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A view of the Madhya Pradesh Assembly Building, Bhopal.
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THE JOURNAL OF PARLIAMENTARY INFORMATION

Vol. V]

October 1959

[No. 2

Speaker's Inaugural Address to the Public Accounts Committee, 1959-60

[The inaugural meeting of the Public Accounts Committee for the year 1959-60 was held on 8th May, 1959 at Parliament House. The Speaker, Shri M. Ananthasayanam Ayyangar, addressed the meeting, excerpts from whose speech are reproduced below.]

Friends,

I have great pleasure in welcoming all of you, both the new members as well as the old. This combination of young and old, and new and old members adds to the proper working of the Committee. The old members can certainly bring to bear their experience and knowledge on the work. We have got two important Committees, namely, the Public Accounts Committee and the Estimates Committee, one dealing with expenditure already incurred, and the other dealing with expenditure incurred during the course of the year so that the expenditure may be reduced.

Public Accounts Committee and the Comptroller and Auditor-General of India

The Public Accounts Committee has an advantage over the Estimates Committee in that the former has got the benefit of the advice of the Comptroller

and Auditor-General whose duty it is to find out if there are any wrong items of expenditure. Whatever he detects is mentioned in his report which is placed on the Table of the House. Thereafter, it comes to you for scrutiny. Even when you examine witnesses, he helps you. He knows the ins and outs. His officers are by his side and they help him. This is a decided advantage which the members of the Public Accounts Committee have.

Role of the Committee in the examination of Accounts

I am sure that during the tenure of your office, you will certainly get into the details of expenditure and study all the rules and regulations. Sometimes, what happens is that there are excessive estimates of expenditure. Estimates of expenditure are unnecessarily bloated and large amounts are asked for. Subsequently, amounts are transferred from one head to the other. Transferring from one head to the other head does not require the sanction of Parliament, unless the transfer is from one demand to another. You have also to find out from year to year how far in excess of the actual expenditure they have budgeted.

Delays on the part of the Ministries in furnishing information called for by the Committee

What normally I find by way of complaint in these reports is that the officials that appear before you do not give the entire history or picture of what you find on the record. Also they do not supply you the information in time.

If you look at some of the previous reports of the Committee, you will find that there has been a complaint from time to time that the Ministries have not furnished the information asked for by the Committee even after series of reminders for months together. I would suggest to you that in case you do not get the necessary information you refer the matter to me. I will allow your Chairman to raise it on the floor of the House; or I will remark from the Chair and tell the Ministers: 'You must supply all the material that is required.'

Presentation of the Reports by the Comptroller and Auditor-General

When the budget is presented to the Parliament on the 28th or 29th February, you get an estimate of the probable expenditure during the coming year. Taking the year 1959-60, the expenditure from 1st April, 1959 till the 31st March, 1960 can only be an estimate. It is based upon the revised estimates of the previous year, namely, 1958-59. So, in the budget presented to Parliament in 1959, you have the actuals of the year 1957-58, the revised estimates of the year 1958-59 and the estimates of the coming year 1959-60. The estimates are based upon the previous year's figures.

What I am suggesting is this: When the budget is presented to the House on the 28 February, practically the year is over, except that the accounts have to be audited. I would like very much

that the actuals for the closing year might be given to the House even before the budget debate starts. Within less than three months after the close of the year, the accounts of that year ought to be looked into and the Auditor-General must submit his report shortly after the closing of the year, that is, within three months. The Public Accounts Committee also must look into it and place their report on the Table of the House; in any case, not more than four months must elapse after the close of the financial year. That is my desire. Then alone it will be up-to-date. Otherwise, it will be old story.

Examination of ad hoc issues and important matters relating to policy

Another point that I would like to place before you is that as you go on from year to year, the Speaker may ask you to look into something of very great importance which agitates the minds of the people, and which may come up for discussion. You will have to take up that subject also, as an *ad hoc* issue. If some reference is made to it in Parliament, you will be required to take it up.

As a matter of fact, the other day the hon. Finance Minister said that as many as Rs. 112 crores have to be written off by way of income-tax arrears. What is the implication of allowing Rs. 112 crores to be written off like this? In the Rajya Sabha, the Revenue Minister gave an explanation that out of these Rs. 112 crores, Rs. 60 crores will have to be written off by way of abatement on account of double taxation. Even then there will be a balance of Rs. 52 crores. How is it to be accounted for? I very much wish that you take up this subject, examine it, prepare a small report and place it on the Table of the House, as to how this happened, who is responsible for this, etc.; and if some more money

Speaker's Inaugural Address to the Public Accounts Committee, 1959-60

can be recovered easily, you may make your suggestions also.

So, firstly, your work is to go through the Auditor-General's report, examine witnesses relating to some of the important matters and after coming to your own conclusions, place your report on the Table of the House. Secondly, you will have to take up *ad hoc* issues which may be referred to you by the Speaker or issues which on account of the circumstances prevailing in the country are taken up in Parliament. You will send a report to the House regarding that also.

Apart from utilising the services of the Public Accounts Committee and also the Auditor-General in matters of this kind, on one occasion I had to take their help in regard to the conversion of a "voted" item into a "charged" item. As you know, there are some items which are "charged" under the Constitution. We can only discuss them. We have no right to vote. If a votable item is converted into a non-votable item, the jurisdiction of Parliament over that item is taken away.

Last year, in the Budget Estimates a particular votable item was mentioned as charged item. I took exception to it and asked, "How is it that a votable item suddenly becomes a non-votable item? If you do not want to give an account to Parliament, you could transfer it from one head to the other." I referred it to the Public Accounts Committee. Therefore, you have to scrutinise and advise the Parliament on such important matters also. These are all subjects which you will come across.

Examination of witnesses

One of your functions is to get the information from the officers, and for this

purpose you have to cross-examine them carefully and tactfully and get the necessary information. Then, in examining witnesses, you must get as much information out of the witnesses as possible. But deal with them a little gently. In your enthusiasm to get information, you may sometimes find a witness in a tight corner. In that situation he is likely to provoke you by his apparent indifference and by what you may consider his refusal to answer or his intransigence. Or he may not really be able to answer. Now, you are all highly learned and responsible men, full of energy and experience. You are not in need of any advice. But as I myself was the Chairman of the Estimates Committee for five years, I know the difficulties. The official witnesses would not sometimes allow you to proceed further. They would certainly have regard and respect for you and also admire you, if without offending them you get all the information from them. I am referring to it for the reason that some of them, after giving evidence here, complain that they can never get along with the Committee.

On your work depend further economies that could be achieved in this country. Especially when we consider the manner in which we have undertaken a large number of projects in the Second Five Year Plan, every pie that you will save will go towards making the future Plans successful.

Thank you once again for the opportunity you have given me. I am happy to inaugurate this year's Public Accounts Committee. I am sure good reports will be produced by you and good work will be done by all.

Speaker's Inaugural Address to the Estimates Committee, 1959-60

[The inaugural meeting of the Estimates Committee, 1959-60, was held in Parliament House on 7th May, 1959. The Speaker, Shri M. Ananthasayanam Ayyangar, addressed the meeting, excerpts from whose speech are reproduced below.]

Shri Dasappa*, and friends,

Let me congratulate the hon'ble Members who have come into this Committee—both those who have come now and those who have continued from the last Committee. I expect that you will make this Committee more important than it was before. I started this Committee and those who came afterwards put in their best efforts. I was the first Chairman of the Estimates Committee. There was no Estimates Committee before that. The foundations were laid then. We gain by experience. If any certificate from any independent source is necessary, we have had it from the United Nations Organisation. They have referred, more than five years ago, to the very good work that we did.

Functions of Estimates Committee

In so far as your functions are concerned, I would impress upon you one thing. Your function is not to lay down any policy. Whatever policy is laid down by Parliament, your business is to see that that policy is carried out—not independently or divorced from its financial implication. You must bear in mind constantly that you are a Financial Committee and you are concerned with all matters in which finances are involved.

*Chairman of the Estimates Committee.

It is only where a policy involves expenditure and while going into the expenditure you find that the policy has not worked properly, you are entitled and competent to go into it. Wherever the policy is leading to waste, you are entitled to comment on it in a suitable way. You might say that possibly if another method than the one by which it has been worked is adopted, we would save something more. It is for Parliament to take such decisions as it likes on such suggestions as are made by this Committee.

Dissenting opinion

The next point I would refer to is this. There has been a convention here that whatever report you make should be the report of the whole Committee. It is not that there cannot be any differences of opinion. What we do is that we do not state in the report that there was a difference of opinion nor do we allow a dissenting minute to be put in there. If some hon'ble Members do not agree with any particular view-point and they so desire, it is noted in the Minutes that are circulated and laid on the Table. If any hon'ble Member wants, he can certainly look into the Minutes and find out what exactly took place. This was the practice in the House of Commons and we have adopted it here also. I am sure it is working very well.

Selection of subjects for examination

You have to choose particular subjects for examination. During the lifetime of a Parliament as large a sphere of

administration as possible must be reviewed.

Now and then, the Speaker may also refer certain matters for your investigation. The circumstances under which the Speaker normally refers matters for your study, scrutiny and report are *ad hoc* issues that come up before Parliament. Recently, during the Question Hour, certain questions were asked regarding the Rourkela and Bhilai projects. A number of members took interest and it was quite clear to me that *prima facie* there was a case for looking into it by a Committee. I took the view of the House as a whole. As a matter of fact, a number of hon. Members were also taking interest in the Bharat Electronics. I thought that it was an important matter and I referred it to the Estimates Committee. I said in the House that further matters will be discussed by the Estimates Committee and we may expect the report as early as possible. My suggestion—that the matter will be referred to the Estimates Committee—was appreciated and welcomed. I am extremely happy to say that the Estimates Committee looked into this and disposed it of promptly.

Some years ago, the collieries belonging to the State were not being worked properly. The matter was referred to the Estimates Committee and they gave some findings and Government accepted those findings. Such important *ad hoc* issues may be taken up either by yourselves or they may be referred by the Speaker. When they are referred by the Speaker, priority should be given to them and they should be disposed of as quickly as possible and a report submitted to the House. Even while looking into the normal administration, there may be something special, and whatever is fresh in your mind, should be dealt with immediately. If you allow time to elapse, the interest of the

people will disappear. If you act promptly, it will add to the importance of the Committee and make the people expect burning topics to be brought before the public eye.

Examination of Autonomous Corporations

One other important subject or item on which a lot of money is spent, whether by the Central Government or the State Government, is the Autonomous Corporations.

I have my own doubt as to whether the creation of autonomous corporations is constitutional! Every pie that is raised by way of taxation could be done only by the law of Parliament. Also when a pie is to be expended from the Consolidated Fund, we go through the elaborate process of placing a demand before the House, having cut motions regarding policy, individual grievances, economy, etc., and after long discussion we put it to the vote. Even excess and supplementary demands come before Parliament. As against this, large sums of money—~~are~~—are given away and put into a separate category, and we are told "These are autonomous corporations." This is so in the case of autonomous corporations which have come into ~~existence~~ by virtue of legislation passed by Parliament and ~~also~~ the other kinds of corporations which are public-owned companies but which are called 'Private Limited Companies'. These are companies registered under the Indian Companies Act. There are others in which we hold lot of shares. So far as these corporations are concerned, we have been feeling that on account of increase in their number from year to year, there must be a separate committee to look into these corporations and keep in touch with their affairs. It should be a permanent Committee and year

after year, there must be a check, there must be a continuity of experience and knowledge with respect to them. But before organising a separate committee, we thought it prudent, from various points of view, to have a Sub-Committee—a permanent Sub-Committee of the Estimates Committee. One is in existence to look into these matters. I have also issued a direction relating to the working of the Sub-Committee. I request you to pay special attention to these autonomous corporations and their expenditure in so far as you can, specially to the conditions relating to the coming into existence of these corporations.

Audit

I would like to mention another thing. The Auditor-General is the expert authority in relation to expenditure. He has the right to examine all the accounts relating to the expenditure from the Consolidated Fund. In the autonomous corporations a tendency has developed that their autonomy applies even with respect to the audit of accounts. I can understand autonomy with regard to expenditure to some extent; but with respect to audit also they say: 'Remove the powers of the Auditor-General and allow autonomous corporations to appoint their own auditors'. I feel that the accounts of the autonomous corporations should not be examined by persons other than the employees of the Auditor-General or persons who are nominated by him. If the Auditor-General himself is not able to do so, let him nominate somebody. He can have a panel and it must be open to him to take persons from the panel.

Apart from the Sub-Committee relating to autonomous corporations, I would urge upon you to have Study Groups and Sub-Committees, wherever they are necessary, for ensuring continuity of work.

Procedure for examination

You know the procedure in regard to the reports of the Committee. Questionnaires are sent out at a particular stage. Then, the Ministries send their replies. Thereafter, you call the witnesses and cross-examine them. Then you make a draft report. At that stage a copy of the draft report is also sent to me.

About examination of witnesses, I would like to utter a word of caution, particularly to those friends who have come now. The Secretaries and others come here. Whether you are lawyers by profession or not, you must know how to cross-examine them; you must do it in a delicate manner so that they confide in you.

