same time causing needless untimely public agitation or distress at home or unfavourable reactions among the public of other countries.

For the present, all I can say on the subject of defence is that on this, as in all great matters of common interest, we are without official information."

bate on the National Service (Amendment) Bill, 1948, Sir Winston Churchill blamed the Government for allegedly "hiding themselves behind the pretext of military security" in refusing any information "in a manner that no other government has done. The only people not informed were the British nation and their Parliament. No statements had been made available by the Government to the Opposition, and there had never been a time when a more complete gulf existed between the two parties on a national question common to all."

The Prime Minister (Mr. Attlee) in his speech said that while war-time secret sessions were useful he did not think, after careful consideration, that it would be well-advised to hold them in time of peace.[8]

Again on March 3, 1949 Mr. Attlee referred to Mr. Churchill's complaint during the debate on the National Service Bill in December that the Government did not take the Opposition into their confidence on matters of defence, expressed his readiness to meet Mr. Churchill at any time for discussion, but stated that Mr. Churchill had not so far approached him on the matter. On the following day Mr. Churchill accepted Mr. Attlee's invitation to a private discussion on defence question and the talks were scheduled to be held on Mr. Churchill's return from the U.S.A. Mr. Churchill wrote to Mr. Attlee as follows:

> "I have never doubted that if I asked to see you on Defence, or, indeed on other matters of public consequence, you would receive me; and the informal interchange which took place between us on December 16 at the close of a meeting on another subject did not, to my mind, create a new situation. Since then I have not ceased to consider the matter, which is not free from difficulty. Once you have given me, and any colleagues I may bring with me, secret information which we do not already know, then even if that information still leaves us unsatisfied, we should be greatly hampered in discharging our duty of criticizing the Service Estimates. I therefore allowed the matter to rest until after the debates which were expected in the New Year and are taking place.
>
> Now, however, that you have stated publicly in debate that you invite me to see you, our meeting would acquire a greater significance than could attach to informal and private talks. I therefore feel it my duty to accept. In order that the Opposition should not be embarrassed in Defence debates, I must ask you, as I did Mr. Baldwin in 1936, that we shall be free to use in public any information of which we are already possessed, with due regard to the national interest and safety. To avoid risk of subsequent misunderstanding, I will therefore prepare a Memorandum on the condition of the Armed Forces in relation to our needs as I and my colleagues view them today. This I will send you as soon as it is ready, and after you have considered it we shall be very glad to see you, so that the whole

[8]Parliamentary Debates, House of Commons, 1948-49, Vol. 458, Dec. 1, 1948.

subject may be discussed and that we may be placed in possession of information which is now naturally not within knowledge."

In his reply to this letter, Mr. Attlee expressed his willingness to accede to Mr. Churchill's proposal, and said that he awaited the Memorandum of which Mr. Churchill had written.[9]

The first meeting between the Government and the Opposition to consider problems of defence was held at the Prime Minister's room in the House of Commons on July 13, 1949, Mr. Attlee being accompanied by Mr. Alexander (Minister of Defence), Viscount Hall (First Lord of the Admiralty), Mr. Shinwell (Secretary for War), Mr. Arthur Henderson (Secretary for Air) and Mr. G. Russell Strauss (Minister of Supply). Mr. Churchill was accompanied by Mr. Eden (Deputy Leader of the Opposition), Lord Salisbury (Opposition Leader in the House of Lords), Lord Cherwell (Mr. Churchill's Scientific Adviser during the War), and Earl Winterton the "father of the House of Commons". Two subsequent meetings also took place but thereafter Mr. Churchill decided to discontinue them.[10]

Labour's suggestion for Joint Consultation on Defence

In 1949 it was the Conservative Party (then in Opposition) who pleaded for joint consultation on defence. Nine years hence it was the turn of Labour Party in opposition to make a similar pleading to keep defence matters outside the arena of party politics.

On February 27, 1958, during the course of the debate on the Government's Defence White Paper, Mr. Shinwell (Minister of Defence in the Labour Government) urged that the Government should enter in consultation with the Opposition from time to time on matters of defence. He advocated a Standing Committee from both sides of the House to analyse defence problems in the interests of the country, and "keep defence out of politics".[11]

A similar proposal to set up a House of Commons Committee to which secret information could be given by Ministers was earlier made by Mr. Bellenger, a former Labour Secretary of State for War.[12]

These proposals met with almost the same fate as the earlier nine-year old experiment. On the 24th April, 1958 the Prime Minister (Mr. Harold MacMillan) made a statement[13] in the House of Commons in the course ot which he recalled that proposals had been made from time to time that the Government should discuss defence matters with the Opposition. Mr. MacMillan said:

"At my suggestion, the Leader of the Opposition came to see me before the Easter recess to talk over the possibilities of such discussions. We

[9]Keesing's Contemporary Archives, p. 9895.

[10]The Prime Minister Mr. Harold MacMillan's statement in the House of Commons on April 24, 1958.

[11]House of Commons Debates, February 27, 1958. Col. 584.

[12]House of Commons Debates, 26th February, 1958, Col. 427.

[13]House of Commons Debates, 24th April, 1958, Cols. 1163—1170.

considered a plan put forward by some Members that there should be a committee of this House to which secret information should be given by Ministers. We were agreed that such a committee would not be appropriate to our Parliamentary system and would entail great difficulties."

The Prime Minister explained that the Leader of the Opposition (Mr. Gaitskell) in rejecting the idea of regular meetings of a confidential nature which would be attended by Privy Councillors from both sides, had pointed out that Sir Winston Churchill, after three meetings of this kind, had decided in 1949 to discontinue them.

"Doubtless", Mr. MacMillan said, "he (Sir Winston) felt that they hampered unduly his freedom of public criticism in the House of Commons. I am sorry that Mr. Gaitskell felt that the same difficulties would necessarily arise today, for I think that an experiment of this kind might well be reported. However, I must accept his decision."

Mr. MacMillan mentioned the custom whereby Ministers occasionally consulted with the Opposition, informally and privately, on specific points. He said in this connexion: "This is a long tradition of Parliament, and such talks have taken place on the initiative, sometimes of the Opposition, sometimes of the Government. I fully accept that this system is a good one, but that of course both the Government and the Opposition must hold themselves free to make, accept or reject invitations of this kind. To be of any value, such meetings must be confidential and private. While, therefore, I am sorry that Mr. Gaitskell has not thought it right to agree to a more formal arrangement for discussion of the many defence problems which confront us, I am glad that the possibility of occasional consultation in the traditional manner remains open."[14]

ANNEXURE

Statement by the Prime Minister (Mr. Harold MacMillan) on Defence Discussions in the House of Commons, April 24, 1958

The Prime Minister (Mr. Harold MacMillan): Mr. Speaker, with permission, I will make a statement about discussions on defence matters.

The proposal has from time to time been made that the Government should discuss defence matters with the Opposition in this House. At my suggestion, the right hon. Gentleman, the Leader of the Opposition, came to see me before the Easter recess to talk over the possibilities of such discussions. We considered a plan that had been put forward by some hon. Members that there should be a Committee of this House to which secret information should be given by Ministers. The right hon. Gentleman and I were agreed that such a Committee would not be appropriate to our Parliamentary system and would entail great difficulties.

14. See Annexure for the text of the Prime Minister's speech.

We also discussed the possibility of holding regular meetings of a confidential character, at which Privy Councillors from both sides of the House would also be present. The right hon. Gentleman informed me that after consideration he did not think that such an arrangement was compatible with the fulfilment by the Opposition of their constitutional function. He pointed out that in 1949, after three meetings of this kind, my right hon. Friend, the Member for Woodford (Sir W. Churchill), decided to discontinue them, doubtless because he felt that they hampered unduly his freedom of public criticism in the House of Commons.

I myself am sorry that the present Leader of the Opposition felt that the same difficulties would necessarily arise today, for I think that an experiment of this kind might well be repeated. However, I must accept the right hon. Gentleman's decision.

In our conversation, the right hon. Gentleman and I both recalled the long custom for Ministers to consult occasionally, informally and privately, with the Opposition on specific points. This is a long tradition of Parliament, and such talks have taken place on the initiative, sometimes of the Opposition, sometimes of the Government. I fully accept that this system is a good one but, of course, both the Government and the Opposition must hold themselves free to make, accept or reject invitations of this kind. To be of any value such meetings must be confidential and private.

While, therefore, I am sorry that the right hon. Gentleman has not thought it right to agree to a more formal arrangement for discussion of the many defence problems which confront us, I am glad that the possibility of occasional consultation in the traditional manner remains open. . . . . There are, I think, really three types of discussions which I myself think may be valuable between Opposition and Government. The first is on the general question of defence, the great plans, the broad policies. I do not think—I agree absolutely with the Leader of the Opposition—that a Committee of the kind described would be useful. I think it would really be contrary to our tradition and raise a good many difficulties. I did, however, hope that discussions of the other kind, of which three were held at the request of my right hon. Friend, the Member for Woodford, might take place again. However, the right hon. Gentleman, the Leader of the Opposition, has made his decision.

There are, then, occasional points which arise, such as the illustration given, on a particular difficulty or problem. I should always be ready to give any information, in my capacity to the right hon. Gentleman, the Leader of the Opposition, or to other Privy Councillors of great experience, such as the right hon. Gentleman the Member of Easington (Mr. Shinwell). He is a Privy Councillor of long experience in the Ministry of Defence. I assure him that I, or my right hon. Friend, would be very ready to give him what information I think it right to give in any of these matters . . . . . There are today, in some spheres, questions which we discuss very strongly, on which strong opinions are held, and on which it is not possible for the Government to give even full information about the actual

facts, in regard to which I should feel happier if I were in a position to give some of the facts to right hon. Gentlemen who carry, perhaps, their share of responsibility in our parliamentary system . . . . . I do not wish to pursue what had happened in the past. I am concerned with an offer I made to the present Leader of the Opposition and the reply he made to me. That offer remains open, if he should change his mind. The appointment of a Select Committee of the House is rather a different matter. I myself feel—and there I agree absolutely with the right hon. Gentleman—that we should have to give a very great deal of thought to it before making a change of that character, because the kind of conversations which I think the House had in mind, and which I certainly had in mind, were more of the character to which the right hon. Member for Easington referred, rather informal, private and secret conversations with the idea of clearing up questions of fact rather than arguing questions of principle. However, there the matter stands. As regards a Committee, I think that I must rest on the decision now reached. I agree with the right hon. Gentleman, the Leader of the Opposition, in that I see no reason at present for deciding upon the appointment of such a Committee.

The community has a paramount interest in the rights of the individual, and the individual a paramount interest in the welfare of the community of which he is a part. The community cannot prosper without permitting, nay encouraging, the far-reaching exercise of individual freedom: the individual cannot be safe without permitting, nay, supporting the far-reaching exercise of authority by the State.

—H. S. COMMAGER in "Freedom, Loyalty, Dissent" p. 49.

1065 (C) L.S.—8.

Some Parliamentary Activities at a Glance

DEBATES IN PARLIAMENT

Lok Sabha: Estate Duty (Amendment) Bill, 1958: Interpretation of Article 252 of the Constitution *

On the 25th April, 1958, when discussion on the motion for reference of the Estate Duty (Amendment) Bill to a Select Committee was resumed in the Lok Sabha, a Member (Shri K. Periaswami Gounder) rising on a point of order contended that as the Bill affected "Estate Duty in respect of agricultural land" which is a State subject under item 48 of List II of the Seventh Schedule to the Constitution, Parliament could proceed in the matter only after resolutions under Article 252 had been passed by two or more States. Such resolutions under clause (1) of Article 252 were passed by State Legislatures in connection with the Estate Duty Bill, 1953. In the case of an amending Bill, the Member said, a similar resolution must be passed by two or more State Legislatures under clause (2) of Article 252, and as this condition precedent had not been fulfilled in respect of the Estate Duty (Amendment) Bill, Parliament could not proceed with the matter.

Replying to the point of order, the Law Minister (Shri A. K. Sen) agreed that the Bill affected "Estate duty in respect of agricultural land" which is a State subject, but expressed the view that as the Bill under discussion sought to regulate a matter in respect of which the States had, already at the time of the original Bill, authorised Parliament by resolutions to make laws, no further resolutions were necessary for the *amending* Bill, when it related to the same matter. He contended that clause (2) of Article 252 would apply only when some new subject under the State List was sought to be covered.