Setting-up of Government Committees

While you are examining a particular matter in this Committee, the Government may appoint a Committee of their own—some of the Members of that Committee may be our own Members. Therefore, we have said that so long as a Committee of Parliament has taken charge of any administration for investigation, no other Committee shall be appointed without the permission of this Committee and no Member of this Committee shall agree to serve on any such Committee, without the permission of this Committee or the Chairman.

Of course, these are the difficulties that have occurred and we have tried to plug all the loopholes. There are other things which you will find and possibly, you may also face difficulties and suggest solutions as you progress.

I am sure, you will all work as a team and make this Committee more important and more useful to Parliament.

Short Notes

Indian Parliamentary Delegation to Eastern Europe

In pursuance of invitations received from the Presiding Officers of the Parliaments of Czechoslovakia, Rumania, Bulgaria and Poland, a ten-member Indian Parliamentary Delegation led by Shri M. Ananthasayanam Ayyangar, Speaker of the Lok Sabha, visited those countries in July, 1959 for about a month. The members of the delegation were as follows:—

Shri M. Ananthasayanam Ayyangar, Speaker, Lok Sabha (Leader).

Shri M. Thirumala Rao, M.P.

Shri Narayan Ganesh Goray, M.P.

Shri Rajeshwar Patel, M.P.

Shrimati Ila Palchoudhuri, M.P.

Shri C. D. Pande, M.P.

Shri A. S. Raju, M.P.

Shri V. K. Dhage, M.P.

Shrimati Pushpalata Das, M.P.

Shri M. N. Kaul, Secretary, Lok Sabha.

Shri Ayyangar, Shri Thirumala Rao and Shri Kaul also visited Yugoslavia in the last week of June, 1959 en route to Czechoslovakia.

Mahatma Gandhi's Views on Adult Suffrage, Indirect Elections and Bicameralism

[On October 2, 1959, the country will be celebrating the ninetieth birth

anniversary of Mahatma Gandhi. On this occasion, it would be worthwhile to recall some of the observations made by the Father of the Nation on some subjects of Parliamentary interest, such as adult suffrage, indirect elections, registration of voters, bicameralism etc. We, therefore, give below extracts from his speech delivered on 17th December, 1931 at the Federal Structure Committee of the Round Table Conference held at London.]

On Adult Suffrage

"Adult suffrage is necessary for more reasons than one; and one of the decisive reasons to me is that it enables me to satisfy all the reasonable aspirations... of all classes. I cannot possibly bear the idea that a man who has got wealth should have the vote, but that a man who has got character but no wealth or literacy should have no vote, or that a man who works honestly by the sweat of his brow day in and day out should not have the vote for the crime of being a poor man. It is an unbearable thing I am not enamoured of the doctrine of literacy—that a voter must at least have a knowledge of the three R's. I want for my people a knowledge of the three R's; but I also know that if I have to wait until they have got a knowledge of the three R's before they can be qualified for voting, I shall have to wait until the Greek Kalends, and I am not prepared to wait all that time. I know millions of these men are quite capable of voting."

On Indirect Elections

"Something is needed to link the village with the Central Legislature. (Each village in India may be a unit) and each unit would elect its own representative, and these representatives would be the electorate that would elect representatives to the Central or the Federal Legislature. If we are going to have adult suffrage, I am afraid that we shall have to fall back upon a scheme somewhat after the style that I have suggested to you. Wherever it has been working I can only give you my evidence that it has worked with excellent results, and there has been no difficulty in establishing contact through these respective representatives with the humblest villager. The machinery has worked smoothly; and where people have worked it honestly, it has worked expeditiously, and certainly without any expense worth naming. Under this scheme I cannot conceive the possibility of a candidate having to spend Rs. 60,000 over an election, or even one lakh. I know of some cases in which the expenses have run to one lakh of rupees—in my opinion, an atrocious figure for the poorest country in the world."

On Registration of Voters

"So far as I know the working of voting systems, the registration officer has to put on the voters' list all those who he considers are entitled to vote, and hence, whether a man wishes to vote or not—whether he wants his name to come on the list or not—he finds his name there. (On the other hand

we can have) this alternative that he who wants the vote can have it. It is open to those who want the vote, subject to the condition regarding age and any other condition which all can fulfil, to have their names, without distinction of sex, on the voters' list. I think a scheme of this character would keep the voters' list within a manageable compass."

On Bicameralism

"I am certainly not enamoured of and I do not swear by two Houses of Legislature. I have no fear of a popular Legislature running away with itself and hastily passing some laws, of which afterwards it will have to repent. I would not like to give a bad name to, and then hang, the popular legislature. I think that a popular legislature can take care of itself; and since I am now thinking of the poorest country in the world, the less expenses we have to bear the better it is for us. I do not for one moment endorse the idea that, unless we have an Upper Chamber, to exercise some control over the popular Chamber, the popular Chamber will ruin the country. I have no such fear; but I can visualise a state of affairs when there can be a battle royal between a popular Chamber and an Upper Chamber. Anyway, whilst I would not take up a decisive attitude in connection with it, personally I am firmly of opinion that we can do with one Chamber only, and that we can do with it to great advantage. We will certainly save a great deal of expense, if we can bring ourselves to believe that we shall do with one Chamber."

Conferences of Presiding Officers of Legislative Bodies in India

By

SHRI S. H. BELAVADI

Secretary, Bombay Legislative Assembly

To many, the annual Conference of Presiding Officers of Legislative Bodies in India is still a vague idea, as they do not know clearly what it does and how it functions. An attempt is, therefore, made in this article to give an outline of its work and achievements.

It will be interesting to know that these Conferences are not being held only since India gained her Independence. The idea of these Conferences was first mooted by Sir Frederick Whyte who was the first President of the Central Legislative Assembly. Only Bengal, Madras, Bombay, Punjab, Bihar, Central Provinces and United Provinces had Legislative Councils then. The object of these Conferences was, of course, to see that Parliamentary system of Government grew on proper lines, that proper conventions and traditions developed in that direction, and also that a sort of uniformity was established in the practice and procedure of the Central and State Legislative Bodies. Now, it will be easy to judge how far such Conferences have achieved their objects, if one is told about some of the important decisions taken so far and their implementation.

Independent Secretariat

The very first question which engaged the attention of these Conferences was that a Legislature should have an independent Secretariat. In other words, the service to be rendered to the House should be by an agency which should be

independent of the Executive, because the Presiding Officers experienced that in the performance of their duties the agency which was provided by the Executive, and which was, therefore, amenable to their influence, was not going to be of any real use unless it was taken out of the pale of their influence. Therefore, the first question which they considered was the independence and the separation of the Legislature Secretariat, which would serve exclusively the needs of a Legislature. Naturally, things were not very easy and simple. There was the bureaucratic Government to oppose, but gradually the point which was being urged year after year materialised. It will be noticed that this point was discussed in 1938, 1939, and again in 1949. A resolution was passed that suitable provision should be made in the draft Constitution providing for an independent Legislature Secretariat. It was thus that Article 98, so far as the Central Parliament is concerned and Article 187, so far as the State Legislatures are concerned, came to be inserted in the Constitution, which give a Legislature Secretariat an independent and separate status. Now, it is obligatory under the Constitution that each Legislature should have its separate Secretariat staff, and this is being gradually implemented, although, of course, there are still a number of points which require to be settled in that connection. Suffice it to say that in most

of the State Legislatures, these points are being settled to the satisfaction of both the Legislature Secretariat and Government, and, in the not too distant future, the object with which this Article has been inserted in the Constitution will have fully materialised. This is very essential because no Presiding Officer would be in a position to perform his duties without fear or favour of the Executive, unless he has a staff on which he could absolutely rely. This need, as stated earlier, is finding recognition in a varying degree all over the country.

Parliamentary Privileges

The second point which the Presiding Officers' Conferences discussed was about the privileges of the Legislatures, their Members and their various Committees. The House, in order to be able to discharge its duties fearlessly, must have certain privileges, and these privileges are the ancient privileges which are being enjoyed by the Members of the House of Commons and the House of Lords in England. It will be seen that in a large measure, this also has been achieved, because now in the Constitution there is Article 194, which lays down that the privileges of the Members of the Legislatures will be those of the Members of the House of Commons in the United Kingdom, after setting out a few things specifically in that behalf. Whenever a question of privilege arises, what is done is to refer to that Article, to see if it has been expressly provided for in that Article. If it is not, then a reference is made to the standard books on Parliamentary practice and procedure to find out what the position is in that respect in England.

Recognition of Parties in Legislature

Another important point which was discussed, and which also gave some guidance to the various State Legislatures, was in regard to the principles

for the recognition of Parties in the House. This was particularly of great use to the Bombay Legislature because, when the House met for the first time after the General Elections in 1957, the first question which had to be tackled was about giving recognition to the Opposition Party. For the first time a large number of members were returned to the Bombay Legislative Assembly on the Samyukta Maharashtra Samiti ticket. They formed the Legislature Party for the purpose of Legislature work and applied to the Speaker for recognition of their Party as the Official Opposition. The matter had to be considered and the Speaker had to decide whether recognition should or should not be given. The Speaker was considerably helped in this by the principles and criteria which the Presiding Officers' Conference had laid down in this behalf. It was found that the Samiti Legislature Party fulfilled all those criteria and principles, and, therefore, recognition was given. The Speaker had given a ruling, a very important ruling for the matter of that, for it will be found in that ruling mentioned, not only why recognition was given, but also the purpose of such a recognition. The Speaker had made it perfectly clear that such recognition was primarily intended for the smooth transaction of business in the House. Various matters are decided behind the Chair. These are first discussed between the Whips of the Government Party and the Opposition Party. Unless there is a Party in Opposition, there will be no recognised spokesman who could deliver the goods on their behalf. So whenever an important question comes up for discussion, all matters such as how the discussion should take place, how much time should be allotted for it and so on, are discussed between the leaders of Government and the Opposition, and a certain time table is agreed to, to which the Speaker gives his approval.

Conferences of Presiding Officers of Legislative Bodies in India

Uniformity in Procedure

Another important matter which the Conference considered, and which is still being pursued, is about the uniformity in the Rules of Procedure in the various State Legislatures and in the rules governing their several Committees. It was found that the Rules of Procedure in the State Legislatures were by no means uniform. They differed very widely from each other. Also they did not have the essential Parliamentary Committees, such as the Public Accounts Committee, the Estimates Committee, Subordinate Legislation Committee, Assurances Committee etc. Therefore, this point was pursued, and now they have succeeded in a very large measure in establishing most of these Committees in most of the State Legislatures in India. All credit must go to the former Speaker of Lok Sabha, the late Shri G. V. Mavalankar, who gave a great impetus to this matter and saw to it that the State Legislatures were brought in line with the Lok Sabha. In that way a lot of spade work was done. Information was collected as to how many Parliamentary Committees were functioning in the various State Legislatures, what were their rules, whether they were uniform or not, and so on. It will be found that gradually, while there may be an exception here or there, by and large a uniform pattern is being evolved in respect of the rules of procedure to be followed in the various Legislatures in India. This is, indeed, good work.

Procedure at the Conference

Now I will explain how actually these matters are discussed. The Speaker of the Lok Sabha is the permanent Chairman of the Presiding Officers' Conference and the Secretary of the Lok Sabha is its Secretary. The Secretariat for the Conference is provided by the Lok Sabha Secretariat; of course, they might

take the help of the Secretariat of the Legislature of the State in which the Conference may be held. As soon as the date of the Conference is fixed—and this is done fairly in advance—an intimation is sent out to all the State Legislatures. It is held for three days. Points touching on practice and procedure, which confront the Legislatures in India, are invited. All such points sent by the various State Legislatures are collected and the Speaker of the Lok Sabha, with the assistance of the Secretary, goes through them and selects the points for inclusion in the agenda. That is how the Agenda is prepared for the Conference. The Agenda is then sent out by the Lok Sabha Secretariat to all State Legislatures so that their Presiding Officers could prepare themselves on the points. On the day the Conference opens, the Speaker of the Legislature of the State, which acts as the host, and who is the Chairman of the Reception Committee, makes a speech welcoming the Chairman of the Conference and the other Presiding Officers. The Chairman of the Conference then makes his inaugural address. After that, the Conference settles down to business and takes up the points on the Agenda for discussion one by one.

The Speaker or the Chairman, in whose name the point taken up for discussion stands, is then called upon to put forward his point and to explain the difficulties he may have encountered in his House and to state the nature of guidance he wants from the Conference. After he has spoken, a discussion follows in which other Speakers and Chairmen participate. They are helped in this by the notes carefully prepared by the Parliament Secretariat and by some of the State Legislatures, and circulated to them. It may be stated how these notes are prepared. As soon as the Agenda of the Conference is received, the Legh-

lature Secretariat begins to prepare notes on all the points included in the Agenda, so that before the Conference commences the points have already been studied, considered and certain views put forward. The Presiding Officers would naturally go through them and express their views at the Conference. This is how the Presiding Officers contribute to the discussion on each point on the agenda. The subject is thoroughly discussed, but no votes are taken or no formal resolutions passed. The Chairman of the Conference sums up the position and puts it to the Conference if he may take it as the unanimous opinion or the concensus of opinion of the Presiding Officers, who say the former or the latter, as the case may be. Actually, the opinion of the Conference is by its nature recommendatory, but the point is that all this discussion serves as a very important guidance for the various State Legislatures. In this way, these discussions form a very important source of precedents for arriving at decisions on complicated questions of practice and procedure.

At every Conference it is usual for the Chairman of the Conference to indicate in his inaugural address the extent to which the opinions expressed by the earlier Conferences have been implemented by the various Legislatures, because the Presiding Officers are naturally anxious to know how the implementation of the recommendations has worked. The Speakers and the Chairmen take up these matters with their respective Governments with a view to implementing these decisions. In this way the work of the Conference goes on from year to year.

It may be of interest to note that these Conferences first used to be held annually in Delhi in winter, or in Simla in summer. It was for the first time in 1950 that a suggestion was made to the

late Shri Mavalankar by some State Legislatures that it would be much better if they are held in the various States, instead of holding them all the time in New Delhi or Simla. That suggestion was accepted, and accordingly, these Conferences are now being held in various States. The first such Conference held outside Delhi was in Trivandrum at the instance of the then Speaker of Travancore-Cochin. After that there have been six or seven such Conferences held outside Delhi, viz., at Gwalior, Srinagar, Rajkot, Shillong, Madras, Jai-pur, and the recent one at Darjeeling.

The discussion at these Conferences and the decisions taken thereat are absolutely of a confidential nature. No outsiders are permitted at these Conferences. The Press is not invited, and so there is no fanfare of publicity. Whenever the Conference is held, the Secretary of Lok Sabha Secretariat calls a press conference and gives only a short report of the discussions, but the decisions taken or the views expressed are not reported as they are treated as confidential. It will be noted that even the Agenda of the Conference is marked 'Confidential'.

Conference of Secretaries

The Conference of Secretaries either precedes or follows the Presiding Officers' Conference. A similar procedure is followed for finalising the agenda and for discussion of matters contained therein. There is also a Committee of Secretaries to which important and complicated matters are referred both by the Secretaries' Conference and Presiding Officers' Conference for study and report. The points which really confront the Secretaries are taken up in the Secretaries' Conference. But it may be stated that there were a number of points which afterwards it was thought would better be discussed in the

Conferences of Presiding Officers of Legislative Bodies in India

Speakers' Conference. There had therefore to be some line of demarcation as to which points should be included in the Agenda for the Secretaries' Conference and which in the Agenda for the Presiding Officers' Conference. This is done on the basis of which is the more appropriate forum for discussing the matter.

Now a few remarks about the social side of the Conference may not be out of place. Ever since these Conferences have come to be held, a sense of fraternity has been developed between the

various Presiding Officers, the members of the staff and the various officers who come to the Conference. The host State is naturally very hospitable. These Conferences are exclusively confined to Presiding Officers and Officers of Legislatures, and their families also usually accompany them. So, naturally, it turns into a sort of a family gathering. That adds in a very large measure to the homely atmosphere in distant places. At tea, during lunch, or at dinner, many common things are discussed, and that brings all ever so much closer.

The Bomb Incident*

By

SHRI V. NARASIMHAN

The bomb explosion in the Chamber of the Central Legislative Assembly in Delhi on the 8th April, 1929 is today a forgotten event of which there is no connected account in any book or publication. All that the printed debates of the day mention is:

"At this stage two bombs were thrown from the Visitors' Gallery and burst among the benches occupied by the Official Members, causing injury to certain Members. Confusion prevailed and Mr. President retired. After a few minutes, Mr. President resumed the Chair."

An attempt has been made in this article to reconstruct this event from the Press reports of the day, certain contemporary documents and eye witness accounts of two retired officials.

The galleries of the Legislative Assembly Chamber were crowded with visitors on Monday, the 8th April, 1929, as the President of the Legislative Assembly, the Hon'ble Shri Vithalbhai Patel, was expected to give his ruling on the Public Safety Bill, which for weeks earlier, had been agitating the public mind on account of its drastic provisions.

One of the visitors in the President's Gallery was Sir John Simon, Chairman of the Indian Statutory Commission who had come to hear the ruling of the President personally.

At 12-35 P.M. in a hushed and expectant House the President rose to give his ruling. He began "As the Trade Disputes Bill is now out of the way I now proceed to give my ruling." Only thus far could he proceed when the House was startled by a loud explosion followed by yet another, accompanied by pistol shots and sheaves of pamphlets thrown into the Chamber from the Public Gallery.

The following is a connected account of the events that followed in rapid succession. The first bomb fell near the seat of Sir George Schuster (Finance Member) from the Visitors' Gallery to the right of the Chair. His seat was the fifth on the front official bench to the President's right. There was panic in the House. People were seen dashing to the nearest exit or taking shelter under tables and benches. A second bomb exploded immediately after the first but this time on the back benches of the Treasury block. This was followed by pistol shots, and simultaneously printed leaflets were thrown from the Gallery into the Chamber. They were purported to be 'notices' by the "Hindustan Socialist Republican Army" and were signed by one Balraj.

In a Chamber filled with smoke and amidst din and *melee* people could see

*A fuller account of the incident is given in a book of the same title published by Lok Sabha Secretariat.

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two young men in the Visitors' Gallery to the right of the Chair standing unaffected by the scene around and below them.

One of them had fired the pistol shots and thereafter threw his pistol on the seat. He was reported to have said "I have done my duty to my country", and turning to an approaching policeman added "Look, here is my revolver". He was at once disarmed and arrested. His comrade also surrendered himself to a police sergeant without resistance.

Sir George Schuster, the Finance Member of the Government of India, Sir Bomanji Dalal, (nominated non-official) and two nominated Official Members were injured. Sir George Schuster was wounded in the right arm. A splinter had cut through his shirt and coat, and caused a wound though not deep. Sir Bomanji Dalal, who was sitting in the second back bench close to Sir George Schuster, was wounded rather seriously in the right thigh evidently by a large piece of metal. Both of them were dressed by Col. Gidney (a nominated member) and Dr. Reinholdt, Civil Surgeon of Delhi, in the Finance Member's room. Thereafter, Sir Bomanji Dalal was sent to hospital from where he was discharged after a few days.

In spite of the noise and confusion, President Patel remained in the Chair calm and unperturbed. As his efforts to restore order in the House were in vain, he retired to his Chamber.

The first bomb made a hole in the ground where it fell. The second bomb, which was reported by the Press to be more dangerous than the first, after ripping open the last corner bench on the official side exploded blowing to pieces the next bench. It was also discovered that a marble-stone pillar in the Official Gallery had been hit by a bullet. Innumerable fragments of the bombs

(which were reported to be country-made and of the jam-tin variety) were found strewn in different parts of the Chamber and Galleries. Repair work was immediately put under way and the House had a normal appearance on Thursday, the 11th April, 1929 when it met next.

The House met again fifteen minutes after the incident with the President in the Chair. Most of the members who had only retired into the Lobby came in and found the Chamber full of smoke. After consulting the Leader of the House the President adjourned the House formally till Thursday, the 11th April, 1929.

One of the two young men in the Visitors' Gallery was Bhagat Singh. He was alleged by the visitors in the Gallery to have hurled the bombs on the official benches. He was a graduate, and a nephew of Sardar Ajit Singh who had been deported along with Lala Lajpat Rai to Mandalay in 1907. The other young man was Butukerwar Dutt, a Bengali domiciled in Kanpur.

In a Committee room in the first floor of Parliament House the police searched the bodies of the two young men for weapons and incriminating documents. During interrogation they were both calm and self-possessed, confessed to their deed, and to questions replied that they would make their statements later in the Court.

Police investigations disclosed that Bhagat Singh had one automatic pistol—a Belgian Browning and in addition another loaded pistol in his pocket. It was reported by the Press that after firing two shots the pistol got clogged whereupon he threw it on his seat. Fourteen cartridges were recovered from his person.

Journal of Parliamentary Information

On the 11th April, 1929, the House met as scheduled at 11 A.M. when the President commencing the proceedings said:

"We meet today under the shadow of a great tragedy which, but for the merciful intervention of Providence would have resulted in consequences, the seriousness of which it is not difficult to imagine. But the fact that it did not result in more serious injuries does not make it any the less deplorable or condemnable. I am sure it is the unanimous wish of the House that we should place on record our emphatic condemnation of the outrage, and I therefore, place the following motion before you, namely:—

This House places on record its sense of horror and indignation at the outrage that was committed in the House on the morning of the 8th instant, offers its deep sympathy to Sardar Sir Bomanji Dalal and others who received injuries, and expresses its profound relief that, thanks, to a merciful Providence, the results were not more serious. The House condemns unreservedly this outrage and assures the authorities of its full support in such reasonable steps as may be necessary to prevent a recurrence of such crimes."

The motion was adopted unanimously.

Parliament's Power to Punish for Contempt*

In the United Kingdom, each of the two Houses of Parliament has the power to punish for contempt and this power has been effectively used by them, whenever the occasion has so demanded. This power has been aptly described as the "key-stone of parliamentary privilege". As May has put it: "Without it the privileges of Parliament could not have become self-subsistent, but, if they had not lapsed, would have survived on sufferance."¹ It has been held in the United Kingdom that this power is inherent in each of the two Houses, not as a body with legislative functions, but as a descendant of the High Court of Parliament. As May has said:²

"Except in one respect, the surviving privileges of the House of Lords and the House of Commons are justifiable on the same grounds of necessity as the privileges enjoyed by legislative assemblies of the self-governing Dominions and certain British Colonies, under the common law as a legal incident of their legislative authority. This exception is the power to punish for contempt. Since the decision of the Privy Council in *Kielley v. Carson* it has been held that this power is inherent in the House of Lords and the House of Commons, not as a body with legislative functions, but as a descendant of the High Court of Parliament and by virtue of the *lex et consuetudo parliamenti*."

The above view that the power of the House to punish for contempt is vested only by virtue of its being descendant of the High Court of Parliament has given rise to doubts whether this power to punish could be deemed as being available to a House of Parliament or Legislature of a Commonwealth country

whose powers, privileges and immunities are equated by law to those of the House of Commons, U.K. The principal ground for doubt appears to be the belief that the power to punish for contempt was a prerogative which was exclusive to the House of Commons (and House of Lords) of the United Kingdom and, therefore, could not be deemed to have become automatically available to a House of Parliament or Legislature of a Commonwealth country which by law has equated its powers, privileges and immunities to those of the House of Commons, U.K. This aspect is of special significance to India because in terms of article 105(3) of the Constitution:

"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."

India is, however, not the first Commonwealth country to have equated the powers, privileges and immunities of each House of Parliament and of its members and committees thereof to the House of Commons—U.K. Article 105 (3), in fact, is modelled on section 49 of the Commonwealth of Australia Constitution Act, 1900 which provides that:

"The powers, privileges and immunities of the Senate and of the House of Representatives, and of the Members and

*Prepared by the Committee Search, Lok Sabha Secretariat.

¹ May's Parliamentary Practice, 74th Ed., p. 90.

² *Ibid* p. 43.

the Committees of each House shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and Committees, at the establishment of the Commonwealth."

The question of availability of power to punish for contempt was, in fact, raised in Australia in 1955 when the House of Representatives of Australia committed Messrs. Raymond Edward Fitzpatrick and Franch Courtney Browne, proprietor and editor respectively of a weekly newspaper, *Bankstown Observer*, to prison for three months for committing a breach of privilege. On an application made by M^{rs}. Fitzpatrick and Browne for the issue of a writ of *habeas corpus* against their commitment by the House of Representatives, the High Court of Australia held¹ that Section 49 of the Commonwealth of Australia Constitution Act, 1900, gave the House of Representatives the same powers as the United Kingdom House of Commons to charge, convict and sentence a person for breach of privilege. The Court also observed:

"..... throughout the course of English history there has been a tendency to regard those powers as not strictly judicial but as belonging to the legislature, rather as something essential or, at any rate, proper for its protection.

"This is not the occasion to discuss the historical grounds upon which these powers and privileges attached to the House of Commons. It is sufficient to say that they were regarded by many authorities as proper incidents of the legislative function, notwithstanding the fact that considered more theoretically—~~per-~~ ~~haps~~ one might even say, ~~scientifically~~—they belong to the judicial sphere."

The other salient points of the judgment are briefly mentioned below:

(i) The situation in England is that:

"It is for the courts to judge of the existence in either House of Parliament of a privilege, but ~~given~~ an undoubted privilege, it is for the House to judge

of the occasion and of the manner of its exercise."

As regards applicability of these powers to the House of Representatives, Australia, the Chief Justice observed:

"The question in the case is whether that state of the law applies under section 49 of the Constitution to the House of Representatives. If you take the language of the latter part of section 49 and read it apart from any other considerations, it is difficult in the extreme to see how any other answer could be given to the question than that law is applicable in Australia to the House of Representatives. For section 49 says that, until the powers, privileges and immunities of the House are declared by Act of Parliament, the powers, privileges, and immunities of the House shall be those of the Commons House of Parliament of the United Kingdom at the establishment of the Commonwealth. The language is such as to be apt to transfer to the House the full powers."