Supporting Shri Gounder, Sardar Hukam Singh stated that the matter involved fundamental issues. He said that under the Constitution the States

*Article 252 of the Constitution says :

252. (1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

had certain powers under their exclusive jurisdiction, and under Article 252, Parliament might legislate on a State subject, if a request was made by two or more States through resolutions to that effect passed by the Legislatures of these States. Under clause (2) of Article 252, "any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted *in the like manner*". The words *'in the like manner'*, he added, made it obligatory to follow in the case of an amending Bill also the same procedure as was followed at the time of the original Bill and as laid down in clause (1) of Article 252, and there was no escape out of it.

After several other members had taken part in the discussion, the Minister for Law again said:

"....the purpose of Article 252 (2) was two-fold. It did not require prior authorisation for amendment of this law regulating the subject-matter already assigned to Parliament, but it only gave authority to these legislatures to initiate again an amendment in like manner, because power to pass a law includes the power to make an amendment. Clause (2) is only to enable these Legislatures, once they have assigned the subject-matter to Parliament, to initiate amendment again. It is therefore that Article 252(2) does not say that no other amendment shall be possible excepting as provided in Article 252(2).

"The purpose of Article 252(2) is that though these States have once abandoned their subject-matter in favour of the Centre, yet by the process mentioned in Article 252(2) they can still initiate amendments.

"Under the General Clauses Act, the power to pass a law includes the power to make amendment. That is a recognised principle of law. Once the power to make a law pursuant to resolutions of two Legislatures is granted to Parliament, Parliament is also given authority to amend the law. No other power is necessary. But the purpose of clause (2) was that notwithstanding the State Legislatures having parted with that subject-matter, they can, nevertheless, themselves initiate amendment. That is why you will find the words 'may be amended or repealed by an Act of Parliament or adopted in like manner'. The States themselves may again propose, though they parted with the subject-matter, by prior resolution or adoption."

Agreeing with the point of order raised by Shri Gounder, the Speaker observed:

"It appears to me that the provision of the General Clauses Act is that a legislature which passes legislation is entitled to amend it, cannot apply in this case. It will be so in the absence of a specific provision as in clause (2) of Article 252.

"If the Constitution had been silent on that, without enacting clause (2) and left clause (1) of Article 252 alone, the interpretation of the General Clauses Act, that whichever authority has got the right to enact a law will also have the right to amend it, would have stood. But here a specific provision is enacted in clause

(2) as to how this amendment has to take place. If the general interpretation is accepted, clause (2) will become absolutely useless. No Article of the Constitution or clause thereof should be understood to mean as useless. It must have some purpose. Therefore, there is every force in the argument that unless two or more States take the initiative in asking Parliament to amend the law, the jurisdiction vested in Parliament expires after the passing of the original Act, and for further amendment that ought not to be invoked.

"But I feel that the prohibition s only to the *passing* of the Act. We are only in the stage of referring this Bill to a Select Committee. Now we can proceed with the reference of this Bill to the Select Committee. In the meanwhile Government can ask the State Legislatures to pass resolutions and get those resolutions here..... If, however, they are not passed, a stage will come when the Parliament shall not pass the legislation amending the original Act. We have not yet reached the stage of amending or repealing it. By that time, let us see if resolutions are passed. If they are not passed, this Bill will be infructuous."

* * *

House of Commons (U.K.): Resolution for appointment of Select Committee on Procedure

On the 31st January, 1958, the following resolution was moved by Mr. A. E. Gram in the British House of Commons:

"That a Select Committee be appointed to consider the procedure in the Public Business of this House; and to report what alterations, if any, are desirable for the more efficient despatch of business."

Speaking on the motion, Mr. Gram said that the main difficulty experienced by Members was lack of time for proper and full discussions of subjects coming up before Parliament and that Parliament should, therefore, adopt a timetable and procedure which would be conducive to the efficient dispatch of business and at the same time preserve the rights of individual Members and of the minorities. He added that the institutions of democracy should be prepared to adapt their procedures to meet the challenge of modern times and should also have due regard to the principle that "the power to oppose must include within itself the opportunity and the power to delay". He mentioned certain instances such as the timings of the sittings, the allocation of time for different subjects and the imposition of time-limit on speeches as requiring changes in the interest of efficient despatch of business.

Mr. Wedgwood Benn, who seconded the motion, said that members were finding it difficult to keep abreast of all the important issues that confronted them, in view of the increasing complexity of public business and the huge volume of complicated Government legislation. He suggested that any important ministerial statement should be immediately followed by a debate on that topic by an adjournment of the House and should not be postponed to a future occasion. He also felt that Private Members' motions should not be left to the chance of the ballot box as at

present but should be selected according to the importance of the subject and the support it had from other Members ascertained through their signatures. Lastly he said that Members who did not get their chances to speak should have their written speeches included in the Hansard and also that more facilities in the form of accommodation, telephone, research and information should be provided to them.

More than a dozen Members participated in the debate, all of whom supported the motion.

Sir Robert Boothby wanted each Member to specialise in one or two subjects instead of all of them dealing with all subjects. He also pleaded for effective Parliamentary control over public undertakings financed by the State.

Mr. Geoffrey de Freitas wanted the House to concern itself only with broad issues and general principles leaving the details to be dealt with by the appropriate committees. He also desired that back-benchers should be allotted more time to speak in the House and that all-party committees on important subjects should be set up to consider the various problems confronting the House.

Sir Spencer Summers stated that any proposed change in procedure should be carried out by agreement between both sides of the House. He agreed that the efficiency of Parliament should be enhanced both as a "check on the Executive" and as a "mouthpiece of public opinion".

Mr. F. J. Ballenger suggested that the House need not meet every day from Monday to Friday as at present and one or two days might be wholly reserved for Committees.

Sir Robert Cary wanted the sittings of the House to be started earlier in the day instead of in the evenings, while Mr. Glenvil Hall desired some form of time-limit on speeches to be introduced.

Mr. Peter Kirk stated that in order to save the time of the House, the names of the Members might be recorded only in important Divisions and not in all. He also proposed that the Committees might meet even when the House was in recess.

Mr. Shinwell generally agreed with the suggestions made by the earlier speakers and further said that the number of starred questions that a Member might ask might be limited to two and the number of supplementaries to one.

Some Members also desired mechanical devices to be installed for voting purposes and other facilities for Members.

Replying to the debate, the Secretary of State for the Home Department and Lord Privy Seal (Mr. R. A. Butler) said that the present procedure of the House should be changed only after great consideration, as it had served to preserve the liberties of the Members in the past and was intended to do so in future. He did not favour the idea of the Finance Bill going to a Standing Committee for consideration nor the idea of setting up Standing Committees for important subjects like defence, foreign affairs etc., as in France and the U.S.A., as the doctrine of separation of powers was not applicable in Britain as in those countries. He, however, favoured committees similar to the Select Com-

mittee on Nationalised Industries which would do a great deal of detailed work and leave the House free for discussing only the major issues connected with them. He said that the Government would accept the motion without pledging itself to the exact terms of reference but altering it as was found necessary.

The resolution was thereupon passed by the House.

* * *

PARLIAMENTARY QUESTIONS

Lok Sabha

In answer to a question in the Lok Sabha on the 10th April, 1958, regarding the appointment of High Court Judges, the Minister of Home Affairs (Shri G. B. Pant) stated that the States Reorganisation Commission had recommended that as far as possible one-third of the Judges in the High Court of every State should be recruited from other States and this recommendation had been approved by Parliament, the recent Law Ministers' Conference and the recent Conference of Chief Justices of High Courts. The Government of India were, therefore, considering the question of drawing up an All-India list of suitable persons from whom selection could be made for appointment of High Court Judges and most of the States had agreed with the scheme. According to this scheme, the different States would prepare lists of panels of persons suitable for appointment as High Court Judges from among the Judicial officers and members of the Bar, consult their Chief Justices, Chief Ministers and Governors and send their final list to the Government of India. These lists would then be referred to the Chief Justice of India and a consolidated list would be prepared. After the list had been approved, it would be circulated to the States and whenever vacancies had to be filled the States concerned would make from them their initial proposals for appointment.

Rajya Sabha

Answering a question on 23rd April, 1958, on the new rubber-stamp method of voting introduced recently, the Minister of Law (Shri A. K. Sen) said that the new system of voting had so far been adopted in seven Legislative Assembly constituencies. No special difficulty had been experienced by the voters or the polling officials under the new system, although in the first bye-election held, many voters were not able to hold properly the ball-point pens supplied to them and make marks of proper size within the space allotted for marking the candidate of their choice, but made marks so large as to cover the space allotted to two or more candidates, with the result that such votes had to be rejected. Rubber stamps giving the impression of a cross inside a circle were, therefore, supplied to voters in the subsequent bye-election. The stamp was so designed that it was impossible for a voter to make with it a mark which would cover the space allotted to more than one candidate and this produced encouraging results.

The Minister added that one of the reasons for introducing this new system was to prevent the possibility of ballot papers being taken outside and that the percentage of rejected votes had shown

a tendency to decline after the introduction of the rubber-stamp method. This method also took less time, and in order to help the illiterate voters to mark their choice, every election officer was entrusted with the duty of explaining the method to any elector who was in need of help.

* * *

COMMITTEES AT WORK

Committee on Government Assurances (Lok Sabha) January—June. 1958

The Committee on Government Assurances, which was constituted by the Speaker on the 5th June, 1957, continued in office till 1st June, 1958. The Speaker reconstituted the Committee with the same members and Chairman for a further period of one year with effect from 1st June, 1958.

The Committee held two sittings during the period January—June, 1958.

At the request of the Department of Parliamentary Affairs, the Committee considered at their sitting held on the 19th March, 1958, their earlier recommendation that once an assurance was given on the floor of the House, the House should be informed of the action taken by the Government in implementation thereof, even though the assurance constituted a statutory obligation. The Committee felt that one of the main reasons for members asking questions about reports of statutory bodies was the fact that there was considerable delay in such reports being placed on the Table, despite the statutory obligation. They also felt that if in response to such a question the Minister gave a reply, which fell within the scope of the standard forms of assurances approved by the Committee, it should then be included in the statement of assurances and the Department of Parliamentary Affairs should, as usual, place on the Table a statement showing the action taken in implementation thereof.

The report of the Committee was presented to the Lok Sabha by the Chairman of the Committee on 9th May, 1958.

* * *

PROCEDURAL MATTERS

Lok Sabha: Procedure for Correction of Answers to Questions

The procedure hitherto followed for the correction of answers given earlier to questions (both starred and unstarred) or statements made by Ministers on the floor of the House was that the Minister concerned had first to give notice of his intention to make the statement so that the item might be included in the List of Business on an appropriate date and then the Minister, when called by the Speaker on that day, had to make or lay on the Table the statement. No intimation of the Minister's intention to make the statement was, however, sent to the Member who had earlier asked the relevant question.

On the 11th February, 1958, a Member (Shri T. N. Singh) suggested that the statements laid on the Table by Ministers by way of corrections to answers given earlier in the House might

be circulated to all Members, as laying on the Table did not make available to them the nature of the corrections made. The Speaker thereupon observed:

> "Normally, I think the procedure should perhaps be that if a correction is made here of an answer to a starred question, the hon. Minister should intimate to me and I give notice of it to the Member who has tabled the question and in the presence of the Member the answer should be read out in the House."

The procedure has, therefore, since been laid down in respect of starred questions that whenever a correction is made, the Member in response to whose question the answer was earlier given and which was to be corrected by the statement to be made by the Minister should also be informed. The name of the Member concerned is, therefore, inserted in the relevant entry in the List of Business. In case the statement pertains to the correction of reply given to a supplementary question asked by another Member, the name of the Member who asked the supplementary question is also indicated in the entry. After the statement has been made by the Minister, the Speaker might permit Members to ask supplementary questions which are strictly relevant to the subject-matter of the correction made by the Minister.

As regards unstarred questions, it was decided that as replies to these questions are not formally laid on the Table, although they are deemed to be so laid, it is not necessary for the Minister to formally lay on the Table a statement correcting the reply given earlier to such questions. In these cases, therefore, the item is included in the List of Questions for written answers on an appropriate day and the statement of the Minister is included in the official report of the proceedings of the House for that day at the end of answers to all unstarred questions.

* * *

Lok Sabha: Bills relating to subjects on the Concurrent List to get the concurrence of States before introduction

On the 1st May, 1958, during discussion in the Lok Sabha on the motion for consideration of the Rice-Milling Industry (Regulation) Bill, a Member (Shrimati Renu Chakravartty) took objection to the Bill on the ground that the Central Government had no authority to bring forward a Bill to control the issue of licences to the Rice-Milling Industry, as the subject was within the jurisdiction of the State Governments. She then moved an amendment for the circulation of the Bill for eliciting opinion thereon.