(ii) As regards the argument that the power exercised by the Legislature was beyond the power which the Constitution had assigned to that body, the Chief Justice observed:

"It is quite incredible that the framers of section 49 were not completely aware of the state of the law in Great Britain and, when they adopted the language of section 49 were not quite conscious of the consequences which followed from it. We, are, therefore, of opinion that the general structure of this Constitution, meaning by that the fact, that it is an instrument creating a constitution of a kind commonly described as rigid in which an excess of power means invalidity does not provide a sufficient ground for placing upon the express words of section 49 an artificial limitation."

(iii) As regards the argument that as the Parliamentary Papers Act, 1908—1946 and Parliamentary Proceedings Broadcasting Act, 1946 were enacted in pursuance of the powers which arise from a combination of section 51 of the Constitution with the earlier part of section 49, and therefore, the later part of section 49 could no longer have any

¹. *Regina v. Richards* (1955) 20 C.L.R. 15.

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application, the Chief Justice observed:

Section 49 contemplates not a single enactment dealing with some very minor and subsidiary matters as an addition to the powers or privileges; it is concerned with the totality of what the Legislature thinks fit to provide for both Houses as powers, privileges and immunities We think, therefore, that in the absence of some such more general provision than the two very minor and subsidiary matters referred to, the latter part of the section continues to operate."

(iv) As regards the argument that the powers under section 49 are contingent upon the House exercising their authority under section 50 and making rules and orders with respect to the mode by which the powers, privileges and immunities may be exercised, the Chief Justice said:

"The argument is ill-founded, in our opinion. Section 50⁴ is a mere power. It is clear that section 49 has an operation which is independent of the exercise of the power of section 50. It seems clear too that the operation of section 50 is permissive or enabling and that section 49 carries with it the full powers of the House of Commons, including the power which is now in question, even although nothing is done under section 50."

In summing up, the Chief Justice stated:

"Accordingly, all the arguments which have been advanced for giving to the words of section 49 a modified meaning, and the particular argument for treating them as not operating at all."

[*Regina v. Richards* (1955) 93 C. L. R.]

Mrs. Fitzpatrick and Browne petitioned the Judicial Committee of the Privy Council for special leave to appeal against the decision of the High Court of Australia. Sir Hartley Shawcross, Q.C., who appeared as Counsel for the petitioners, submitted the following views to the Privy Council:

"My Lords, there were serious complaints that the proceedings in the Australian Committee of Privileges were contrary to the principles of natural justice.

but I have had to advise my clients that these are matters which could not properly be canvassed here. The short point involved in this matter before your Lordships is whether the committal by the Australian House of Representatives for punishment did not involve the exercise of judicial powers not vested in them under their Constitution. It follows from that, that serious questions as to the liberty of the subject and the demarcation of powers between, on the one hand the legislature, and on the other hand the judiciary, are involved.

I concede at once that if this was an English case, if I were appearing here for people who had been committed to the Tower on the warrant of the Speaker of the House of Commons—as a matter of fact Parliament in this country has not asserted that power in practice for a long time—the court could not enquire into the authority of the warrant or go behind it."

["The Table", Vol. XXIV, 1955, p. 90]

The Privy Council, dismissing the petition, gave the following judgment⁴ on the 14th July, 1955:—

"Lord Simonds, after consultation, and without calling on Counsel for the respondent, said that in order that their Lordships might feel justified in advising Her Majesty to grant leave to appeal, two conditions at least must be satisfied. The first was that the matter under review should be one of great public importance. That condition was satisfied. But the second condition was that it must be shown that there was some ground for challenging the correctness of the judgment against which it was sought to appeal.

In this case, having carefully considered the judgment of the Chief Justice of Australia and having listened to the arguments that have been adduced against its correctness, their Lordships were satisfied that that judgment was unimpeachable and that leave to appeal should not be granted. They would humbly advise Her Majesty accordingly."

It may be stated that the above position had been established authoritatively by the decisions of the Privy Council in

4. Section 50: Each House of Parliament may make rules and orders with respect to:—

(1) The mode in which its powers, privileges and immunities may be exercised and upheld.

(2) The order and conduct of its business and proceedings either separately or jointly with the other House.

5. A report in the *Times*, London, dated the 15th July, 1955.

two earlier cases also, viz., *Dill v. Murphy* (1864) and *The Speaker of the Legislative Assembly of Victoria v. Hugh Glass* (1871).

In the *Speaker of the Legislative Assembly of Victoria v. Hugh Glass* (1871), one Mr. Hugh Glass was committed to prison by the Legislative Assembly of Victoria on a charge of contempt and breach of the privilege of the House. He was, however, later discharged on a writ of *habeas corpus* granted by the Supreme Court of Victoria. On an appeal made by the Speaker of the Legislative Assembly of Victoria against the decision of the Supreme Court, the Privy Council reversed the judgment of the Supreme Court of Victoria. Lord Cairns who delivered the judgment of the Privy Council summed up the position thus:

"Beyond all doubt, one of the privileges and one of the most important privileges of the House of Commons is the privilege of committing for contempt; and incidental to that privilege, it has, as has already been stated, been well established in this country that the House of Commons have the right to be the judges themselves of what is contempt, and to commit for that contempt by a Warrant stating that the commitment is for contempt of the House generally, without specifying what the character of the contempt is. It would, therefore, almost of necessity follow, that the Legislature of the Colony having been permitted to carry over to the Colony the privileges, immunities and powers of the House of Commons, and having in terms carried over all the privileges and powers exercised by the House of Commons at the date of the Statute, there was carried over to the Legislative Assembly of the Colony the privilege or power of the House of Commons connected with contempt—the privilege or contempt, of judging itself of what is contempt, and of committing for contempt by a Warrant stating generally that contempt had taken place. . . . The ingredients of judging the contempt, and committing by a general Warrant, are perhaps the most important ingredients in the

privileges which the House of Commons in this country possess; and it would be strange indeed if, under a power to transfer the whole of the privileges and powers of the House of Commons, that, which would only be a part, and a comparatively insignificant part, of this privilege and power, were transferred."

[Privy Council Appeal Case, Vol. III—1869—71, pp. 660—573].

It would be seen from the above that so far as the origin of the power of the House of Commons, U.K. to punish for contempt is concerned, the observations made by the Privy Council in *Kielley v. Carson* still hold the field; but so far as the interpretation of sections dealing with the powers, privileges and immunities of the Commonwealth legislatures is concerned, it should be determined by the judgments given by the Privy Council in the latter two cases, viz., *Hugh Glass case* (1871) and the *Bankstown Observer case*, 1955.

In India, Articles 105(3) and 194(3) of the Constitution, which provide for the powers, privileges and immunities of Parliament and State Legislatures, and of their Members and Committees respectively, are identical to section 49 of the Constitution of Australia. The position as to whether Houses of Parliament and State Legislatures in India enjoy the power to commit for contempt under articles 105(3) and 194(3) of the Constitution, was stated by the Acting Chief Justice Coyajee of the Bombay High Court, in his judgment delivered on the 16th November, 1956 in *Homi D. Mistry v. Nafisul Hassan and others*, as follows:

"The framers (of the Constitution of India) intended the House (Legislature) alone to be the sole judge on a question of admitted privilege. Under Article 105 (3) therefore, the power to punish for contempt is expressly conferred on the House in clear and unequivocal terms and the exercise of that power is identical with that of the House of Commons."

This position was subsequently restated by the Assam High Court in *Shri Havendra Nath Barua v. Shri Dev Karas*

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Barua and others, 1958 in the following words:

"It is well established now that the House of Commons in England has certain well-defined rights and privileges, honoured and sanctified by tradition and custom, one of the most important of them being the right to commit a person for contempt of its high authority and dignity and for breach of its privileges. This power extends not merely to members of the House, but even to persons outside it and when the House acts in vindication of those rights and privileges, the Courts of the land have no right to interfere. The proper forum

is the House itself where the person affected can claim the redress of his rights. By virtue of the Indian Constitution, these powers and privileges are enjoyed by the Houses of Parliament in India and the Houses of the State Legislatures."

This power was recently exercised by the Rajasthan Vidhan Sabha when eight persons were sent to jail on the 10th April, 1956 to serve a sentence of 15 days' imprisonment for contempt of the House, in pursuance of a motion passed by the Vidhan Sabha.

Expiring Laws Continuance Act*

In the U.K. since 1863, expiring laws have been continued annually by one Expiring Laws Continuance Act passed in each session, and since 1874 they have, so far as possible, been continued to one date. The operative clause of the Act describes that the Acts mentioned in the Schedule or Schedules shall be continued until a specified date.

In India, however, each temporary law is continued by a separate Act, usually for a year or more and to a date independent of other temporary laws, presumably because not all temporary Acts expire at the same time, as also the fact that decisions with respect to all such Acts might not be taken sufficiently well in advance.

A temporary law may be extended by an Act making a textual amendment with respect to the period of its duration¹, or the Act may be made permanent² by an amending Act deleting the operative section which limited the force of the original Act to a specified date. In either case the original Act may be continued as a whole or with further amendments by an amending measure. Temporary provisions of a law are also continued by means of independent and self-contained provisions of a new Act.³

The practice in our Parliament had all along been to call a Bill an "Amendment" Bill, although the amendment might be confined merely to extending

the life of the original act by the substitution of the date specified in the duration section by another.

Speaker's Suggestion

Since the sole purpose of such a measure is only to continue an existing act for a further period, the late Speaker (Shri G. V. Mavalankar) suggested on the 20th March, 1951,⁴ while putting the clauses of the Delhi and Ajmer-Merwara Rent Control (Amendment) Bill, 1951 to the vote of the House, that the Government draftsman might consider whether such a Bill should not be called "So-and-so Act Continuance Bill", as such a title would serve to focus the attention of the House to a greater degree on the actual scope of the Bill and regulate amendments accordingly. The Ministry of Law agreed with this suggestion and since 1955 such Acts have been entitled "Continuance Acts". Where, however, a Bill is intended either to continue a temporary act for a further period with additional amendments to, or provisions in, the principal Act, or where a Bill seeks to make a temporary law permanent (with or without amendments) by deleting the duration section, such a Bill continues to be called an "Amendment" Bill.

Scope of Amendments to Bill

The question has been raised now and then in Lok Sabha as to what is the scope

*Prepared by the Legislative Branch, Lok Sabha Secretariat.

1 The Control of Shipping (Continuance) Bill, 1956.

2 The Requisitioning and Acquisition of Immovable Property (Amendment) Bill, 1957.

3 The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947).

4 Parl. Deb. 20th March, 1951 Col. 4970

Expiring-Laws Continuance Act

of amendments to a Bill which seek to continue an expiring law. By extending the life of the original act it is arguable that the whole Act, as it were, is thrown open for discussion, and as such, the House is entitled to reconsider any of the provisions of the principal Act by moving amendments thereto. Short of repeating each section of the original act, the continuance Bill, in effect, seeks to get each section of the Act re-passed by the House. Though theoretically this view might appear correct, taken to its logical conclusion it would mean that amendments to all sections of the original act can be given notice of, moved and considered, when an expiring law continuance Bill is under consideration by the House. If this view were accepted, its practical effect would be that the old discussion and the same old amendments which were considered and rejected at the time of the original Act could be raised over again on the continuance Bill resulting in hold-up of the business of the House, apart from the infructuous character of the proceedings.

When, therefore, amendments were sought to be moved to the substantive provisions of the Delhi and Ajmer-Merwara Rent Control (Amendment) Bill, 1951, which sought to extend by two years the life of an expiring law, the Speaker (the late Shri G. V. Mavalankar) gave the following ruling:—

"On a closer and mature consideration and a study of the precedents in the House of Commons which are based on experience, I have come to the conclusion that, broadly speaking, in cases where a Bill is brought to continue an expiring law, it would not be competent to move any amendments seeking to alter or modify the substantive provisions of the expiring law. To this general rule, there are some exceptions depending upon the nature of the continuing Bill which seeks to continue the expiring law. But, they are of a very limited and also of a procedural character; the vital point

being that, no expiring law sought to be continued can be taken as an occasion to amend or alter the substantive provisions of the law, which is sought to be continued.

"It is competent for the House to reject the proposed Bill if they do not like the provisions of the expiring Bill. The proposal to continue is coming in the form of adopting the law as it is, and any attempt to modify this or that part is not only not competent, but is also not desirable on general principles. If it is the desire of the House to have modifications in the substantive provisions of the Act, it is necessary that they should have the whole Act under review and examination, and then consider modifications, on consideration of the general and entire picture of the legislation. An attempt to touch this or that part of the original legislation is likely to bring in undesired and also unexpected results, without correlation to all the other provisions of the expiring Act.

"To allow an amendment in the substantive provisions of the expiring law on the plea that the whole legislation is under review, would be tantamount to opening the flood-gates of controversy over and over again on points already discussed and in respect of conclusions already arrived at. Therefore, from the point of view of general convenience, as also better and more expeditious work in the House, the practice prevailing in the House of Commons is a sound one and I have no hesitation in following it."