The Deputy Minister of Food and Agriculture (Shri A. M. Thomas) explained that under entry No. 33 of the Concurrent List* the Central Government was competent to bring forward a Bill on this subject. [Clause 2 of the Bill contained a declaratory provision to the effect that "it is expedient in the public

*Entry No. 33 of the Concurrent List :

"Trade and commerce in, and the production, supply and distribution of the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest and imported goods of the same kind as such products."

interest that the Union should take under its control the Rice-Milling Industry".]

The Speaker observed:

"Naturally, the hon. Member, Shrimati Renu Chakravartty, has tabled a motion that the Bill may be circulated for eliciting public opinion, because primarily I think it is the business of the States. So, I would have liked that the Government, being the sponsor of this Bill, should have appended a note or a separate memorandum saying as to whether the concurrence of the States has been taken, as to how the working of this industry in the States has not been useful and how it is in the public interest that the Union should take under its control the Rice-Milling Industry. . . Therefore, I feel that in future the Government may consider the desirability of appending, apart from the Statement of Objects and Reasons which deals with the substantive portions of the Bill, a note showing as to why a particular provision is made, as to why the Centre should exercise the rights which are exercisable by the States, etc."

* * *

Lok Sabha: Chair not to decide whether a Bill is *ultra vires* or *intra vires* of the Constitution

On the 6th May, 1958, when the motion for consideration of the Gift-tax Bill, as reported by the Select Committee, was moved in the Lok Sabha, a point of order was raised by Shri Naushir Bharucha, a Member, that the Bill contained provisions relating to subjects which were under the exclusive jurisdiction of the States and therefore to that extent the Bill was *ultra vires* of the Constitution.

The Minister of Law stated that there were a number of rulings given by the Chair where the Chair had declined to go into the question of *vires* and had left the matter to be decided by the House on the motion before it.

Pandit Thakur Das Bhargava suggested that when the Chair did not take upon itself the responsibility of deciding the question of legislative competence, it should be put as a specific question to the vote of the House. Sardar Hukam Singh, however, pointed out that if the House was to make the question of legislative competence a specific issue and by a vote on it gave decision, and later on if the Supreme Court decided differently, it would create an embarrassing situation for the House. He felt that it was more in conformity with the dignity of the House and in the interest of its procedure not to make a specific issue of it by separating the constitutional from other aspects of a motion before the House.

Agreeing with the views of the Minister of Law, the Speaker observed:

"In all these matters the Chair has never taken upon itself the duty of deciding whether it is constitutional or otherwise. It is for the House to take this into consideration and vote down a Bill or pass it. . . . . I agree with the hon. Law Minister's observations that previous rulings in this House have laid down that the Chair

does not enter into this question of *ultra vires* or *intra vires*.

* * *

Procedure for opposing a Bill at Second or Third Reading Stage: Practice in U.K. and India

UNITED KINGDOM

In the British House of Commons the following methods are followed for opposing the Second or Third Reading of a Public Bill:

Delaying Amendment

The motion moved at the Second or Third Reading stage being "that the Bill be now read a second (or third) time", the formula for what is known as the delaying amendment is to leave out the word "now" and add at the end of the motion "this day six (or three) months". The object of the amendment is to postpone the consideration of the Bill. Such a Bill dies its natural death when the House is prorogued. This is the most courteous method of dismissing the Bill from further consideration, as the House has already ordered that the Bill be read a second time; and the amendment instead of reversing that order, merely appoints a more distant day for the Second (or Third) Reading. The acceptance by the House of such an amendment being tantamount to the rejection of the Bill, and therefore even if the session extends beyond the period of postponement, such a Bill is not replaced upon the notice paper of the House.

Reasoned Amendment

The second method is to leave out all the words in the main question after the word "that" and to add other words specifying the special reasons for not agreeing to the Second (or Third) Reading of the Bill. This is known as a "reasoned amendment". A reasoned amendment is placed on Order Paper in the form of a motion and may fall into one of the following categories:

(i) It may be declaratory of some principle adverse to, or differing from, the principles, policy or provisions of the Bill.

(ii) It may express opinions as to any circumstances connected with the introduction or prosecution of the Bill, or otherwise, opposed to its progress.

(iii) It may seek further information in relation to the Bill by Committees, Commissioners, production of papers or other evidence.

Out of the above three types the first two are more common. These amendments are subject to certain rules. The technical effect of a "reasoned amendment" being carried is to supersede the question for "now reading the Bill a second (or third) time". The Bill is not deemed to be finally disposed of and the second (or third) reading may be moved on another occasion. In practice, however, it is unlikely that, after a reasoned amendment has been carried on the Second (or Third) Reading of a Bill, any further progress would be made.

In addition to moving of reasoned amendment in opposition of the Second (or Third) Reading of a Bill, a reasoned amendment may be moved also in support of the Second (or Third) Reading. These are moved with the object of inviting the House to put on record a

particular point of view in assenting to the measure.

INDIA (LOK SABHA)

In the Lok Sabha the motions made by the member in charge of a Bill at the Second Reading stage may be opposed in the following manner:

(i) If the member in charge moves for consideration of the Bill, an amendment may be moved that the Bill be referred to a Select/Joint Committee or that it be circulated.[1]

(ii) If the member in charge moves for reference of the Bill to Select or Joint Committee, an amendment may be moved that the Bill be referred to Joint or Select Committee, as the case may be, or that it be circulated.[2]

(iii) If the member in charge moves for reference of the Bill to a Select/Joint Committee after opinions have been received on the Bill pursuant to its circulation. an amendment may be moved giving instructions to the Select or Joint Committee to make some particular or additional provisions in the Bill and. if necessary or convenient, to consider and report on amendments which may be proposed to the original Act which the Bill seeks to amend.

(iv) If. however, the member in charge moves that the Bill as reported by the Select/Joint Committee be taken into consideration. an amendment may be moved that the Bill be recommitted or be circulated or re-circulated.[3]

These amendments are dilatory in nature inasmuch as they postpone the consideration of the Bill by the House either till the Select/Joint Committee has considered (or reconsidered) the Bill or public opinion (or further public opinion) thereon has been elicited. The amendments are bare amendments and do not contain reasons. Members may, however, state the reason for the amendments moved by them at the time of debate on the main question.

A member can register his opposition to a Bill in its entirety at the Second Reading stage by voting against the following motions moved by the member in charge during the Second Reading stage:

(a) that the Bill be taken into consideration;

(b) that the Bill be referred to a Select Committee;

(c) that the Bill be referred to a Joint Committee of the Houses with the concurrence of the Council; and

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[1](*a*) Shri G. B. Pant moved in the House on the 5th August, 1957, for consideration of the Essential Services Maintenance Bill, 1957. Amendments were moved for its reference to Select Committee and for its circulation by Sarvashri Premji R. Asar and V. P. Nair respectively.

(*b*) Shri D. P. Karmarkar moved in the House on the 21st December, 1957, for consideration of the Countess of Dufferin's Fund Bill. An amendment was moved by Dr. Sushila Nayar for its reference to Joint Committee.

[2] Shri Jawaharlal Nehru moved in the House on the 14th March, 1955, for reference of the Constitution (Fourth Amendment) Bill to a Joint Committee. An amendment was moved by Shri V. G. Deshpande for its circulation.

[3] Shri C. D. Deshmukh moved in the House on the 15th May, 1956, for consideration of the Constitution (Tenth Amendment) Bill as reported by the Joint Committee. An amendment was moved by Shri K. M. Vallatharas for its circulation.

(d) that the Bill as reported by Select Committee of the House or Joint Committee of the Houses, as the case may be, be taken into consideration.

If any of the above motions is rejected by the House the Bill is removed from the Register of Bills.

At the Third Reading (or Passing) stage of a Bill, no amendments are allowed to be moved which are not either formal, verbal or consequential upon an amendment made after the Bill was taken into consideration. Accordingly, the motion for passing the Bill can be opposed only by voting against the motion and if such motion is rejected, the Bill is removed from the Register of Bills.

Another way in which a Bill under discussion in the House can be opposed is by moving a motion for adjournment of debate thereon either to a day specified in the motion or *sine die*. If, before the debate is resumed, the Lok Sabha is dissolved, the Bill automatically lapses under Art. 107(5) of the Constitution.[4]

* * *

Lok Sabha: Motions for election of Members to the Committee on Public Accounts and the Committee on Estimates

Under the Rules of Procedure and Conduct of Business in Lok Sabha, the members of the two Financial Committees, *viz.*, the Committee on Public Accounts* and the Committee on Estimates**, are elected each year by the members of Lok Sabha from amongst themselves according to the principle of proportional representation by means of the single transferable vote.

The first stage for the holding of elections to these Committees is the moving and adoption of a motion to that effect in the House.

The form of the motion for the election of members of the Public Accounts Committee has undergone some changes during the course of years. The motion for the late Central Legislative Assembly by Mr. W. M. Hailey (later Sir) on the 22nd February, 1921, in the following terms:

"With a view to the constitution, in pursuance of Rule 51† of the Indian

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[4]The debate on the Indian Arms (Amendment) Bill by Shri Uma Charan Patnaik was adjourned *sine die* on a motion moved by Shri B. N. Datar on the 10th December, 1954. As the debate on the Bill was not resumed before the 4th April, 1957, on which date the Lok Sabha was dissolved, the Bill automatically lapsed.

Art. 107(5) of the Constitution :

"A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States (Rajya Sabha) shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People."

*First constituted in 1921.

**First constituted in 1950.

†The Rule read as follows :

"51. (1) As soon as may be after the commencement of the first session of each Assembly, a Committee on Public Accounts shall, subject to the provisions of the rules be constituted for the duration of the Assembly for the purpose of dealing with the appropriation accounts of the Governor General in Council and the report of the audit officer thereon and such other matters as the Finance Department may refer to the Committee.

Legislative Rules, of a Committee on Public Accounts, consisting of not more than 12 members, this Assembly do proceed to elect 8 members of the said Committee."

The current form of motion in use is more specific both as regards the number of members to be elected as well as their term of office. The motion moved and adopted by the House for elections to the Committee on Public Accounts and the Committee on Estimates in 1958 was worded thus:

"That the members of this House do proceed to elect in the manner required by sub-rule————of Rule ————of the Rules of Procedure and Conduct of Business in Lok Sabha,————members from among themselves to serve as members of the Committee on————for the year/term beginning on the———— ————and ending on the———— ————."

It was decided by the House on 24th December, 1953, that seven members of Rajya Sabha should also be associated with the Committee on Public Accounts. With a vew to securing the association of the requisite number of members of Rajya Sabha with this Committee, a separate motion to the following effect is moved in the Lok Sabha:

"That this House recommends to Rajya Sabha that they do agree to nominate seven members from Rajya Sabha to associate with the Committee on Public Accounts of the House for the year/term beginning on the ————and ending on the———— ————and to communicate to this House the names of the members so nominated by Rajya Sabha."

After the above motion is adopted by the House, a message to that effect is transmitted by the Secretary of Lok Sabha to the Secretary of Rajya Sabha who reports the same to the Rajya Sabha. The names of the members nominated by Rajya Sabha are then communicated through a message by the Secretary, Rajya Sabha, to the Secretary, Lok Sabha, who in turn reports the message to the House as follows:

'Sir, I have to report the following message received from the Secretary of Rajya Sabha:

"I am directed to inform the Lok Sabha that the Rajya Sabha

(2) The Committee on Public Accounts shall consist of not more than twelve members including the Chairman, of whom not less than two-thirds shall be elected by the non-official members of the Assembly according to the principle of proportional representation by means of the single transferable vote. The remaining members shall be nominated by the Governor General.

(3) Casual vacancies in the committee shall be filled as soon as possible after they occur, by election or nomination in the manner aforesaid according as the member who has vacated his seat was an elected or nominated member, and any person so elected or nominated shall hold office for the period for which the person in whose place he is elected or nominated would, under the provisions of this rule, have held office.

(4) Of the members elected at the time of the constitution of the committee not less than one-half, who shall be selected by lot, shall retire on the expiry of one year from the date of their election and the remainder shall retire on the expiry of the second year from that date. The vacancies thus created in each year shall be filled as they arise by election held in the manner aforesaid and the members so retiring shall be eligible for re-election.

(5) The Finance Minister shall be Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote."

at its sitting held on the———— adopted the following motion concurring in the recommendation of the Lok Sabha that the Rajya Sabha do agree to nominate seven members from the Rajya Sabha to the Public Accounts Committee for the year/term commencing on the ——and ending on the——:

> 'That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do agree to nominate seven members from the Rajya Sabha to associate with the Committee on Public Accounts of the Lok Sabha for the year/term commencing on the———and ending on the ———and do proceed to elect, in such manner as the Chairman may direct, seven members from among themselves to serve on the said Committee.'

I am further to inform the Lok Sabha that at the sitting of the Rajya Sabha held on the———the Chairman declared the following members of the Rajya Sabha to be duly elected to the said Committee:—

1.....

2.....

7....."'

Till 1950, the motions for election of members to the Committee on Public Accounts were moved by the Minister of Finance who was also the *ex-officio* Chairman of this Committee. With the coming into force of the Constitution a number of changes were brought about in the Rules of Procedure of the House. These *inter alia* brought about a radical change in the Committee on Public Accounts. It became a full-fledged Parliamentary Committee with a Chairman who was not a Minister and its secretarial functions were also transferred from the Ministry of Finance to the Parliament Secretariat (now Lok Sabha Secretariat) in April, 1950. In keeping with this change, it was decided that the motions for election of members to this Committee should be moved in the House by the Minister for Parliamentary Affairs. This procedure continued in force till 1954. From 1955 onwards, the motions for election of members to this Committee have been moved in the House sufficiently in advance of the expiry of the term of office of the old Committee. It was felt that it would be more appropriate if such motions were moved by the Chairman of the outgoing Committee as he might be in a better position to explain the working of the Committee in case any questions were raised in the House on the motion. In fact, references to the working of the old Committee were made on the 22nd April, 1958, when Shri T. N. Singh, Chairman of the Committee on Public Accounts for the term 1957-58, moved a motion for election of the members of the Committee for the term commencing on the 1st May, 1958 and ending on the 30th April, 1959.

It may, however, be clarified that the motion for election to the Committee on Public Accounts of a newly-constituted House still continues to be moved by the Minister for Parliamentary Affairs

because of the patent reason that there is no old Committee in office at the time the motion for election is required to be moved.

As regards the other financial Committee, *viz.*, the Committee on Estimates, it was set up for the first time in 1950 and the Secretariat staff for this Committee has been provided by the Parliament Secretariat (now Lok Sabha Secretariat) right from the very beginning. The motion for election of members to this Committee in 1950 was moved by the Minister of Finance on the same day on which he moved the motion in respect of the Committee on Public Accounts. Thereafter, as in the case of the Committee on Public Accounts, such motions were moved by the Minister for Parliamentary Affairs till 1954. From 1955 onwards the motions are being moved by the Chairman of the outgoing Committee, except in the case of election of members to the Committee of a newly-elected House when the motion is moved by the Minister for Parliamentary Affairs as there is no old Committee at the time the motion is required to be moved.

* * *

Adjournment motion to discuss the arrest of a Member made under due process of law is inadmissible

On the 28th April, 1958, the Speaker withheld his consent for the moving of several adjournment motions given notice of by members regarding the situation arising out of the arrest of a member of the Lok Sabha along with certain members of the Orissa Legislative Assembly in Bhubaneshwar (Orissa) on the 27th April. In so doing, the Speaker observed:

"These persons have been arrested by the police under definite sections of the Indian Penal Code. Hon. members are aware that once the court or the magistracy has taken charge of a particular matter, nothing shall be done here. If something had happened merely on an executive order, I would have allowed some kind of discussion to ascertain what exactly the position is. But, here definite sections of the Penal Code have been given.....I am hesitant to allow this House to decide and substitute ourselves for courts of law. It ought not be said that we are interfering with the normal course of law. Under these circumstances, I am not called upon to give my consent to any of these adjournment motions."

* * *

U.K.: Chairman of Ways & Means not to act in a professional capacity on behalf of or against any Member of the House

On the 13th March, 1948, Mr. Emrys Hughes, M.P. in the course of a broadcast on the B.B.C. made certain remarks against Mr. Emmanuel Shinwell, Minister of War. The latter took objection to it and engaged a firm of solicitors (Milner and Son) to act on his behalf. Major Milner, who was the Chairman of Ways and Means at that time and also a partner of the firm, Milner and Son, wrote letters to Mr. Hughes and to the B.B.C. demanding withdrawal of the remarks made against his client.

On the 22nd March, 1948, the Chairman of Ways and Means (Major Milner) in the course of a personal explanation made in the House of Commons stated as follows:

"I have realised that the action taken by me in writing the letter to the hon. Member for South Ayrshire (Mr. Hughes), however well-intentioned and even in a matter outside the House, might be interpreted as a deviation from the principle of impartiality which should govern the Chair and that I should have been wiser to have referred the right hon. Gentleman to another solicitor. I need hardly say I fully recognise the absolute necessity for the Chair to be impartial, and that that impartiality should not only exist in fact, but that there should be every appearance of it. I have, therefore, thought it right, Mr. Speaker, to make this statement to the House and to say in so far as there has been departure from that principle I feel I have made an error of judgment and for that, Mr. Speaker, I express my very sincere apologies to the House."*

On the 23rd March, 1948, Mr. Winston Churchill moved the following motion which was adopted by the House:

"That a Select Committee be appointed to enquire into the statement made to the House on the 22nd March by the Chairman of Ways and Means and Deputy Speaker that he acted in his professional capacity as a solicitor against an hon. Member of this House in a matter which might have resulted in legal proceedings and to report whether such action is consonant with proper and impartial discharge of the duties of this office."

The Select Committee in their Report made *inter alia* the following remarks:

"He (Major Milner) did not seek out the situation in which he was placed but when he found himself in it, he appears to have done all that he could to mediate between two Members.

"Your Committee also believe that Major Milner was not actuated by any partiality but that his sole aim was to effect an amicable settlement. At the same time they agree with Major Milner's own statement that the Chair should not only be impartial but should also give the appearance of impartiality. In this sense alone any criticism can be levelled against Major Milner's conduct."

On the 17th June, 1948, Mr. Attlee, Prime Minister, speaking in the House on the Report of the Select Committee, said as follows:

"The House will recollect that in the concluding paragraph of the Report of the Select Committee on the Chairman of Ways and Means the point was raised whether or not rules should be laid down governing the conduct of the Deputy Speaker in his professional or business relationships with any Member of the House. As the Chairman of Ways and Means and Deputy Speaker is appointed on

*H. C. Deb. Vol. 448, c. 2585.

the nomination of the Government, the House may perhaps consider it appropriate for me to make a statement on this subject. In order that "the Chair should not only be impartial but should also give the appearance of impartiality"—I quote from the Report of the Select Committee—"the Government feel that both the Chairman and the Deputy Chairman should in future refrain from acting in a professional capacity on behalf of or against Members of the House of Commons. I have consulted Mr. Speaker, the Chairman of Ways and Means and the Deputy Chairman about this proposed new rule, and I am glad to say that they concur in it."*

Mr. Churchill following the Prime Minister stated as follows:

"We are in general agreement with the statement which the Prime Minister has made upon this subject. I am glad that this matter has been terminated in a manner which..... fulfils the sagacious recommendations of the Select Committee. It might well be that in the future when a reconsideration of these matters is possible even stricter regulations might be propounded."**

To follow, not to force the public inclination, to give a direction, a form, a technical dress, and a specific sanction, to the general sense of the community, is the true end of legislature.

—EDMUND BURKE in his speech on the "Constitution".

*H. C. Deb. Vol. 452, c. 663.
** *Ibid.*

Decisions from the Chair

Adjournment Motion

Adjournment motion to discuss a matter on which an enquiry is pending is inadmissible. (L.S. Deb. Pt. II, 12-3-1958).

Amendment

Amendments cannot be moved to a motion when it is half-way under discussion. (L.S. Deb. Pt. II, 20-11-1957).

An amendment altering the scope of a Bill is out of order (L.S. Deb. Pt. II, 23-4-1958).

Amendments frivolous in nature are out of order (L.S. Deb. Pt. II, 10-12-1957).

Debate

References in the House to the proceedings of a Committee are not in order (L.S. Deb. Pt. II, 19-11-1957).

Documents

Government cannot be compelled to lay a document if its disclosure is said to be against public interest. (L.S. Deb. Pt. II, 19-11-1957).

Motions

The House is in possession of a motion, only when it has been placed before the House by the Chair after the mover has concluded his speech. (L.S. Deb. Pt. II, 14-2-1958).

Papers laid on the Table

Members desiring to lay any document on the Table of the House should give advance intimation to the Chair. (L.S. Deb. Pt. II, 8-3-1958).

Privilege Issues

CONTEMPT CASE AGAINST ORISSA CHIEF MINISTER AND OTHERS: JUDGMENT OF THE ORISSA HIGH COURT

Facts of the Case

In October, 1953, a Division Bench of the Orissa High Court, on an application under Article 226 of the Constitution* filed by one of the Zamindars of Ganjam district, delivered judgment holding that the survey made in Ganjam district was not authorised by law inasmuch as a proper notification under the Madras Survey and Boundaries Act, 1923, was not issued, and that it also gave consequential reliefs to the applicant.

On the 18th December, 1953, the State of Orissa applied for leave to appeal to the Supreme Court against the aforesaid decision, which was granted on the 22nd February, 1955. During the pendency of that appeal, the then Chief Minister of Orissa, Shri Nabakrishna Chaudhury, introduced in the Orissa Legislative Assembly a Bill entitled "The Ganjam and Koraput Survey, Record of Rights and Settlement Operations (Validating) Bill, 1956" with the primary object of validating all actions taken by survey officers in those two districts. On the 8th March, 1956 in the course of his speech, the Chief Minister stated that though the appeal to the Supreme Court was pending, there was necessity for passing the validating Bill.

Shri Nishamoni Khuntia, a member, interrupting the Chief Minister stated as follows:

> "If we validate those actions which were declared by the High Court to be illegal, we will be accepting the position that those actions are illegal. Hence, where is the necessity of spending money by filing an appeal in the Supreme Court?"

Shri Nabakrishna Chaudhury thereupon gave the following reply in Oriya:

> "I cannot say definitely. Even if we validate past actions yet in connection with what is likely to happen in future there may be necessity of going to the Supreme Court. At present our Constitution is new, the High Court is new. In many instances (*Aneka Khsetrare*) the immaturity of the High Court is apparent. In many instances, the decision given by the High Court has

*Article 226 deals with the power of the High Court to issue writs.

been corrected by the Supreme Court. The Supreme Court also held that in many instances the High Court has abused (*apa byabaher*) the powers given to it".

An extract from the above speech of the Chief Minister was also published by an Oriya daily *Matrubhumi* in its issue dated the 10th March, 1956, under the caption* "Immaturity of the High Court and Misuse of its Power: Bitter Remark of Chief Minister, Shri Chaudhuri."

On the 16th March, 1956, Shri Surendra Mohanty, M.P. filed a petition** before the Orissa High Court inviting its attention to the aforesaid passage and requesting the Court to initiate proceedings for contempt against Shri Nabakrishna Chaudhury, the Chief Minister, Shri Nanda Kishore Das, the Speaker of the Orissa Legislative Assembly, and Shri R. C. Kar, Printer and Publisher of *Matrubhumi*.

There was a preliminary hearing as regards the jurisdiction of that Court to initiate proceedings for contempt against the Speaker of the Assembly and the Chief Minister.

On the 6th August, 1956, after hearing the Advocate General, the Orissa High Court directed the issue of notice to (1) Shri Nabakrishna Chaudhury, Chief Minister of Orissa, (2) Shri R. C. Kar, Printer and Publisher of *Matrubhumi*, and (3) the Editor of *Matrubhumi*, to show cause why contempt proceedings should not be initiated against them.

While dismissing the application against the Speaker of the Assembly, the Chief Justice, Shri R. L. Narasimham, observed as follows:

"So far as the Speaker of the Orissa Legislative Assembly is concerned, we are satisfied that there is absolutely no ground for drawing up proceedings for contempt. It was not alleged in the petition that there was any previous understanding between the Speaker and the Chief Minister and that the offending speech was made by the Chief Minister in pursuance of any such understanding. It was, however, urged that in view of Article 211 of the Constitution† it was clearly the duty of the Speaker to intervene and prevent any member of the Assembly from saying anything about the conduct of a Judge of a High Court in the discharge of his duty, and that his omission to do so was mainly responsible for such a speech. It was further urged that if the Speaker had drawn the attention of the Chief Minister to the provisions of Article 211, the comments made by the Chief Minister on the judgments of the High Court might have been couched in a different

*Original in Oriya.