Amendments to Motion for consideration

Apart from amendments to the substantive provisions of the principal Act which are barred, amendments may be given notice of to the motion for consideration of a Bill which seeks to continue an expiring law. To the Motion for consideration of the Preventive Detention (Continuance) Bill, 1957, amendments were given notice of for the circulation of the Bill for the purpose of eliciting opinion thereon by a specified date, as also for reference of the Bill to a Joint Committee of both the Houses "with instructions to go into the sections of the principal Act and suggest

modifications therein." One of the amendments for circulation was held by the Chair to be in order as the date specified therein for eliciting opinion fell within the period of the currency of the expiring Act. With regard to the amendments for referring the Bill to a Joint Committee of both the Houses, the Speaker ruled the amendments out of order on the ground that since the House itself could not make amendments to the substantive provisions of the original Act, a Committee of the House or a Joint Committee of the Houses was not competent to do so.⁹

It would thus be seen that amendments to a Bill which seek to continue an expiring law have to be confined only to the operative clause of the Bill, namely, the period for which the Act is to be extended, and in this connection the Speaker of Lok Sabha has held that amendments seeking to curtail⁷ the period specified in the Bill were in order.

In the House Commons (U.K.), an amendment was permitted and adopted by the House to extend the period proposed in an Expiring Laws Continuance Bill from the 31st May, 1937 to 31st March, 1938.⁸ Amendments, however, have been ruled out of order which proposed certain expiring Acts included in a Bill to be "continued until repealed"¹⁰ or "until Parliament otherwise determine"¹⁰ as their effect would be to make expiring laws into permanent Acts of Parliament and that was not within the scope of the Bill concerned.

Scope of Discussion

What then is the scope of the discussion on a Bill which is intended to continue an expiring law? When the House passes a Bill to continue a temporary Act for a further period it gives its approval to every provision in the original Act. Members would have their own views as to the manner in which the Act had been administered and what modifications or improvement were necessary for the better working of the Act. A Bill to continue an expiring law affords the necessary opportunity to ventilate grievances or make suggestions. The scope of general discussion on such a Bill should, therefore, be wider so that members are able to speak on such provisions of the Bill which, in their opinion, require modification. If Government is prepared to accept the suggestions of members, they are bound in due course to bring forward amending legislation. If, however, Government is not agreeable to accept any change in the law, it is always open to the House to throw out the Bill, which seeks to continue it.

In this connection it would be relevant to mention that during the discussion on the Requisitioning and Acquisition of Immovable Property (Amendment) Bill, 1957 (which sought to make a temporary law permanent by omitting the duration section) objection was raised to the summary manner in which a measure of such far-reaching significance was sought to be made permanent, without affording the necessary

⁹ L. S. Deb. (11), dt. 9.12.57, Col. 4235-45.

⁸ L. S. Deb. (11), 10.12.57, Col. 4517.

⁷ H. C. Deb. (1936-37) 318, Col. 1849-65.

⁸ H. C. Deb. (1902) 113, C. 553.

¹⁰ H. C. Deb. (1912) 22, C. 2101.

Expiring Laws Continuance Act

opportunity to members to amend the substantive provisions of the principal Act. Replying to the debate, the Minister of Works, Housing and Supply stated:

"It may be that Members are not in a position to move amendments because rulings to that effect have been given by the Chair. But it is open to them to express their views on the substantive provisions of the Bill, and this has been done on previous occasions also....."

Any Government which is responsible to Parliament, as this Government certainly is, will take note of such observations and will certainly give its attention to the criticisms that might have been made by the Members on occasions like this, and the Government will review the position and see in what respect amendments will be necessary for Acts of this kind. And then, in course of time, after due consideration, if they feel that amendments are necessary, they will bring forward amendments to these Acts."¹¹

Procedural Requirements

So far as procedural requirements under the Rules or the Constitution are concerned, if the original Bill required under the Constitution the recommendation of the President, and under the Rules of Procedure a financial memorandum, a Bill seeking to continue a temporary Act either for a period or permanently should be accompanied by similar recommendation and memorandum, because a continuance Bill re-enacts the original Act as a whole.

Before the Expiring Laws Continuance Bill of 1922 was taken up for consideration, the House of Commons appointed a Committee¹² on 23rd June, 1922 to consider which, if any, of the Acts of Parliament included in the Schedules to the Bill could with advantage be made permanent or extended for periods longer than those proposed in the

Bill. In several departmental memoranda submitted to the Committee the grounds advanced for the retention in the Schedule of certain expiring laws were that—

- (a) they dealt with "controversial" subject-matter, or
- (b) it was proposed to deal "shortly" with the subject-matter of the Bill concerned on broad and comprehensive lines.

The Committee were, however, not impressed by these arguments, which appeared to them more like taking the line of least resistance. They felt that the Expiring Laws Continuance Bills afforded to Government Departments a convenient means by which legislation dealing with controversial subjects, which should be put on a permanent basis, is postponed from year to year.

Although, unlike the practice in the House of Commons, in the Indian Parliament temporary Acts are continued, from time to time, by separate measures therefore, yet in view of the procedural inhibitions that the House is subject to, it might be pertinent to quote, in conclusion, the observations in their Report, dated the 21st July, 1922, of the Select Committee of the House of Commons mentioned above:

"Your Committee have inquired carefully into the constitutional aspect of the Expiring Laws Continuance Act and, in particular, as to how far this system of renewing temporary laws can be considered as an effective protection of the rights of Members of Parliament to review the various Acts contained in the Bill. They understand that the limit of a private Member's rights consists in proposing to leave out any Act from the Schedule of

¹¹ L. S. Deb. Part II, dated 11.2.56.

¹² House of Commons Select Committee on Expiring Laws Continuance Bill.

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laws to be continued or to add any expiring law not included in that Schedule. It is not in order to propose to amend any Act or to make it permanent. Your Committee are therefore of opinion that the system of extending the duration of temporary laws by means of the Expiring Laws Continuance Act, so far from being a safeguard of the rights of Members is, in fact, to some extent liable to become a menace to those rights, inasmuch as temporary and experimental legislation is by this means conti-

nued from year to year without either suitable amendment or adequate discussion. They consider that experimental legislation should after a reasonable interval be either made permanent or dropped, and that the present system of continuing Acts, annually, over a long series of years is both slovenly and dangerous, in that Acts, meant to be temporary, tend to become permanent and often delay a proper revision of the law by providing a partial solution of the problem involved."

Some Parliamentary Activities at a Glance

DEBATES IN PARLIAMENT

Lok Sabha—Discussion on the Parliamentary Privilege Bill, 1959

On the 20th February, 1959, the Lok Sabha debated "The Parliamentary Privilege Bill" sponsored by a private Member, Shri Naushir Bharucha. The Bill sought to provide that:

"Without prejudice to the generality of powers conferred in article 105* of the Constitution of India, the following shall be deemed to be a proceeding in Parliament:—

(a) Letters addressed by a Member of Parliament to the Presiding Officer or the Secretaries of either House of Parliament or a Minister on a public matter in the course of discharge of his duties as such member;

(b) Communication of such letter by a Minister to any person or body of persons or an institution in course of discharge of his duties as a Minister;

(c) Any reply addressed by the Minister to such letter in the course of discharge of his duties as such Minister."

The Bill also contained a provision that "no member shall be liable to any proceeding in any court in respect of anything said, communicated or done with reference to any matter contained in such letter."

Explaining the object of the Bill, Shri Naushir Bharucha, stated that on the 8th July, 1958, the House of Commons, (U.K.) had provided in the Strauss case that Mr. Strauss' letter to a Minister containing certain remarks about the London Electricity Board was not a "proceeding in Parliament". Since, Shri Bharucha added, under Article 105 of the Constitution, the powers, privileges and immunities of the Indian Parliament were the same as those of the House of Commons (U.K.) "the net effect is that any member of Lok Sabha and Rajya Sabha writing a letter to a Minister, making a complaint against any aspect of the administration, say, against an autonomous Corporation, exposes himself to serious threat of a criminal action on a charge of defamation. This is tantamount to impeaching or questioning the freedom of speech of a Member of Parliament making it impossible for him to ventilate public grievances. The Bill aims at removing the threat of criminal or civil action which a member of Parliament would face in *bona fide* discharge of his duties".

In the debate that ensued, eight other Members participated, including the Minister of Law, Shri A. K. Sen,

* Article 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.

† For summary of the Strauss case see Journal of Parliamentary Information, Vol IV No. 2, (Oct., 1958)

and the Minister of Parliamentary Affairs, Shri Satya Narayan Sinha.

The Minister of Law, Shri A. K. Sen, said that the present Bill sought to change the law of libel by making certain communications of Members privileged. He pointed out that it had been already agreed, more or less universally, that matters of privilege should be left uncodified. The privileges enjoyed at present were largely a matter of inheritance and not conferred by any law, and the moment they were sought to be codified, some of them might come in for condemnation by the public. It was not by extending the scope of the privileges or by making them arbitrary or by trying to curb the rights of ordinary citizens to seek remedy in a court of law that Members could sustain the foundations of parliamentary privilege, but only by imposing on themselves restraint, caution and prudence in the exercise of those privileges. The present Bill, on the other hand, sought to extend the scope of privilege by denying a citizen his right to seek remedy in a court of law even in cases of malicious or pre-mediated attack by Members. Parliament should not be instrumental in protecting such acts of bad faith by Members as it would be robbing the citizens of their valuable rights, the Minister added.

The motion was put and the House rejected the Bill by a voice vote.

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PARLIAMENTARY QUESTIONS

Lok Sabha

In answer to a question in the Lok Sabha on 3rd August, 1959, regarding

the association of Members of Parliament in the formulation of the Third Five Year Plan, the Deputy Minister of Planning, Shri S. N. Mishra, said that arrangements were already being made to associate Members of Parliament with the various discussions relating to the next Plan. He added that the Planning Commission's Informal Consultative Committee of Members of Parliament would consider questions relating to the Third Plan from time to time and the Panels on Agriculture and Land Reform, which had been recently constituted, included Members of Parliament. The Prime Minister had also constituted an informal Committee of Members Parliament from different political parties to consider matters connected with planning, the Minister said.

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In reply to a question on 27th August, 1959 regarding the submission of returns of Election expenditure—by political parties, the Deputy Minister of Law, Shri R. M. Hajarnavis, stated that there was no proposal under the consideration of the Government to enact a law whereby it would be compulsory for the political parties to submit their election expenditure returns State-wise and constituency-wise to the Election Commissioner. He further said that the Chief Election Commissioner had suggested in his second report that the legal maximum of election expenses might be revised liberally to higher figures than at present and that all expenditure on behalf of the candidate by his party might be made accountable. The Government had not so far accepted the suggestion, as in their view, such a step would be beset with many difficulties. One such difficulty was that the political parties provide money for election expenses on an all-India basis, and it

Some Parliamentary Activities at a Glance

would be difficult to allocate expenditure either region-wise or between that for the Central Legislature and the State Legislatures.

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PROCEDURAL MATTERS

Lok Sabha: Motion to 'take note of the Report of Committee of Parliament on Official Language—Amendments to the motion inadmissible.

On the 3rd September, 1957, the Minister of Home Affairs (Shri G. B. Pant), in pursuance of Clause 4 of Article 344 of the Constitution,⁽¹⁾ moved a motion for the election of 20 Members of Lok Sabha to serve on the Committee to examine the recommendations of the Official Language Commission constituted under Clause 1 of Article 344.⁽²⁾ To this motion two amendments were tabled by Members, one urging the Government to lay the report of the Committee on the Table of the House and the other for affording the House an opportunity to discuss the report.

The Minister of Home Affairs explained that under the Constitution the

report was to be presented direct to the President who may [vide Clause (6) of Article 344⁽³⁾], after considering the report, issue directions in accordance with the whole or any part of that report. He, therefore, submitted that both the amendments were technically inadmissible as contravening or going against the provisions of the Constitution. But he added that as he himself was anxious to have the benefit of the opinion of the House before decisions were taken on the report, he would seek permission of the President for laying the report on the Table of the House and then having a discussion thereon. In view of this assurance by the Minister, the amendments were not moved. Before putting the motion to the vote of the House, the Speaker observed:

"Even when the report is submitted to the House, we are not going to have resolutions passed as to what portions of the recommendations of the committee ought to be accepted and what ought not to be. We are only generally going to express our opinion. It is for the committee to make its recommendations."

In pursuance of the assurance given on the 3rd September, 1957, the Minister of Home Affairs laid a copy of the Report of the Committee of Parliament

(1) to (3). Article 344 (1) The President shall, at the expiration of five years from the commencement of this constitution and thereafter at the expiration of ten years from such commencement, by order constitute a commission which shall consist of a Chairman and such other members representing the different languages specified in the English Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendation to the President as to—
(a) the progressive use of the Hindi language for the official purpose of the Union.

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(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the Members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the determinations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) the President may, after consideration of the report referred to in clause (5) issue directions in accordance with the whole or any part of that report.

on Official Language on the Table of Lok Sabha and moved the following motion on the 2nd September, 1959:—

"That this House takes note of the report of the Committee of Parliament on Official Language laid on the Table of the House on the 22nd April, 1959."

Some Members who had tabled amendments to this motion sought to move them on the ground that the motion in its present form was a substantive motion and Members had every right to move amendments to it.

The Minister of Home Affairs contended that the procedure prescribed by the Constitution governing this matter was clear and definite and that on the 3rd September, 1957, when he agreed to have a discussion, he had made it perfectly clear that amendments should not be permitted on the discussion and reminded the House that the Speaker also had then made it clear that no resolutions or amendments would be allowed and that the discussion on the report would be in a general way to express an opinion for the consideration of the President.

Agreeing with the Home Minister, the Deputy Speaker ruled the amendments as out of order as their admission would be against the specific provisions of the Constitution.

On the 3rd September, 1959, during the resumed discussion on the motion, Members again raised the point and claimed that they were entitled to move amendments to the motion as moved by Government. The Speaker, thereupon, ruled:—

"I have made up my mind that there is no question of any recommendation

which is to be put to the vote of the House. The Committee has submitted this report with dissenting notes, etc. This House only expresses its views. Members do so individually, and all those views will be collected and sent to the President. This House only takes note of the Report. That does not mean that this House accepts the Report as it is; it only considers it. The views of the Members of the House will be sent to the President for his consideration. In all cases where the motion is: "That this House takes note", if any hon. Member wants to say that the House approves or disapproves of the Report, he has to table an amendment. "Takes note" by itself does not mean one way or the other. Therefore, this is only a discussion in this House".

Later on, when a Member (Shri Mulchand Dube), on a point of order, stated that the Parliament had become *functus officio* after the appointment of the Committee and that it was no longer empowered to make any alteration or to amend the report or to do anything with it, the Speaker observed:

"I entirely agree with him regarding the point of order that this House has no jurisdiction under the Constitution to make any amendments to the report of the Committee.

I agree with the ruling of the Deputy Speaker that it is not open to this House either to accept or to reject this report. The Parliamentary committee was fully competent to send its report to the President; instead of coming here, it might have been sent there. But an assurance was given to this House; I was also responsible for that. When the House wanted to have a discussion on the original report, I said, after the committee's report, both the reports might be discussed and whatever points are raised here will go to the President for consideration in dealing with what action he has to take on this report".

After the conclusion of the debate, the motion was put to the vote of the House and adopted.

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Some Parliamentary Activities at a Glance

Lok Sabha: Bill to replace an Ordinance made ~~promulgated~~ by the India and Burma (Emergency Provisions) Act, 1940—Article 123 has no application.

On the 22nd August, 1959, during the further consideration in the Lok Sabha of the International Monetary Fund and Bank (Amendment) Bill, a Member (Shri Mahanty) raised an objection on the ground that the Ordinance, which was sought to be amended and validated, was issued in 1945 by the Governor-General of India under Section 72 of the Schedule IX of the Government of India Act, 1935, and thereunder it was mandatory that the Ordinance should have been validated within a period of six months. As nothing of the sort had been done, the Member contended that after a lapse of 14 years the Ordinance had practically become void. He submitted that under Article 123* of the Constitution an Ordinance might be issued by the President only during the period when the Parliament was in recess and such a Proclamation had to be ratified within a period of six weeks from the re-assembly of Parliament which had not been done in this case.

Clarifying the position, the Deputy Minister of Finance (Shrimati Tarkeshwari Sinha) stated that the Ordinance did not require to be ratified as it was passed when the India and Burma (Emergency Provisions) Act, 1940 was

in force and under that Act ordinances passed during the period of emergency had the effect of permanent laws and that under the present Constitution laws which were in force before the 26th January, 1950 could continue as the permanent laws of the land.

The Deputy Speaker, thereupon, ruled:

"First, Shri Mahanty said that he takes objection under Article 123 of our Constitution. But that would not be applicable here because no Ordinance was passed under Article 123. Therefore, there was no question of any approval by this Parliament. That is disposed of so far as this Constitution is concerned. Now, we come to the provisions of Section 72 of the Government of India Act, 1935. But Shri Mahanty has overlooked the provisions of the Act to which our attention has been drawn by the hon. Minister in charge of the Bill, that is, an Act to make emergency provision with respect to the Government of India and Burma dated the 27th June, 1940. It lays down that—

"Section seventy-two of the Government of India Act (which as set out in the Ninth Schedule to the Government of India Act, 1935, confers on the Governor-General power to make ordinances in cases of emergency) shall, as respects ordinances made during the period specified in section three of this Act, have effect as if the words 'for the space of not more than six months from its promulgation' were omitted"; . . .

Therefore, these Ordinances, even though they were not approved, remain in force and still are valid laws. Therefore, I think there is no force in

* Article 123. (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the re-assembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) may be withdrawn at any time by the President.

so far as this point of order is concerned".

On the 10th September, 1959, when the Minister of Law (Shri A. K. Sen) had moved the motion for consideration of the Criminal Law (Amendment) Bill, as passed by Rajya Sabha, seeking to amend the Criminal Law Amendment Ordinance, 1944, the same objection was raised again by Shri Mahanty.

Ruling out the point of order, the Deputy Speaker observed:

"The other day also, the hon. Member had raised the same point. Then too, I had decided that there was no force in his point of order. It is agreed that this was not an ordinance under Article 123 which required ratification or the passing of an Act by this Parliament. It was really an ordinance under Section 72 of the Ninth Schedule of the Government of India Act, and then the British Parliament had passed an Act which has been referred to. The confusion arises when it is named ordinance. That creates a misunderstanding, and the hon. Member has that in his mind, and he asks, if it is an ordinance, how it can be replaced by an Act of this Parliament, because it ought to have ceased long ago. But as has been just now argued by Shri Sadhan Gupta as also by the hon. Law Minister, it was a regular statute on our statute-book, though they had named it as an ordinance. It is not an ordinance which ought to have been ratified by the legislature. Therefore, today, what we are doing is this: we are not amending any ordinance passed under Article 123 of this Constitution, but a regular statute that is already on our statute-book; and that is perfectly justified and authorised, and we can do it".

Lok Sabha: Consideration of Bill held over to enable Members to study the Bill, as it was not circulated to them before its introduction.

The Reserve Bank of India (Amendment) Bill was introduced by the Minister of Finance as a secret Bill on the 27th April 1959 after the Question Hour. A few minutes before the House adjourned on that day (i.e., at about 18-15 hours), the Minister of Parliamentary Affairs, with the permission of the Deputy Speaker who was then in the Chair, announced that the Reserve Bank of India (Amendment) Bill would be taken up for consideration and passing as the first item on the following day i.e., the 28th April, 1959.

As the Bill had not been made available to Members before introduction as required by the second proviso to Rule 74*, some Members objected to the inclusion of the Bill in the Agenda for the 28th April, 1959. When the Minister the Parliamentary Affairs explained the urgency of the measure, the Deputy Speaker observed that he would leave the matter to be decided by the House and added that if the Bill were taken up the following day he would relax the rule and permit Members to table amendments without the requisite notice**. He then took the pleasure of the House and the House agreed without any dissentient voice to the Bill being taken up for consideration and passing the following day.

*The second proviso to Rule 74 states:—

"Provided that no such motion (motion for consideration/reference to Select or Joint Committee) shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for two days before the day on which the motion is made, and such objection shall prevail, unless the Speaker allows the motion to be made.

**According to Rule 79 (1) notice of an amendment to a Bill should be given one day before the day on which the Bill is to be considered.

Some Parliamentary Activities at a Glance

On the following day (28th April 1959), however, after the motion for consideration of the Bill had been moved objection was raised by some Members regarding the manner in which the House was being asked to consider the Bill without copies thereof having been circulated sufficiently in advance. It was also suggested that a memorandum giving the reasons for this legislation should be circulated to Members before taking up the Bill for consideration. An amendment was, therefore, moved by a Member for postponement of the consideration of the Bill.

The Chair thereupon ruled:—

"This matter will stand over till tomorrow so that hon. Members will study the Bill. In the meanwhile the hon. Minister will give the information which was asked by hon. Members."

Accordingly, a memorandum giving details of the proposed legislation supplied by the Minister of Finance was circulated to Members, and consideration of the Bill was resumed the following day.

Bombay Legislative Assembly: Scope of Discussion on Appropriation Bill: Ruling of the Speaker.

During the 1959 Budget session of the Bombay Legislative Assembly, after the voting on the Demands for Grants was over, the Leader of the Opposition desired that the House should be allowed to discuss, at the time of the consideration of the Appropriation Bill, those Demands which had not been actually discussed in the House earlier. The Speaker thereupon made the following observations after the Appropriation Bill had been introduced:—

"There is a well-established convention that no Member speaks on an Appro-

priation Bill, and the Bill is passed within a few minutes. An Appropriation Bill is a constitutional requirement. All the demands specified in the Schedule to the Bill are already passed by the House and the Bill in a sense is only a formal legislation to clothe the Executive with the authority to draw the amounts from the Consolidated Fund of the State. As the House is aware, the financial business before the House is discussed in three stages, namely (i) General Discussion of the Budget; (ii) Voting on Demands; and (iii) Appropriation Bill. The Appropriation Bill gives additional opportunity to raise very important matters of broad administrative policies implied in the grants or charged amounts. As matters once discussed should not be raised again, the discussion on the Appropriation Bill can cover only any matter of public importance, such as questions of effecting economy, improvement in administration, scrutiny and maintenance of proper accounts, re-appropriation etc.—In fact, generally all matters in respect of which the House would like to point out defects, or give directions to the administration for improving its tone, better service of the people, better efficiency and better economy. By convention now firmly established, there is, therefore, hardly any real scope, except in the sense indicated above, for discussion of matters in the way they are discussed either at the time of the General Discussion of the Budget or of the Voting on Demands.

"With regard to Demands, which were not discussed at the time of Voting on Demands, the position is not different, and what applies in the case of Demands already discussed equally applies in the case of Demands not so discussed. The danger to be guarded against is that we do not again relapse into a General Discussion of the Budget or discussion at the time of Voting on Demands.

"However, general observations regarding administrative policies etc. can be made at the First Reading stage of the Appropriation Bill, as the scope of debate at the second and third reading stages is practically nil."

Lok Sabha: Amendment of Constitution by Private Member's Bill—Before introduction of Bill, a resolution may be moved to take the sense of the House.

On the 24th April 1959, Shri Frank Anthony, a Member of the Lok Sabha, moved the following resolution:—

"That in the opinion of this House, English should be included in the Eighth Schedule of the Constitution, and necessary steps taken in that regard."

After Shri Anthony had concluded his speech, another Member (Shri K. C. Sharma) raised a point that the resolution sought to amend the Constitution, and even if it was passed by the House it would serve no useful purpose inasmuch as the Constitution could only be amended through an amending Bill as laid down in Article 368 of the Constitution.* Thus in substance, the resolution sought the introduction of a Bill which constituted an abuse of the process of the House.

The Deputy Speaker thereupon observed:—

"I might just point this out to the Member that in the Committee on Private Members' Bills and Resolutions several times Bills have been brought and Resolutions have been tabled for Sindhi to be included in the Eighth Schedule. I do not know whether there was a case for English but a Bill regarding Sindhi was brought by Shri Vajpayee. It was a Bill and permission was required for the introduction of that Bill. But the Committee disallowed its introduction and stated that first a Resolution might be moved so that the opinion of the House might be gauged whether there is really a

* Article 368 of the Constitution:—

"An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

substantial opinion behind it so that the amendment of the Constitution might be taken up."

Lok Sabha: Papers which cannot be laid on the Table when the House is in session may be circulated to Members during the inter-session and laid on the Table next session.

On the 7th May, 1959, the Minister of Finance (Shri Morarji Desai) submitted to the Speaker that the report of the Union Public Service Commission on the findings of the Vivian Bose Board of Enquiry regarding the conduct of certain officials concerned with the investments of the Life Insurance Corporation had been received by Government on the 29th April, 1959. As the reports of the Board of Enquiry and the U.P.S.C. were under the consideration of the Government and no decision had yet been taken in the matter, it was not possible to lay these reports on the Table of the House before the termination of the session on the 9th May 1959.

In the circumstances the Minister of Finance requested the Speaker that both these reports together with the decisions thereon of Government might be circulated to Members during the inter-session period and thereafter be laid on the Table during the following session. The Minister assured the House that he would have the reports released to the Press after circulation to Members.

Some Parliamentary Activities at a Glance

Agreeing to the request of the Finance Minister, the Speaker observed:

"This is a good precedent that whenever it is not possible to place the papers on the Table of the House when the House is in session, before sending them to the Press officially, copies may be sent to me and I will circulate them to Members. The papers may however be laid on the Table formally next session."

Lok Sabha: Consent of Members proposed for Select Committee should be expressly obtained.

On the 11th February 1959, when the Minister of Home Affairs had finished his speech on the motion for consideration of the Delhi Panchayat Raj (Amendment) Bill, and the motion was placed before the House by the Chair, a Member (Shri Raghunir Sahai) sought to move an amendment to refer the Bill to a Select Committee. When the Speaker enquired if the Member had obtained the consent of the Members and the Minister-in-charge of the Bill whose names were proposed for the Select Committee, the Member stated that he had not taken consent of the Minister and of each and every Member.

The Speaker declined to allow the amendment to be moved, unless the Minister-in-charge gave his consent. Thereupon another Member (Pandit Thakur Das Bhargava) stated that the strict observance of this rule would mean that no motion for reference of the Bill to Select Committee was possible without the prior consent of the Minister-in-charge. He further stated that when the motion was moved those of the Members who were not willing to serve on the Select Committee could withdraw their names.