**Original Cr. Misc. case No. 2 of 1956.

†Art. 211 : No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

language. But the mere omission of the Speaker to draw the attention of the Chief Minister to the provisions of Article 211 of the Constitution would not make him liable for contempt, even if it be assumed that the speech of the Chief Minister constitutes contempt of Court. In any case clause (2)* of Article 212 makes it absolutely clear that the Speaker is not subject to the jurisdiction of any court in respect of the exercise by him (or the failure to exercise by him) of his power to regulate the proceedings in the Assembly. We have, therefore, no hesitation in rejecting *in limine* the application for drawing up proceedings for contempt against Shri Nanda Kishore Das. Speaker of the Orissa Legislative Assembly".

Judgment

On the 26th February, 1958, the Chief Justice, Shri R. L. Narasimham, in the course of his judgment ruled *inter alia* as follows:

(i) "It is well settled that 'any act done or writing published calculated to bring a Court or the Judge of a Court into contempt or to lower his authority is contempt of Court.' The Chief Minister made a sweeping statement to the effect that 'in many instances' (*Aneka Khsetrare*) the immaturity of the High Court is apparent. This statement contains an aspersion regarding the competency of the judges of this Court. He has further stated that 'in many instances' the judgments of this Court were corrected by the Supreme Court and that 'in many instances' the Supreme Court held that the High Court has abused (*apa byabaher*) the powers given to it. Remarks of this type made by a responsible person like the Chief Minister of a State whose words would ordinarily be taken as being based on facts, would lower the authority of the High Court to a considerable extent and bring the Judge into contempt."

After quoting statistics of the judgments of the Orissa High Court confirmed or reversed by the Supreme Court, the Chief Justice observed:

"In my opinion, therefore, the Chief Minister had no justification for saying that 'in many instances the Supreme Court has held that the High Court has abused its powers'. I have no doubt that the aforesaid passage in the speech of Shri Nabakrishna Chaudhury (to put it mildly) was somewhat hasty and uninformed and would clearly amount to contempt to this Court."

(ii) "The most important question which yet remains to be decided is whether he can claim protection under clause (2) of Article 194 of

*Art. 212(2). No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

the Constitution*. It was urged that clause (2) is a mere ancillary provision to clause (1) which alone confers the substantive right of freedom of speech and when that substantive right itself is made subject to certain restrictions, there is no justification for saying that the immunity of the members flowing from that right should be absolute. But the framers of the Constitution have deliberately used the restrictive words (*i.e.*, 'subject to the provisions of this Constitution and to the Rules and Standing Orders regulating the procedure of the Legislature') only in clause (1) but omitted the same from clause (2). Hence there is considerable force that the intention of the framers of the Constitution was that the immunity conferred by clause (2) of Article 194 should be unfettered. The language of clause (2) of Article 194 is quite clear and unambiguous, and is to the effect that no law court can take action against a member of the Legislature for any speech made by him there. That immunity appears to be absolute".

(iii) "In clause (3) of Article 194 it is further provided that in other respects, until defined by law made by the competent Legislature, the powers, privileges and immunities of a member of a Legislature shall be the same as those of the House of Commons of the United Kingdom. In the well-known case of Bradlaugh *vs.* Gossett (1884. 12 Q. B. D. p. 271) it was held that what is said or done within the walls of Parliament cannot be enquired into in any court of law'. Again at page 279 *ibid* it was observed: 'Beyond all dispute it is necessary that the proceedings of each House of Parliament should be entirely free and unshackled; that whatever is said or done in either House should not be liable for examination elsewhere'.... 'That the House should have exclusive jurisdiction to regulate the course of its own proceedings and animadvert upon any conduct there, in violation of its rules or derogation from its dignity, stands upon the clearest grounds of necessity. When the provisions of Article 212† and of clauses (1) and (2) of Article 194 are thus construed along with the aforesaid settled view as regards the respective spheres of jurisdiction of the law courts and the Parliament in England, it seems a fair inference that the immunity from interference by law courts referred to in clause (2) of Article 194 was intended to be absolute. Anything said or done in the House is a matter to be dealt with by the House itself".

*Art. 194(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

†Art. 212(1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

Art. 212(2)—*See* footnote on page 155.

(iv) "The Constitution and the Rules framed by the Orissa State Legislative Assembly contain adequate provisions for safeguarding the independence of the Judiciary even on the floor of the Assembly. I have already referred to Article 211 which prohibits discussion of the conduct of a High Court Judge in the discharge of his duties. Again clauses (i) and (iv) of Rules 189* of the Orissa Legislative Assembly Rules, prohibit a member from making any speech which may amount to contempt of court, either by way of a comment on a pending proceeding or a comment on the conduct of a Court of law in exercising its judicial function. It is primarily the function of the Speaker of the Legislature to see that a member while exercising his right of freedom of speech does not contravene the provisions of Article 211 and Rule 189 mentioned above. Even if the Speaker is not vigilant, any member of the House may raise a point of order and draw the attention of the Speaker to this contravention. The Committee of Privileges also may examine this question later on".

"But merely because, in the instant case there has been a transgression of the provisions of Rule 189 (iv) of the aforesaid rules and of Article 211 of the Constitution, I do not think, as a matter of construction, the wide words of clause (2) of Article 194 should be circumscribed."

"As far as I know, this is the only instance in which a member of the Legislature has abused the privilege given to him, without being checked by the authority concerned. Ample powers are given both by the Constitution and by the Rules of the Assembly to the Speaker and it must be presumed by a court of law that the Speaker would act vigilantly and reasonably on such occasions. A member of the Government also, while taking his oath of office undertakes to act in accordance with the Constitution and if by escaping the vigilance of the Speaker and the other members of the Assembly and also of the Committee of Privileges he misuses the freedom of speech on the floor of the House, the remedy appears to be not by way of an action in a court of law but by the democratic process of an appeal to the constituency which he represents."

"The Speech of Shri Nabakrishna Chaudhury extracted above is somewhat hasty and uninformed and amounts to contempt of this Court. Nevertheless he is entitled to claim immunity under clause (2) of Article 194. The rule issued against him is discharged."

"So far as the Editor and the Printer and Publisher of *Matrubhumi* are

*Rule 189 lays down:

A member while speaking shall not -

(*i*) refer to any matter of fact on which a judicial decision is pending;

(*iv*) reflect upon the conduct of the President or any Governor or any Rajpramukh (as distinct from the Government of which they are respectively the heads) or any Court of Law in the exercise of its judicial functions.

concerned, I have no doubt that they have committed conteinpt of court by publishing the speech of the Chief Minister in their daily. They cannot claim immunity under clause (2) of Article 194 because their daily is not an authorised publication. In view of their unconditional apology, I do not wish to pass any sentence on them, but I would direct them to pay Rs. 100 (one hundred only) as costs to the petitioner".

Mr. Justice Barman, in a concurring judgment, *inter alia*, observed:

"It is well-settled law now that either House has exclusive jurisdiction over its internal proceedings. In this connection I should refer to the famous case of Stockdale *vs.* Hansard, as a result of which the maxim that—

'. . . . Whatever matter arises concerning either House of Parliament ought to be examined, discussed and adjudged in that House to which it relates and not elsewhere'

became practically restricted to matters solely concerning the internal proceedings of either House. The comprehensive review of parliamentary privilege which was forced upon the House of Commons and the Courts in two famous cases of the early 19th century—Burdett *vs.* Abbot (1810) Stockdale *vs.* Hansard (1837) made it clear that some of the claims to jurisdiction made in the name of privilege by the House of Commons were untenable in a Court of law. In spite of this conflict of jurisdiction there was certain sphere in which the jurisdiction of the House was absolutely exclusive. The Courts had undertaken the task to define the sphere and state the principles on which it was based. This process was carried a long way towards completion by the notable judgment in Bradlaugh *vs.* Gossett. (1884: 12: OBD: 271) where it was held that the House of Commons is not subject to control of Her Majesty's Courts in its administration of that part of the Statute Law which has relation to its internal procedure only. What is said or done within its walls cannot be inquired into in a Court of law.

"Applying this principle there can be no doubt that this was directly a matter of internal management of the House.

This Court has no jurisdiction to take action against a member of the Legislature for his speech in the Legislature even if it amounts to contempt. I think the appropriate procedure would be to leave the matter to the Orissa Legislative Assembly to be referred to its Committee of Privileges for such examination, investigation and report as may be necessary in accordance with its own Rules of Procedure and the provisions of the Constitution."

* * *

House of Commons (U.K.): Mr. Strauss's Case

On the 8th April, 1957, Mr. G. R. Strauss, a Member of the British House of Commons, raised a question of

privilege in the House stating that the London Electricity Board, a nationalised concern under the Paymaster General (Minister for Power), had threatened legal action against him for a letter written by him to the Paymaster General criticising certain transactions of the Board. He said that his attention had been drawn to a peculiar method, contrary to normal commercial practice, adopted by the Board in the disposal of its old and useless cables, which involved a substantial loss of public money every year, and that he conveyed these facts together with his own views on 8th February, 1957 to the Paymaster General, suggesting that the matter should be urgently investigated. The Paymaster General in his reply stated that the matter was one of day-to-day administration which concerned the Board and not himself, but that he had, arranged to bring the Member's views to the attention of the Board's Chairman as a matter of urgency. Mr. Strauss was then invited by the Chairman of the Board to discuss the matter with him and this was accordingly done along with one or two experts. Later, Mr. Strauss received a letter from the Chairman explaining the policy of the Board in the matter and asking him to withdraw the grave reflections on the Board's integrity cast by him in his letter to the Minister. Mr. Strauss replied that he was not prepared to withdraw those criticisms, as he was convinced that they were justified. Thereupon, Mr. Strauss's solicitors received a letter from the solicitors of the Board stating that they were issuing a writ for libel against him.

Mr. Strauss said in the House that a Member of Parliament had the unfettered right, unimpeded by any threat of a possible Court action, of bringing the matter to the attention of Parliament or the Minister concerned, where he thought that such action was appropriate or desirable. He, therefore, requested the House to refer the case to the Committee of Privileges for its consideration.

The Speaker observed that a *prima facie* case had been made out by the Member and he would, therefore, give priority to the matter over the Orders of the Day. On a motion moved by the Secretary of State for the Home Department and Lord Privy Seal (Mr. R. A. Butler), the case was then referred to the Committee of Privileges.

The Committee, which examined the question, came to the following conclusions:

(i) Under the Electricity Act, 1947, the Minister for Power had the power to enquire into any Member's criticisms, and having been given that power by an Act of Parliament, he was answerable to Parliament for its due exercise.

(ii) A recognised practice had grown and was now in regular and frequent use and that was that a Member of Parliament, instead of putting down a question for answer in Parliament by a Minister, or bringing the matter to the attention of the Minister and the House in debate, wrote to the Minister concerned.

(iii) According to the Select Committee on the Official Secrets Acts appointed in 1938-39, the extent of the privilege claimed in respect of

'proceedings in Parliament' was as follows:—

(a) "The privilege of freedom of speech is not confined to words spoken in debate only, but extends to all proceedings in Parliament. The term 'proceedings in Parliament' has never been construed by the courts; it covers both the asking of a question and giving written notice of such question, and includes everything said or done by a Member in the exercise of his functions as a Member in a Committee of either House, as well as everything said or done in either House in the transaction of Parliamentary business.

(b) "Words spoken or things done by a Member beyond the walls of Parliament will generally not be protected. Cases may, however, easily be imagined of communications between one Member and another, or between a Member and a Minister, so closely related to some matter pending in, or expected to be brought before, the House, that though they do not take place in the Chamber or a Committee room, they form part of the business of the House, as for example, where a Member sends to a Minister the draft of a question he is thinking of putting down or shows it to another Member with a view to obtaining advice as to the propriety of putting it down or as to the manner in which it should be framed.

(c) "An act not done in the immediate presence of the House may yet be held to be done constructively in Parliament and, therefore, protected.

(d) "The House of Commons has long held, as stated m the resolution of the House on the 30th May, 1837. that by the law and privilege of Parliament, the House has the sole and exclusive jurisdiction to determine upon the existence and extent of its privileges, and that for any Court or tribunal to assume to decide upon matters of privilege inconsistent with the determination of either House of Parliament thereon, is contrary to the law of Parliament, and is a breach and contempt of the privileges of Parliament. The Courts, however. claim the right, where privilege of Parliament is pleaded by way of defence, to determine whether the alleged privilege exists and whether the case falls within it, and in determining these questions the judges would not regard as conclusive a resolution of the House declaring any particular matter to be within its privileges".