The Speaker thereupon ruled:—

"I am afraid the hon. Member is only repeating what he had raised at an earlier stage, in 1956. At that time, he raised the same question.

"On the 28th November, 1956, to the motion that the Administration of Evacuee Property (Amendment) Bill be taken into consideration, Pandit Thakur Das Bhargava moved an amendment for reference of the Bill to a Select Committee consisting of 21 Members including the Minister-in-charge of the Bill. When the Deputy Speaker enquired as to what was the reaction of the Minister-in-charge to the proposed amendment, the latter stated that he was not prepared to accept it. Thereupon, the Deputy Speaker enquired from Pandit Thakur Das Bhargava if he had obtained the consent of other Members whose names had been included in the Select Committee motion. In reply, Pandit Thakur Das Bhargava stated that he had not obtained the express consent of Members but their consent was implied. The Deputy Speaker thereupon observed:

The general rule is that consent should be first obtained. I do not think that the consent should be presumed. The rule is clear that the consent should first be obtained."

So far as this case is concerned, it is not as if the motion is not going to be allowed and that the hon. Minister is going to refuse to serve on the Select Committee. All that I said was that a Member should not bring in a motion for reference to the Select Committee in which names of Members are included without their consent. It will be highly embarrassing to any hon. Member to withdraw when once his name is included without his consent. I do not want to adopt this course of 'wait and see' if the Minister would agree or not agree. There must be consent. I shall strictly enforce the rule."

When the Member stated that if the Minister was not willing to serve on the Committee he would move the motion without including his name, the Speaker permitted him to move the motion directing that names of only those Members might be read out whose consent had been expressly obtained.

Lok Sabha: Motion for reference to Joint Committee—Amendment to the motion that the Bill be taken into consideration not in order.

On the 30th April 1959, when Lok Sabha was discussing the motion to refer the State Bank of India (Amendment) Bill to a Joint Committee, a Member (Shri (V. P. Nayar) opposed the motion on the ground that the Bill was only a simple amending Bill and could, therefore, be straightaway taken up for consideration by the House.

Another Member (Dr. M. S. Aney) thereupon suggested that Shri Nayar might move an amendment to that effect. The Speaker then observed:—

“For a motion that a Bill be taken into consideration, an amendment may be moved that it may be referred to a Select Committee, or be circulated for eliciting opinion. But for a motion that the Bill be referred to a Select or Joint Committee, there is no amendment provided in the Rules that the Bill be taken into consideration forthwith. If the motion for reference to Joint Committee is opposed and negatived, a fresh Bill has to come in.”

COMMITTEES AT WORK

Public Accounts Committee—Decisions on administrative matters should be made by the Government and not left to the Committee to make suggestions.

During 1957-58, the Public Accounts Committee took up for consideration the scheme of assistance to evacuees from the War Zones and made certain observations in this respect in their Seventh Report to the Lok Sabha.

The Committee were not satisfied with the progress made by Government in regard to the recovery of advances given

to the evacuees, and desired the Ministry of External Affairs to examine the whole issue with a view to expediting the recovery of all outstanding amounts and winding up the organisation, both at the Centre and in the States, as quickly as possible.

The Ministry of External Affairs submitted a note suggesting the following two alternative solutions for the consideration of the Committee:—

(a) That the whole amount outstanding on account of such advances might be written off completely, as it would take several years for the Government of India to recover these amounts at the present rate of recoveries made;

(b) Individual amounts of bad cases might be written off on the basis of recommendations made by the Heads of Indian Missions abroad and the Chief Secretaries of State Governments and as reviewed by a team of two officers of the Ministry, one representing the Finance Branch and the other representing the Administrative side. The team should weed out all bad cases so that efforts could be made in expediting recoveries in the residual cases. (The expenditure on the travelling allowance of these two officers was expected to be about Rs. 7000).

The matter was brought up for discussion by the Committee at its sitting held on 28th January, 1959 and the Chairman made the following observations:—

“It is for the Government to take a decision; the Committee cannot make itself responsible for any advice on this... Government may take their own decision in the matter in consultation with the Audit, if they like.”

Public Accounts Committee—Examination of the working of the Com Funds.

During the year 1958-59, a beginning was made by the Public Accounts Committee in the examination of the working

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of the various Cess Funds, which have been constituted under Acts of Parliament. Grants for these Funds are voted by Parliament but expenditure is administered by autonomous organisations, and in most cases they do not form part of the Accounts of the Government of India.

The Public Accounts Committee of 1957-58, while considering their draft Seventh Report on the Appropriation Accounts (Civil), 1953-54 and 1954-55, desired that the whole question regarding the working of the various Cess Funds should be considered separately and that a Sub-Committee might be appointed by the next Committee (*viz.*, that of 1958-59) for this purpose. Accordingly a Sub-Committee on Cess Funds was appointed by the Public Accounts Committee of 1958-59.

A proforma for calling for the preliminary information regarding the working of the various Cess Funds constituted by Government was drawn up and forwarded to the Ministry of Finance (Department of Economic Affairs) for collecting the requisite information. The information was received from the Ministries concerned direct. Due to paucity of time, the Sub-Committee decided to examine only two Cess Funds during the year 1958-59, *viz.*, the Coal Mines Safety and Conservation Fund and the Coal Mines and Labour Housing and General Welfare Fund and examined the representatives of the Ministries of Steel, Mines and Fuel (Department of Mines and Fuel) and Labour and Employment, respectively. The Sub-Committee also paid a visit to the coal mining areas in Bihar and West Bengal for an on-the-spot study of the institutions connected with these Funds. The Reports of the Sub-Committee, as adopt-

ed by the main Committee, were presented to the House as the 19th and 20th Reports of the Public Accounts Committee.

The Sub-Committee have *inter alia* recommended that the Budget Estimates and Annual Reports of the autonomous organisations, which receive non-lapsing grants from the Central Government, should be placed before Parliament, in cases where it is not already being done. In their opinion this will facilitate better parliamentary control of these organisations.

The Public Accounts Committee of 1959-60 have again appointed a sub-Committee to examine the working of two other such Funds, *viz.*, Mica Mines Labour Welfare Fund and the Indian Lac Cess Fund during their term of office.

• • •

Work of the Public Accounts Committee during 1957-59.

The Committee on Public Accounts (Second Lok Sabha), which emerged upon office on the 1st June 1957, continued in office upto the 30th April 1958. The Committee for the subsequent years 1958-59 and 1959-60 entered upon office on the 1st May 1958 and 1st May 1959 respectively.

During the period 1957-59 (till the end of the Budget Session), the Committee held 103 sittings and presented 20 Reports*. It examined the various Appropriation Accounts relating to the Railways, Defence Services, Civil, and Posts and Telegraphs, and also the Audit Reports thereon.

*The corresponding figures pertaining to the Committee of the First Lok Sabha during the period 1952-57 are 179 and 25 respectively.

The Chairman and some of the members of the Committee also paid a visit to a number of State undertakings, projects etc. for on-the-spot study. Some of the undertakings on which the Committee had made reports are the Damodar Valley Corporation, the Delhi Road Transport Authority, the Hindustan Aircraft Ltd., the Steel Projects, Bharat Electronics Ltd., Hindustan Shipyard and the Hindustan Housing Factory.

* * *

Work of the Estimates Committee during 1957—59.

The Committee on Estimates (Second Lok Sabha), which entered upon office on the 1st June 1957, continued in office upto the 30th April 1958. The Committee for the subsequent years 1958-59 and 1959-60 entered upon office on the 1st May 1958 and 1st May 1959 respectively.

During the period 1957—59 (till the end of May 1959) the Committee held 118 sittings and presented 61 Reports to the Lok Sabha*. Some of the questions dealt with by the Committee in these Reports are budgetary reforms, administrative reorganisation and reform of administration, administration of river valley schemes and projects, the working of public undertakings etc.

The undertakings whose working was reviewed by the Committee are:

- (a) Sindhri Fertilisers and Chemicals; (b) Hindustan Housing Factory; (c) Nahan Foundry;

*The corresponding figures pertaining to the Committee of the First Lok Sabha during the period 1952—57 are 210 and 68 respectively.

**The corresponding figures pertaining to the Committee of the First Lok Sabha for the period 1-10-1953 to April 1957 are 25 and 821 respectively.

- (d) Hindustan Machine Tools; (e) Hindustan Shipyard; (f) The Coal Commissioner's Organisation; (g) The Salt Organisation; (h) The National Instruments Factory; (i) The Hindustan Antibiotics Ltd; (j) The Hindustan Insecticides Ltd; (k) Air-India International Corporation; (l) Ordnance factories; (m) The Indian Telephone Industries; (n) Oil and Natural Gas Commission and Oil Refineries; (o) The Hindustan Steel; (p) The Eastern Shipping Corporation and (q) The Western Shipping Corporation.

* * *

Work of the Committee on Subordinate Legislation during 1957—59.

The Committee on Subordinate Legislation (Second Lok Sabha), which was constituted on the 5th June 1957, continued in office upto the 31st May 1958. The Committee for the subsequent years, 1958-59 and 1959-60, was reconstituted on the 1st June 1958 and 1st June 1959 respectively.

During the period 1957—59 (till the end of May 1959), the Committee held 17 sittings and examined 1884 statutory instruments.** It presented five Reports to the Lok Sabha. Some of the main recommendations made by the Committee are as follows:—

(a) The power to impose fees by rules or bye-laws should be expressly given in the parent Act.

(b) Government should not provide by rules for imposition of penalties beyond the statutory provisions of the Act.

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(c) Specific sections of the parent Act should invariably be cited in preamble of all rules, regulations etc. for the purpose of enabling all concerned to know under what precise authority the rules have been made.

(d) Retrospective effect to any provision should not be given by rules unless the Act expressly confers such power.

(e) All rules should bear short titles so that they may be referred to conveniently, located easily and understood by the public.

(f) Whenever rules are laid on the Table of the House after a period of 18 days, they should be accompanied by a statement explaining the reasons for the delay.

(g) There should be uniformity of provisions relating to the mode of appointment, and the term of office, of the representatives of Parliament on statutory bodies constituted by Government.

(h) Whenever an Act requires certain matters to be regulated by rules etc. to be made thereunder, such rules should be framed immediately after the commencement of the Act.

(i) Mere laying of rules on the Table of the House for a specified period does not amount to their approval, which could only be achieved by bringing forth an affirmative motion in the House in that behalf.

(j) Ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act and in no case this period should exceed six months. If no rules are framed within a reasonable period after the commencement of the Act, the Committee may take up the matter with the Ministry concerned and report to the House the cases where it is felt that undue delay has occurred in framing the rules.

(k) If specific cases of non-exercise of rule-making power by a State Government under a Central Act are brought to the notice of the Committee, the Committee would favourably consider the question of referring such cases to the Central Government for taking up the matter with the State Government concerned.

Of the various recommendations made by the Committee, the Government have accepted forty-nine. In regard to twelve recommendations, the Committee have accepted the explanation of the Ministries for not being able to implement them and in respect of five other recommendations, the Committee have not accepted the Ministries' replies for not implementing them and the matter is still under correspondence between the Government and the Committee.

Work of the Committee on Petitions (Lok Sabha) during 1957-59

The Committee on Petitions (Second Lok Sabha) which was constituted on the 5th May 1957 continued in office upto the 31st May 1959. During those two years, the Committee held thirty-two sittings, considered twenty-eight admitted petitions and presented six Reports.*

Eight of the admitted petitions were in relation to different Bills pending before the House, while seven others pertained to other business, including one on a private member's resolution regarding scholarships to backward classes and another on the Report of the Committee of Parliament on Official Language. All the fifteen petitions were circulated to Members *in extenso*:

The remaining thirteen petitions considered by the Committee related to matters of general public interest, such as amendments to Acts of Parliament, rules framed under the Acts etc.

Some of the suggestions contained in these petitions were implemented by

*The corresponding figures pertaining to the Committee of the First Lok Sabha during the period 1st May 1952 to April 1957 are 23, 78 and 11 respectively.

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Government on the recommendations of the Committee. They were:

(a) Strict enforcement of measures to prevent unauthorised sale of third class seats and berths in railway trains;

(b) Grant of rail concessions to children appearing at examinations for award of merit scholarships in public schools, whose parents have an income of not more than Rs. 100 per month;

(c) Facility for nomination of a suc-

cessor by a single depositor in Post Office Savings Accounts and by a single purchaser of Ten Year Loan Bonds.

In addition to the petitions mentioned above, the Committee also considered during this period 1184 representations, telegrams etc., received from various individuals and associations, which were inadmissible as petitions, and gave directions for their disposal.*

*The Committee of the First Lok Sabha dealt with about 400 such representations during the period 27-4-1956 to 28-3-1957.

Decisions from the Chair

Adjournment Motions

Adjournment motions on matters which are of a continuing nature are inadmissible.

(L.S. Deb. 23-2-1959)

Amendments

Moving of amendments after the commencement of the motion for consideration of the Bill is not in order.

(L.S. Deb. 21-4-1959)

Amendments seeking to vary taxes proposed in a Bill cannot be moved without the recommendation of the President.

(L.S. Deb. 22-4-1959)

Amendments enlarging the scope of a motion are out of order.