The Select Committee of 1938-39 did not think that any conflict between the two jurisdictions (that of Parliament and the Courts) was likely to arise in practice.

(iv) Where a Member of Parliament wrote to a Minister concerning a nationalised industry and criticised the administration of that industry or the conduct of the Minister, the Statutory Authority or its Subordinate Board and was not satisfied with the reply he had from the Minister, the Authority or the Board, it was a reasonable possibility that he would

seek an opportunity to debate the matter in the House. The debate would certainly be a debate or proceeding in Parliament.

(v) Mr. Strauss, in writing to the Paymaster General on the 8th February, 1957, directing his attention to matters of administration in the London area of the Nationalised Industry of Electricity and criticising the London Electricity Board, was conducting or engaged in a 'proceeding in Parliament', and in so doing, he was protected by the privilege declared to belong to Parliament by the Bill of Rights, 1688*.

(vi) The issue and service of a writ from the High Court of Justice against a Member of Parliament in respect of a 'proceeding by him in Parliament' was an impeachment or questioning of his freedom to pursue the 'proceeding in Parliament' and an impeachment or questioning of his freedom in a 'Court or place out of Parliament'. A threat to issue such a writ fell into the same category as the actual issue and service of the writ.

(vii) The letters of the London Electricity Board and their solicitors of the 8th March, 27th March and 4th April, 1957, were in direct conflict with the declared privilege of Parliament and a distinct breach of such privilege.

(viii) As the question of the effect of the Parliamentary Privilege Act, 1770† upon the privileges of the House as declared in the Bill of Rights of 1688 was a legal one involving correct interpretation, the opinion of the Judicial Committee of the Privy Council might be sought on the question whether the House would be acting contrary to the Parliamentary Privilege Act, 1770, if it treated the issue of a writ against a Member of Parliament as a breach of its privileges.

The Committee recommended that the matter should be again referred to the Committee of Privileges, when the opinion of the Judicial Committee of the Privy Council had been received.

The Report of the Committee was submitted to the House on 30th October, 1957. On a motion moved by the Secretary of State for the Home Department on 4th December, 1957, the question of law raised by the Committee was referred to the Judicial Committee of the Privy Council for its opinion.

*"That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament".

†Section 1 of the Parliamentary Privilege Act, 1770 states :—

1. *Suits may be prosecuted in courts against peers, and members of the House of Commons, and their servants etc.*—From and after the twenty-fourth day of June, one thousand seven hundred and seventy, any person or persons shall and may at any time commence and prosecute any action or suit in any court of record or court of equity or of admiralty, and in all causes matrimonial and testamentary, in any court having cognizance of causes matrimonial and testamentary against any peer or lord of Parliament of Great Britain, or against any of the knights, citizens, and burgesses, and the commissioners for shires and burghs of the House of Commons of Great Britain for the time being, or against their or any of their menial or any other servants, or any other person entitled to the privilege of Parliament of Great Britain ; and no such action, suit, or any other process or proceeding thereupon shall at any time be impeached, stayed, or delayed by or under colour or pretence of any privilege of Parliament.

The Judicial Committee of the Privy Council, in its Report presented to the House on 7th May, 1958, gave *inter alia* the following opinion:

(i) "In 1700, the first of the group of Acts was passed which fall for their Lordships' consideration. It is entitled 'An Act for preventing any inconveniences that may happen by privilege of Parliament'.....The Members of both Houses had long notoriously abused their privileges in respect of immunity from civil actions and arrest, which by ancient usage extended during the sitting of Parliament and for 40 days after every prorogation and 40 days before the next appointed meeting. It was to curtail this delay in the commencement and prosecution of suits that the Act was avowedly passed, and by clear implication it referred only to those suits, which subject to delay, were ultimately enforceable. But there was no right at any time to impeach or question in a court or place out of Parliament a speech, debate or proceeding in Parliament. No question of delay or ultimate enforceability could arise in regard to that privilege which demanded that a member should be able to speak without fear or favour in Parliament in the sure knowledge that neither during its sitting nor thereafter would he be liable to any man for what he said and that Parliament itself would protect him from any action in respect of it either by the Crown or by a fellow subject..... The Act of 1770 did not extend the ambit of the Act of 1700 and it abolished the time of privilege during which suits might not be commenced or prosecuted against Members of Parliament.

(ii) "The House would not be acting contrary to the Parliamentary Privilege Act, 1770, if it treated the issue of a writ against a Member of Parliament in respect of a speech or proceeding by him in Parliament as a breach of its privileges."

The Judicial Committee further added:—

(iii) "But they (their Lordships) do not intend, expressly or by implication, to pronounce upon any other question of law.....In particular, they express no opinion whether the proceedings referred to (letter written by the Member to the Minister) were 'a proceeding in Parliament' nor on the question whether the mere issue of a writ would in any circumstances be a breach of privilege.....In taking this course they have been mindful of the inalienable right of Her Majesty's subjects to have recourse to Her Courts of Law for the remedy of their wrongs and would not prejudice the hearing of any cause in which a plaintiff sought relief.....In the words of Erskine May (*Parliamentary Practice*, 16th Edition, p. 172) 'the House of Commons claims to be the absolute and exclusive judge of its own privileges and that its judgments are not examinable by any other Court or subject to appeal. On the other hand, the Courts regard the privileges of Parliament as part of the Law of the land, of which they are bound to take judicial notice. They consider it their duty to decide any question of privilege arising directly or

indirectly in a case which falls within their jurisdiction and to decide it according to their own interpretation of the law. The decisions of the Courts are not accepted as binding by the House in matters of privilege, nor the decisions of the House by the Courts. Thus the old dualism remains unresolved'."

The Report of the Judicial Committee of the Privy Council was referred to the Committee of Privileges on 17th June, 1958, which reported to the House on 24th June as follows:—

"Your Committee do not conceive it to be their duty to review the conclusions already arrived at in the last session that the London Electricity Board and their solicitors have acted in breach of the privilege of Parliament; but on the basis of that conclusion and in the light of the Judicial Committee's report, to consider and recommend to the House what course should be followed with regard to this particular case.

"Where a breach of long-recognised privilege has been committed, your Committee would recommend a suitable sanction; but in the special circumstances of this case, which is the first arising out of a letter from a Member of Parliament to a Minister, which has come before the Committee of Privileges, and bearing in mind that no proceedings have been taken, your Committee recommend to the House that no further action be taken with regard thereto".

The House considered the Report of the Privileges Committee on 8th July, 1958, and after a long discussion in which several Members took part, resolved as follows:—

"That this House does not consider that Mr. Strauss's letter of the 8th February 1957 was 'a proceeding in Parliament' and is of opinion, therefore, that the letters from the Chairman of the Electricity Board and the Board's solicitors constituted a breach of privilege."

* * *

Lok Sabha: Attendance of a Member of the House as a witness before another Legislature or a Committee thereof

On the 16th April, 1958, the Secretary of the Bombay Legislature Department requested the Speaker of the Lok Sabha to permit Shri L. V. Valvi, a Member of the Lok Sabha, to appear as a witness before the Committee of Privileges of the Bombay Legislative Assembly at its sitting to be held on the 23rd April, 1958, at Bombay.

The evidence of Shri L. V. Valvi was required by the Committee of Privileges of the Bombay Legislative Assembly in connection with a question of breach of privilege in that Assembly arising out of the alleged failure on the part of police authorities in Bombay State to intimate the Speaker of the Bombay Legislative Assembly about the arrest of Dr. R. B. Chaudhari, a Member of the Bombay Assembly on the 13th February, 1958.

The Secretary of the Bombay Legislature Department also intimated that Shri Valvi had agreed to appear before the Committee of Privileges of the Bombay Legislative Assembly to tender his evidence.

On the 21st April, 1958, the Speaker of the Lok Sabha referred the matter to the Committee of Privileges, under the provisions of Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha and the Secretary of the Bombay Legislature Department was informed telegraphically that the decision of Lok Sabha in the matter would be communicated to him as soon as it was reached.

The Committee of Privileges considered the matter on the 23rd and 24th April, 1958 and made its report to the House on the 24th April, 1958. It stated:

> "According to May's *Parliamentary Practice*, 'attending as a witness before the other House or any Committee thereof without the leave of the House of which he is a member or officer' would be regarded as a contempt of the House".*
>
> "In all such cases, therefore, permission, of the House is necessary before a member of the House can appear as a witness before the other House or a committee thereof".
>
> "The procedure to be followed in such cases in the United Kingdom has been described by May as under:—
>
> 'If the attendance of a Peer should be desired, to give evidence before the House, or any Committee of the House of Commons, the House sends a message to the Lords, to request their lordships to give leave to the Peer in question to attend as a witness before the House or Committee, as the case may be. If the Peer should be in his place when this message is received, and he consents, leave is immediately given for him to be examined, his lordship consenting thereto; if the Peer be not present, the House gives leave for his lordship to attend 'If he thinks fit'. Exactly the same form is observed by the Lords, when they desire the attendance of a member of the House of Commons. . . . . .
>
> 'Whenever the attendance of a member of the other House is desired by a Committee, it is advisable to give him private intimation, and to learn that he is willing to attend, before a message is sent to request his attendance.' "**

The Committee recommended that since in the present case, the Secretary, Privileges Committee of the Bombay Legislative Assembly, had formally requested the Speaker, Lok Sabha, to permit Shri L. V. Valvi, Member, to tender evidence before the Committee of Privileges of the Bombay Legislative Assembly, Shri Valvi might be permitted to appear before that Committee if he thought fit.

On the 25th April 1958, a motion agreeing with the above report of the Committee was put before the House by the Chairman of the Committee, and was adopted by the House.

* * *

*May's *Parliamentary Practice*, 16th Ed., p. 117.
**Ibid*, p. 669.

DOCUMENTS IN CUSTODY OF LOK SABHA SECRETARIAT MAY BE PRESENTED BEFORE A COURT OF LAW WITH THE CONSENT OF THE HOUSE: HOUSE NOT TO GO INTO THE QUESTION OF RELEVANCY OF DOCUMENTS

On the 10th April, 1958, the Election Tribunal, Calcutta, addressed a letter to the Speaker, Lok Sabha, in which it requested the House to accord permission for the production of a file of the Lok Sabha Secretariat containing the correspondence of the Secretariat with the Indo-German Trade Centre, a firm in Calcutta, regarding the installation of an automatic voting equipment in the Lok Sabha during the year 1956-57. The file was required by the Election Tribunal in connection with an election petition of 1957, in which Shri Biren Roy, a member of the Lok Sabha, was the respondent.

The practice of the Lok Sabha in such cases, as decided on 13th September, 1957,* was that whenever a request was received from a Court for the production of a document, the Speaker should refer it to the Committee of Privileges and on a report from the Committee, a motion should be adopted by the House deciding upon further necessary action.

The Speaker, therefore, referred the matter to the Committee of Privileges on 14th April, 1958 for examination and report. An interim reply was also sent to the Election Tribunal, Calcutta, that the matter was under consideration and the decision of the Lok Sabha would be communicated to them in due course.

The Committee of Privileges, after considering the matter, recommended in its report, submitted to the Lok Sabha on the 24th April, 1958, that "the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat" to produce the file containing the relevant correspondence before the Election Tribunal.

The motion for the adoption of the Committee's report was moved in the House by the Chairman of the Committee on the 25th April. In the discussion that followed several members expressed divergent views. One view was that the documents in the file were not relevant to the case before the Election Tribunal, and as such its production was not necessary. Another view was that the Committee of Privileges could not go into the question of relevancy or otherwise of the documents and it was for the Court to decide that question.

A member (Shri Naushir Bharucha) stated that it was not necessary to refer every request for the production of document in Court, to the Committee of Privileges. He suggested that the procedure should be revised, and like any other Head of Department, the Speaker or in his absence, the Deputy Speaker or a Chairman on the panel of Chairmen should be authorised to sanction the production of documents in Courts, in order to avoid delay in the administration of justice and speedy disposal of election petitions.

Supporting the motion, the Minister of Law said that on the basis of the procedure obtaining in the British House of Commons, the House had already

*Vide Vol. IV, No. 1 (April, 1958) issue of the Journal, pp. 58-59.

decided that in cases where records or papers in the custody of Parliament were required to be produced before any Court of Law or Tribunal, it was for the Speaker to nominate a person who would produce them with the leave of the House. The procedure could not be varied in the absence of any law being made by Parliament under Article 105(3) of the Constitution.*

So far as the relevancy of the documents was concerned, the Minister added, it was for the competent authority under the Evidence Act or any other Act obtaining in the particular matter to decide it. It would also not be proper for Parliament to accept such an odious task of deciding in each particular case which document was relevant to the proceedings in a Court. The privilege of Parliament was attached to the production of document and not in deciding whether the document was, in fact, relevant or not.

The Speaker then ruled:

"Under the Evidence Act, no one shall be permitted to give any evidence derived from any public official records relating to any affair of the State except with the permission of the officer or the head of the department concerned who shall give or withhold such permission as he thinks fit. That is according to section 123 of the Evidence Act. According to section 124 no public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interest would suffer by their disclosure.

"These are matters in which some kind of discretion has to be exercised and some enquiry has to be made. Therefore, the Speaker naturally sends it, as soon as it comes up, to the Privileges Committee to examine what has to be done so far as this matter is concerned. Therefore, I do not propose taking the responsibility of saying whether this ought to be disclosed or not, whether you should claim privilege so far as this document is concerned, whether this document is in public official record or relates to an affair of the State. All these are matters in which I would certainly like to have the advice of the competent authority—the Privileges Committee of the House. It has made a report. It could have said: 'withhold' .....It is for the Tribunal to decide whether that particular document is relevant or not relevant, necessary or not necessary.

"I shall see if in future automatically the Speaker or the Deputy Speaker may take the responsibility of sending the documents except in cases where they want the advice of the Privileges Committee. So far as this report is concerned, I shall place it before the House for its acceptance."

The motion was then put and agreed to.

*Article 105(3) states:

105(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

Conferences

CONFERENCE OF CHAIRMEN OF ESTIMATES COMMITTEES

A conference of Chairmen of Estimates Committees of the Lok Sabha and of the State Legislatures in India was held in Parliament House, New Delhi, on the 16th and 17th April, 1958. The Conference was presided over by the Chairman of the Estimates Committee of the Lok Sabha, Shri Balvantray G. Mehta and was attended by the Chairmen of Estimates Committees of twelve State Legislatures.

The conference was inaugurated by Shri M. Ananthasayanam Ayyangar, Speaker of the Lok Sabha. In his opening address, the Speaker referred to the role of the Estimates Committee and said that since the Committee examined the services to be rendered by the Ministries, it was necessary that its deliberations should be guided by the Chairmen in such a way that the policy of the Government could be implemented without unnecessary impediments being placed in its way. He also referred to the increasing importance of the autonomous undertakings created by the Government and suggested that an adequate procedure should be devised for exercising Parliamentary control over these undertakings.

The Chairman of the Estimates Committee of the Lok Sabha, in his speech, said that the Estimates Committee at the Centre was able to do much good work, because it worked through several study groups and Sub-Committees. Another feature of the Committee was that although the Members of the Committee belonged to different political parties, they were not influenced by their party affiliations and therefore brought to bear on the deliberations of the Committee a dispassionate and objective outlook which went a long way in arriving at proper conclusions.

Shri T. N. Singh, Chairman of the Public Accounts Committee of the Lok Sabha, who also addressed the Conference, said that both the Estimates and the Public Accounts Committees should make their recommendations after a thorough study of the subject concerned and after hearing all points of view and that these recommendations should be objective, just, fair and reasonable. He also stressed the necessity for proper co-ordination between the Estimates Committee and the Public Accounts Committee in their work.

Several problems connected with the work of the Estimates Committees, such as the scope and extent of discussing policy matters by the Committee, examination of the question of budgetary reform, co-ordination with the Public Accounts Committee, uniformity in the Rules of Business for the working of the Committees in all the State Legislatures etc. were discussed at the Conference.

Answers to Enquiries on Parliamentary Procedure and Practice

Question: What is the procedure adopted in the Lok Sabha for balloting Private Members' resolutions and determining their precedence for discussion?

Answer: In the Lok Sabha, a Member is entitled to give notice of any number of resolutions. The relative precedence of these resolutions for discussion in the House is determined by a ballot. The procedure adopted for this purpose is as follows:

The ballot is held in respect of all notices of resolutions which satisfy the period of 15 days' notice to be given under the rules and have been admitted.

Two days before the day fixed for the ballot, a numbered list containing all the admitted resolutions is kept open in the Notice Office during office hours to enable Members who have more than one resolution in their names to indicate the order of priority according to their preference. The name of a Member is entered against one number only irrespective of the number of resolutions standing in his name. The time and place for holding the ballot is announced in the Lok Sabha Bulletin for the information of Members so that they may be present at the time of the ballot, if they so desire.

At the appointed time, discs with numbers corresponding to those against which entries have been made in the numbered list are placed in the ballot box. A disc is taken out at random and the name of the Member in the numbered list corresponding to the number on the disc is entered in another list in the order in which the numbers are balloted.

Only six numbers are drawn from ballot so as to provide six resolutions in the names of six Members for the List of Business on any allotted day.

When a resolution has secured priority as a result of ballot, an identical one in the name of another Member is barred. In such a case an alternate resolution in the name of that Member is included in the list if his number secures subsequent priority in the ballot.

The result of the ballot is then issued in the Lok Sabha Bulletin for the information of Members and Ministries.

Thereafter the resolutions of the six Members whose names secured priority in the ballot are included in the List of Business for the allotted day.

If a resolution remains part discussed at the end of a day, it is set down

as the first item on the agenda of the next allotted day.

* * * * *

Question: The two Houses of Parliament have elected a Joint Committee to consider a certain matter and its report is to be presented to the President. The Committee is empowered to elect its own Chairman and to have its own rules of procedure, one of which is that the proceedings of the Committee should be treated as confidential. Is it a breach of parliamentary privilege, if a member of this Committee gives a gist of the discussions in the Committee to Press correspondents?

Answer: According to the definition given in rule 2(1) of the Rules of Procedure and Conduct of Business in Lok Sabha, Parliamentary Committee means "a committee which is appointed or elected by the House or nominated by the Speaker and which works under the direction of the Speaker and presents its report to the House or to the Speaker and the Secretariat for which is provided by the Lok Sabha Secretariat". Again, according to rule 258(1), the Chairman of a Parliamentary Committee is appointed by the Speaker from amongst the members of the Committee.

A Joint Committee elected by the two Houses of Parliament, whose report is to be presented to the President and which is empowered to have its own rules of procedure and to elect its own Chairman, cannot, therefore, be treated as a Parliamentary Committee. The premature publication of the proceedings of such a Committee cannot consequently be regarded and punished as a breach of parliamentary privilege.

There is, however, no doubt that a Member of Parliament who is represented on such a Committee is expected to conform to the normal conduct of a member, which naturally implies acting according to the rules of procedure for the conduct of business in the Committee and abiding by the directions of the Chairman. The Chairman can take the initiative and have the matter placed before the Committee itself. The Committee can then draw up a special report dealing with the conduct of the Member. This report may be presented by the Chairman of the Committee to the President who may arrange for its being laid on the Table of the House to which the Member complained of belongs. After such a report is laid on the Table, it is open to the Chairman of the Committee or the Leader of the House or any other Member to table a motion to take the special report of the Committee into consideration. The House can then decide what action should be taken against the Member for his conduct which is not in keeping with the normal standards expected of a Member who is represented on such a Committee.

* * * *

Question: What is the quantum of assistance and services rendered by the Lok Sabha Secretariat to Members in the matter of preparation of their speeches on Bills, matters of public importance and Budget?

Answer: The Research and Reference Branch of the Lok Sabha Secretariat provide information required by Members of Parliament on various matters connected with their parliamentary activities. A Member desiring information on any Bill or a matter of public importance can

send a requisition to the Research and Reference Branch stipulating the time and date by which the information is required and the Reference staff collect the available information from authoritative sources, put it in a condensed form and attempt to supply it to the Members within the stipulated time. For instance when a Bill or a particular clause is under consideration in the House or the budget is under discussion, a Member might want certain relevant literature or facts or statistics. He may refer the point to the Research and Reference Branch who will immediately set to trace quickly all the reference on the subject and supply, not a large number of books for the Member to collect the information therefrom himself, but a short note giving the required information culled out from authoritative and relevant sources, which are indicated therein, together with a bibliography, so that if he so desires he may look up the important references. In addition the Research & Reference Branch on their own also bring out bibliographies on Bills giving lists of relevant books and references to important articles connected with the subject and also *ad hoc* brochures on Bills and other matters of public importance. These may be consulted by Members in preparing their speeches on Bills and matters of public importance. It is not the practice to prepare draft speeches for Members, but background material is supplied which the Member may utilize in preparing his speech on any subject.

Research and Reference Branch also brings out at regular intervals publications—such as Abstract and Index of Articles, Abstracts of Reports, Fortnightly News Digest, Atomic News Digest, Juridical Digest, etc. and these are available to such Members as ask for them. These publications provide useful material to Members in gathering facts for their speeches in the House.

Editorial Note

With this issue, our Journal completes the fourth year of its publication. We take this opportunity to thank all our readers and contributors for the kind co-operation extended to us by them during all these years, and hope to receive the same co-operation in future also.

This issue contains articles of wide and varied interest to our readers. The articles "Comptroller and Auditor General of India and the U.K.: A Comparison" and the "Vote on Account in the Lok Sabha" have a bearing on the financial aspect of Parliamentary procedure and contain much useful information. The article by Dr. R. N. Mathur, Head of the Department of Political Science, Khalsa College, Delhi, traces the evolution of the office of the Speaker in India during the days of the Speakership of Sir Frederick Whyte and Shri Vithalbhai Patel and will be found interesting by our readers. There is also an article on the evolution of the administrative and financial autonomy of the Lok Sabha Secretariat and another on the "Interpellations in the French National Assembly" of the Fourth Republic.

Two important cases of privilege also find a place in this issue. One is the case against the Chief Minister of Orissa, the Speaker of the Orissa Legislative Assembly and others for contempt of Court for a speech made in the Assembly by the Chief Minister and the other is the recent Strauss Case in the British Parliament, both of which are important from the point of view of Parliamentary privilege. The issue also contains other notes on Parliamentary procedure as usual.

Book Reviews

The House of Lords and Contemporary Politics: 1911—1957 by P. A. Bromhead (Routledge and Kegan Paul, London, 1958, price 30sh.)

Mr. P. A. Bromhead, the author of *Private Members' Bills in the British Parliament*, has brought out a learned treatise on the British House of Lords, which may be said to be the first attempt to present a detailed analysis of the role of that House as a working part of the British Parliamentary system. The sources from which he has mainly drawn his material are the *Hansard*, the *Lords Journal*, reference books such as *Vacher's Parliamentary Companion*, *Who's Who* and *Whitaker's Almanac* and Erskine May's *Parliamentary Practice*, besides the general historical works on the subject and biographies and memoirs. The book deals mainly with the constitutional development and working of the House of Lords since the passing of the Parliament Act of 1911, and the growth of the institution prior to that date has, therefore, been dealt with only very briefly, to serve as a background to the later developments.

The book has been broadly divided into four parts, the first part dealing with the background and structure of the House of Lords, the second with the organisation of the House, the third with its actual working and the fourth with the several proposals for its reform. The first part contains a short description of the historical growth of the House and an analysis of its present composition together with its classification into the hereditary and non-hereditary elements. The question as to how far the House of Lords is actually aristocratic, the principles governing the creation of new peers and the categories of the new peerages created during 1916—56 have also been examined. A chapter is devoted to the 'active element' in the House, that is, peers of the various parties who attend the House regularly and to the contribution of peers of first creation to the work of the House. The special classes of peers such as archbishops and bishops, law lords, military commanders, civilian public servants etc. are also dealt with in detail.

In the second part, the general principles governing the procedure and organisation of business in the House of Lords, the types of business and arrangement of time, the physical arrangement of the House, the officers of the House etc. are described. The representation of the Government in the House of Lords and party organisation and discipline are also treated in detail in this section.

The third part describes the legislative procedure in the House of Lords, the Parliament Act of 1911 together with its background and sequel, and the

contribution of the House to the legislation of today. The Bills brought forward by the Conservative and Labour Governments during the period 1922—56 and their treatment in the House of Lords form the theme of three chapters. while the Bills first introduced in the Lords and Private Members' Bills are dealt with separately.

The last section is devoted to the movement for the reform of the House, both in its powers and in its composition and describes the various proposals that have been so far put forward in this regard. It stops short of the recent legislation which provides for the creation of life peers and the admission of women into the House of Lords.

The book is thus a study of the modern House of Lords at work and provides considerable information as to how the House manages its business with little formality. The judicial functions of the House as the highest court of appeal and its functions with regard to private bills have, however, been omitted, as it is mainly concerned with the House of Lords in its relation to national politics. It is no doubt an original contribution and a valuable addition to the literature on British Parliament and will be found useful by all students of Parliamentary institutions and procedure.

* * * *

British Pressure Groups: Their Role in Relation to the House of Commons by J. D. Stewart (Clarendon Press, Oxford, 1958)

This is a first-hand study of the relationship between the various pressure groups in Britain and the British Parliament and Government, and of the methods by which the former seek to influence the process of legislation and governmental decision. The author has collected the material for this work as a result of discussions with a large number of associations, unions and societies and with Members of Parliament and has analysed the material with a view to seeing how far and in what ways the pressure groups exert their influence on the House of Commons. The period he has chosen for study is mostly from 1945 to 1955 and the associations he has consulted include important bodies like the Federation of British Industries, the National Farmers' Union, the Brewers' Society, the Pharmaceutical Society, the Automobile Association and the National Temperance Federation besides several others. As the author himself says in the Introduction, it is only "a study of proper, official and recognised activities" of these organisations and "nothing of the underhand". The "constitutional and open activity" of these associations has become so important and vital in British politics that it merits a scientific study, and the author has done justice to the task he has undertaken.

The work begins with a discussion of the 'process of consultation' adopted by the government and the pressure groups for informing each other of their views, whenever problems affecting the interests of the latter are dealt with. As the author says, in a society where the main political parties realise the necessity of securing co-operation from all sections of the community and avoiding open discontent, consultation with the various

groups is the only way by which government can build up a responsible attitude to its proposals. This consultation generally takes place before Bills are presented to Parliament. In addition to consultation. the groups adopt several other methods to achieve their aims and these are described in the chapter "Group Strategy" and classified according to the institution upon which the pressure is directed by the groups, such as ministries, Parliament, Press, public opinion etc.

The major portion of the book is, however, devoted to the activities of the groups to influence Parliament. The various methods by which this is sought to be done are described in detail in the chapters "Parliamentary Routines", "The Campaign", "Group Representation", "Active Parliamentary Policies" and "Lobbying". According to the author, the groups seek to keep the whole body of M.Ps. informed of their views in a general way through publicity journals, deputations and memoranda. They arrange to sponsor amendments to Bills through M.Ps., which is a very common form of group activity. The extent to which amendments are sponsored and the character of this activity are illustrated with several examples. The other forms of group activity are the asking of questions through M.Ps., private bills, private members' bills etc. In the case of private bills, the position of the groups is similar to those of petitioners and groups engage parliamentary agents, whose function is to prepare and promote private bills or arrange opposition to them.

The 'campaign' is resorted to by the pressure groups, when consultation and the forms of parliamentary activity mentioned above have not achieved the desired results. A campaign does not mean coercion of Government, but only such activities as are likely to arouse public opinion in favour of the group so as to compel the attention of the Government, and Parliament is almost always the centre to which the campaigner's attention is directed. The author describes how the campaign in all its variety is a significant part of British political life.

Apart from campaigning, the groups might also seek representation tor themselves in Parliament through their own M.Ps., or follow policies safeguarding their causes or interests not merely on occasions but on a permanent basis. They may also seek to exercise influence through elections by associating themselves with political parties. These are dealt with elaborately in two chapters, where the question of Parliamentary privilege *vis-a-vis* the extent of the influence which can be exercised legitimately bv groups over M.Ps. is also discussed. The author, however, stresses the need for and the advantages of close relationship between the group and the M.P. in the present set-up of society.

Lastly, lobbying as the main weapon of the group to bring pressure on M.Ps. and its effects on the latter are discussed. The various forms of lobbying such as the sending of letters and telegrams to M.Ps., deputations and personal interviews, individual and *en masse,* as well as the relative uses of these forms in Britain are described. The methods of lobbying which have been ruled by Parliament as breaches of privilege have also been mentioned in this connection.

After describing the situation when a group influence on government or Parliament should be considered dangerous and how in Britain a balance between the two has been more or less achieved, the author concludes:

> "Pressure groups are necessary to the government of our complex society. The coherent expression of opinion they render possible is vital. They have become a fifth estate, the means by which many individuals contribute to politics. Without them, discontent would grow and knowledge be lost. It is important that the system of government be such that their role can be carried out with responsibility."

The book is an original and valuable contribution on the subject, and points the way to similar studies in India and other countries as well.

APPENDIX I

Statement showing the activities of the Houses of Parliament/State Legislatures in India during the period 1st January, 1958 to 30th June, 1958.

Name of the House/ Legislature	Session during the period	Legislation		Questions						Committees		Points of interest
		No. of bills passed		Starred		Unstarred		Short Notice		Names	No. of members	
		Government	Private Members	Notices received	Admitted	Notices received	Admitted	Notices received	Admitted			
1	2	3	4	5	6	7	8	9	10	11	12	13
Lok Sabha	*One Session* : From 10-2-58 to 9-5-58 (64 sittings).	22			2,059		3,805		22	Business Advisory Committee.	15	
										Committee of Privileges	15	
										Committee on Absence of Members from the Sittings of the House	15	
										Committee on Estimates	30	
										Committee on Government Assurances	15	
										Committee on Petitions	15	
										Committee on Private Members' Bills and Resolutions.	15	
										Committee on Public Accounts	22	
										Committee on Subordinate Legislation	15	

						General Purposes Committee 21
						House Committee . 12
						Joint Committee on Salaries and Allowances of Members of Parliament . 15
						Rules Committee . . 15
						Joint Committee on the Merchant Shipping Bill, 1958. . . . 45
						Joint Committee on the Trade and Merchandise Marks Bill, 1958 . 45
						Select Committee on the Gift-tax Bill, 1958 . 43
						Select Committee on the Estate Duty (Amendment) Bill, 1958 . 43
						Select Committee on the Central Sales-tax (Second Amendment) Bill, 1958 . 35
						Select Committee on the Banaras Hindu University (Amendment) Bill, 1958 33
Rajya Sabha	*Two Sessions*: From 10-2-58 to 14-3-58 (22 sittings) and from 22-4-58 to 10-5-58 (15 sittings).	22	720	137	6	Business Advisory Committee . . . 10
						Committee on Petitions . 5
						Committee on Privileges . 10
						Committee on Rules . 15
						House Committee . . 7
						General Purposes Committee 16
						Joint Committee on the Public Premises (Eviction of Unauthorised Occupants) Bill, 1958. . 45

1	2	3	4	5	6	7	8	9	10	11	12	13
Bihar Legislative Assembly.	*One Session* : From 17-3-58 to 7-6-58. (52 sittings).	17	..	3,713	2,000	490	439	328	234	Business Advisory Committee. . . .	11	
										Public Accounts Committee	17	
										Committee on Estimates .	25	
										Committee of Privileges .	15	
										Library Committee .	27	
										House Committee .	18	
										Committee on Subordinate Legislation . . .	10	
										Committee on Government Assurances . . .	15	
										Select Committee on Rules	13	
Bihar Legislative Council.	*One Session* : From 17-3-58 to 6-6-58 (37 sittings).	17		926*	866*		..	..	..	Library Committee .	12	
										House Committee . .	8	
										Privileges Committee .	15	
Madhya Pradesh Vidhan Sabha	*One Session* : From 28-2-58 to 30-4-58 (39 sittings).	16		4,513	2,637	1,592	1,150	79	42	Estimates Committee .	15	
										Committee of Privileges .	10	
										Public Accounts Committee	10	
										Rules Committee . .	15	
										Business Advisory Committee	15	
										House Committee .	10	
										Library Committee . .	12	
										Petitions Committee .	5	
										Committee on Delegated Legislation . .	10	
Kerala Legislative Assembly	*One Session* : From 22-2-58 to 2-4-58 (30 sittings).	18	1	2,180†	2,049†	..	..	35	16	Estimates Committee for 1958-59 . . .	7	
										Public Accounts Committee for 1958-59 .	7	

Madras Legislative Assembly.	*One Session :* *Two meetings :* First meeting from 10-2-58 to 15-2-58. Second meeting from 1-3-58 to 10-4-58. (36 sittings).	17	2,315	1,854	15	15	140	118	Committee on Public Accounts . . . 20 Committee on Estimates . 20 Committee on Government Assurances . . . 7 Committee of Privileges . 16 Committee of Subordinate Legislation. . 13 Business Advisory Committee . . . . 11 House Committee . 16
Madras Legislative Council.	*One Session :* From 8-2-58 to 1-5-58. (23 sittings).	17	181	177	..	..	8	8	Business Advisory Committee. . . . 9 Committee on Government Assurances . . . 5 House Committee 9 Committee on Privileges . 10 Joint Select Committee on the Madras Cultivating, Tenants Protection and Payment of Fair Rent (Amendment) Bill, 1958. 8 Joint Select Committee on the Madras Prohibition (Amendment) Bill, 1958 8 Joint Select Committee on the Madras Children (Amendment) Bill 1958 8 Joint Select Committee on the Madras *Beedi* Industrial Premises (Regulation of Conditions of Work) Bill, 1958 8
Mysore Legislative Assembly.	*One Session :* From 24-2-58 to 8-5-58. (55 sittings).	17	1,271†	1,218	..		90	15	(No new Committees were constituted during this period).

*Includes Unstarred and Short Notice Questions.
†Includes Unstarred Questions.

1	2	3	4	5	6	7	8	9	10	11	12	13
Mysore Legislative Council.	*One Session* : From 15-3-58 to 8-5-58. (33 sittings).	19		107	107	25	25	16	13	Committee of Privileges	6	
Orissa Legislative Assembly.	*One Session* : From 17-3-58 to 7-5-58. (36 sittings).	16		3,261*	2,579*					Committee on Estimates	9	
										Committee on Public Accounts	7	
										Committee on Government Assurances	5	
										Committee to consider and decide as to the action to be taken under Article 187 and Article 194 of the Constitution and in all matters connected therewith	7	
										Committee of Privileges	5	
										Business Advisory Committee	8	
										House Committee	9	
										Select Committee on the Orissa House Rent Control Bill, 1958	9	
Punjab Legislative Assembly.	*One Session* : From 10-2-58 to 8-4-58. (35 sittings).	19		1,966	1,291*	581	397	13	1	Committee on Government Assurances	9	
										Committee on Privileges	10	
										Committee on Subordinate Legislation	8	
										Committee on Estimtes	9	
										House Committee	5	
										Committee on Petitions	5	
										Public Accounts Committee	12	
										The Select Committee on the Punjab Maternity Benefit (Amendment) Bill, 1958	14	

									The Hindi Regional Committee 65
									Punjabi Regional Committee 65
									Ad-hoc Committee on a Privilege Issue . 14
Punjab Legislative Council.	*One Session* From 10-2-58 to 15-4-58. (16 sittings).	19	250	203†			3	1	Committee on Government Assurances . . . 6
									Committee connected with comfort and convenience of the Members of the Council. 8
									Rules Committee . 7
									**Select Committee on the Shops and Commercial Establisluneots Bill, 1957 . 12
Rajasthan Legislative Assembly.	*One Session* : From 10-2-58 to 26-4-58. (44 sittings).	32	2,918	2,250	26	26	22	14	Public Accounts Committee . . . 10
									Estimates Committee . 15
									Business Advisory Committee 5
									House Committee 5
									Select Committee (Rules) . 15
									Select Committee on the Rajasthan-Mewar Shishu Hitkarini Sabha(Decrees) Enforceability Bill, 1957 4
									Select Committee on Rajasthan Ware Houses Bill, 1957 16
									Select Committee on the Rajasthan Live Stock Improvement Bill, 1957. 16

*Includes Unstarred and Short Notice Questions.

†Includes two notices of Short Notice Questions allowed as Starred Questions.

**This Committee was appointed on 1-11-57 and it presented its report on 30.1.58.

1	2	3	4	5	6	7	8	9	10	11	12	13
										Select Committee on the Rajasthan Cash Jagirs Abolition Bill, 1958.	16	
										Select Committee on the Rajasthan Forest (Amendment) Bill, 1958	18	
										Select Committee on the Rajasthan Animal Diseases Bill, 1958	20	
U. P. Legislative Assembly.	*One Session*: From 3-2-58 to 5-4-58. (40 sittings).	10		8,926	3,917*	196	120	3.565	238	Privileges Committee	10	
										Business Advisory Committee	10	
										Petitions Committee	5	

*Includes 810 Short Notice Questions admitted as Starred Questions.