(L.S. Deb. 5-3-1959)

Speeches

While correcting their speeches in the official report of proceedings, Members cannot add new words which they had not uttered while making the speech.

(L.S. Deb. 19-2-1959)

Laying on Table

The Chair cannot give a ruling that the evidence tendered before a Commission not appointed by Parliament be placed on the Table of the House.

(L.S. Deb. 18-3-1959 & 20-3-1959)

Budget

Cut motions relating to extraneous matters not relevant to the Demand for Grant are out of order.

(L.S. Deb. 5-3-1959)

Privilege Issues

Lok Sabha: Refusal by a Minister to place a confidential document on the Table of the House is not a breach of privilege.

On the 3rd August, 1959, when the Minister of Home Affairs (Pandit G. B. Pant) laid on the Table of the House a copy of the proclamation issued by the President on the 31st July, 1959, under Article 356 of the Constitution,* some Communist Members demanded that the Report of the Governor of Kerala on the basis of which the President had issued that Proclamation might also be laid on the Table. The Minister of Home Affairs stated that he could not comply with this request as the Governor's report was a confidential document.

Thereupon, a Member (Shri V. P. Nayar) gave notice of his intention to raise a question of privilege regarding the refusal of the Home Minister to lay the report of the Governor of Kerala on the Table of the House.

On the 7th August, 1959, when the matter was taken up in the House for preliminary consideration whether there was a *prima facie* case of breach of privilege, Shri Nayar made the following points:—

(i) Article 105(3) of the Constitution provides that:

"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."

As the Privileges of the Indian Parliament had not been defined by law, under this provision of the Constitution, Parliament had the same privileges as obtaining in the House of Commons.

(ii) According to May's *Parliamentary Practice* (16th

*Article 356. (1) If the President on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

- (a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State;
 - (b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;
 - (c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State;
- (2) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.

Edition, page 42) "the distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are 'absolutely necessary for the due execution of its powers'."

From this definition of privilege, Shri Nayar concluded that Governor's report was necessary for the due discharge of the functions of Parliament under Article 356(3)* i.e. the approval of the Proclamation issued by the President under Article 356 (1).**

(iii) The power of the President to issue a Proclamation under Article 356(1)** after he had derived 'subjective satisfaction from certain objective facts' whether they were in the Governor's report or otherwise, was inferior to the power given to Parliament under Article 356(3)* for the approval of that Proclamation. As such Parliament was entitled to have 'subjective satisfaction based on the objective facts' which the President had taken into consideration before issuing the Proclamation.

(iv) While refusing to lay the Governor's report on the Table of the House, the Home Minister merely had said that it was a confidential document. He never claimed it to be a secret document, the disclosure of which would be against the

interest of the State. According to him, there was difference between a confidential document and a secret document. As the Home Minister had not claimed that the disclosure of the Governor's report was against public interest, and his main argument was that any disclosure would put certain officers in jeopardy, it was not a secret document and his refusal to produce it was clearly a breach of privilege.

(v) According to May (16th Edition, page 270), "Parliament is invested with the power of ordering all documents to be laid before it, which are necessary for its information. Each House enjoys this authority separately, but not in all cases independently of the Crown".

This paragraph clearly showed that parliament had full power to compel production of any document. And if the House had a privilege, a member as a part of the House had the same privilege and he could ask a Minister for the production of a document.

After several Members from all sections of the House had spoken on the question, the Minister of Law (Shri A. K. Sen) replied to the debate as under:—

"I may read rule 200† which, in my opinion, fully sets out the law on the point.

† If a Minister quotes in the House a ~~document~~ or other State paper which

*Rule 2, 152 ~~inserted~~.

**Rule 2, 152 ~~inserted~~.

†*Rules of Procedure and Conduct of Business in the Lok Sabha*—5th Edition.

had not been presented to the House, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest.'

The rule is quite clear that even where I quote a paper, if I claim protection under public interests I cannot be compelled to produce it.

'Provided further that where a Minister gives in his own words a summary or gist of such despatch or State paper it shall not be necessary to lay the relevant papers on the Table.'

I suppose the rule makes it perfectly clear. A good deal of confusion has been created by the hon. Member from Kerala, Shri Nayar, on the undoubted right of the House to demand production of papers, if it chooses to do so. The hon. Home Minister, when he dealt with the telegram last time, in his own precise way put the law exactly as it is. He said, 'I claim privilege but if the House so desires I shall have to obey'. That is the law but that again is not a question of privilege. If such an order is made on a Minister by the House notwithstanding the claim of privilege—it rarely happens anywhere either here or outside—then it is a case of contempt if the Minister disobeys it; it is not a question of privilege."

The Speaker, thereupon, ruled:

"I have been anxious to see whether a *prima facie* case has been made out. Therefore, at the outset, I said that it must be shown to me first of all that there is an obligation cast upon the Home Minister to place the document on the Table of the House whether an individual Member asks for it or whether the whole House collectively asks for it. I will assume that not merely Shri Nayar but the whole House asks for the production of this document. If the hon. Minister cannot withhold and if he is bound to place it on the Table of the House, then if he refuses to do so, certainly, there would be a breach of privilege.

So far as that matter is concerned, Shri Nayar who tabled this motion men-

tioned Rule 368 of our Rules of Procedure, which lays down that even in cases where a Minister refers to a particular document and reads it out in the House, ultimately when the House insists upon its being placed on the Table of the House, it is open to the Minister to say that in public interest he is not placing it on the Table of the House. That is the clear wording of Rule 368. It does not admit of any doubt so far as that matter is concerned.

Therefore, Shri Nayar, at the outset, wanted to say that this Rule is *ultra vires* of the Constitution and referred to Article 105(3) of the Constitution which says that in other respects our privileges will be those of the House of Commons until a law has been made by Parliament relating to privileges.

It is true that no Bill or Act has been passed by Parliament. But Rules have been framed. Therefore, he wanted to say that the rules which are in conflict with or inconsistent with the general provisions of the Constitution are to that extent not valid. He referred to Article 105(3) and said that it must be read along with the procedure in the House of Commons as laid down in *May's Parliamentary Practice* or otherwise. He referred to page 279 of *May's Parliamentary Practice* and said that in general it is open to Parliament to call for any papers.

Then, on page 480, something is said specifically in relation to documents which are referred to in the House under the heading "Citing documents not before the House". There it is said that it has also been admitted that a document which has been cited ought to be laid on the Table of the House if it can be done without injury to the public interest. Now, therefore, he admits that this is proper. The provision, which has been made under Rule 368, imports the substance contained in *May's Parliamentary Practice* under the heading "Citing documents not before the House". Even if the Minister cited some documents, he may say: "No, no; in the public interest I am not going to place them on the Table of the House". There is nothing *ultra vires* in these rules. So, reading *May's Parliamentary Practice*

"Citing documents not before the House":

"... It has also been admitted that a document which has been cited ought to be laid upon the table of the House if it can be done without injury to the public interest". (*May's Parliamentary Practice*, p. 480).

and the rules together, it is open, even in a case where the Minister refers to a particular document, for him to say a fortiori: 'I am not going to place it on the Table of the House'. A fortiori, when the Minister does not refer to a document at all, I cannot compel nor can the House compel him to place on the Table of the House that document. I do not see how a Minister refuses to discharge the duty imposed upon him or how it is open to the House to call upon him to produce such document.

.....Independent of the material that is contained in the Governor's report, the Minister of Home Affairs has to satisfy this House how it is justifiable to issue the Proclamation. Therefore, this House is called upon to decide upon what the hon. Home Minister says here and the facts that are placed before us. The President might have made a mistake but it is for this House to find out whether it is right or wrong to approve or not to approve the Proclamation. Placing the document which was before the President is not the only matter on which this House will come to a conclusion. It will be independent of that. Let us wait and see what the hon. Home Minister is going to say on that day and how he is going to justify the Proclamation. If the House comes to the conclusion that the material has not been placed here which can stand scrutiny, certainly this House is not going to give its approval to the Proclamation.

There is absolutely no breach from the point of view of privilege. So far as law is concerned, I am not satisfied that there is *prima facie* a case of breach of privilege for which I should give consent."

On the 17th August, 1959, the Minister of Home Affairs (Pandit G. B. Pant) moved a resolution for the approval of the Proclamation issued by the President on the 31st July, 1959. At the end of his speech, he laid on the Table a copy of the summary by the Governor of Kerala of his report to the President on the situation in Kerala.

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Punjab Vidhan Sabha—Attempt by a Police Officer to arrest a Member within the precincts of the House.

On the 19th February 1959, Dr. Bhag Singh and Shri Lal Chand, Members of the Punjab Vidhan Sabha, raised a question of privilege in the House on the ground of an alleged attempt by a police officer to arrest Sardar Jangir Singh, another Member, within the precincts of the House.

Speaking on the complaint, Dr. Bhag Singh said that an assistant sub-inspector of police had entered the Assembly premises without the permission of the Speaker and sent a chit to Sardar Jangir Singh in the House calling him out, with a view to arrest him. Sardar Jangir Singh was also given a warrant of arrest. Dr. Bhag Singh added that no police officer could enter the precincts of the Assembly to arrest a Member without the previous permission of the Speaker. He mentioned that the action of the police officer was a serious breach of privileges of the Members.

The Speaker (Sardar Gurdial Singh Dhillon) ruled that the police had no right to arrest a Member of the Legislature within the precincts of the House and referred the matter to the Committee of Privileges.

Findings of the Committee

The Committee of Privileges, after examining Sardar Jangir Singh, the Member concerned, and the assistant

sub-inspector of police, came to the following conclusions:—

"That the police officer did enter the precincts of the Assembly with warrants of arrest of the hon. Member and did make an attempt to serve these warrants on him within the precincts of the Assembly.

"That a clear breach of privilege has thus been committed.

"That in view of the unqualified written apology tendered by the police officer, it will be in the fitness of things that the

apology be accepted and no further action taken."

Action of the House

On the 19th March 1959 the report of the Committee was presented to the House. The Minister for Industries (Shri Mohan Lal) moved the following motion which was agreed to by the House:—

"That the Report of the Committee of Privileges be adopted."

Constitutional Developments

CONSTITUTION OF NEPAL

The Constitution of Nepal, which was promulgated by King Mahendra on the 12th February, 1959, came into force on June 30, 1959. The Constitution consists of 77 Articles and envisages a parliamentary form of Government.

The main features of the Constitution are a bicameral Legislature consisting of a *Pratinidhi Sabha* (Lower House) and a *Maha Sabha* (Upper House), an Executive whose power is vested in the King, a *Rastriya Parishad* (Council of State), a Cabinet headed by the Prime Minister, and a Supreme Court.

Parliament

The Parliament consists of two Houses—a Lower House consisting of 109 members elected by all Nepalese citizens over 21, and an Upper House of 36 members, of whom 18 would be elected by the Lower House and 18 nominated by the King. The Lower House has over-riding powers over the Upper House in matters of both money Bills and ordinary Bills.

Executive

The Executive power and the supreme Command of the armed forces are vested in the King. The executive power shall ordinarily be exercised on the recommendations of the Cabinet. The King enjoys discretionary powers in several matters and can assume to himself full powers in cases of emergency or failure

of constitutional machinery. Decisions on the succession to the throne are a royal prerogative.

There is a Council of State or *Rastriya Parishad*, similar to the Privy Council in England. It will consist of Ministers *ex-officio*, former Ministers and others nominated by the King. It will advise the King during periods of emergency and will also provide for a regency, in case the King were a minor or otherwise unable to act.

There will also be a Cabinet headed by the Prime Minister who will be chosen by the King. He, in the Royal opinion, should command a majority in the Lower House. The other Cabinet Ministers, whose number should not exceed 14, are to be appointed by His Majesty on the recommendation of the Prime Minister. The Cabinet shall be collectively responsible to the Lower House of Parliament. Assistant Ministers whose number shall not exceed 10, may also be appointed.

Judiciary

The chief organ of the judiciary is the Supreme Court which has power to issue various writs for the protection of the citizens' fundamental rights and the due establishment of the rule of law. It is also empowered to declare invalid any law which is not consistent with the Constitution.

The Constitution also defines the fundamental rights. They ensure personal liberty, equality before law and other political and religious freedoms.

The Constitution also provides for an independent Public Service Commission and an Auditor General.

The Constitution can be amended by a two-thirds majority of both Houses of Parliament and the Royal assent to such Bills is a matter of the King's discretion.

Important provisions of the Constitution relating to Parliament are reproduced below for information.

PART V

Parliament

CHAPTER I: Composition of Parliament

Constitution of Parliament

18.* There shall be a Parliament of Nepal which shall consist of His Majesty and two Houses, to be known respectively as the Senate (*Maha Sabha*) and the House of Representatives (*Pratinidhi Sabha*).

Composition of the Senate

19. (1) The Senate shall consist of thirty-six senators (*Maha-Sabhasad*) of whom eighteen shall be elected by the House of Representatives, and eighteen nominated by His Majesty.

(2) The term of the office of the Senator shall be six years and his seat shall not be vacated by the dissolution of the House of Representatives.

The House of Representatives

22. (1) The House of Representatives shall consist of the members elected by the electors of the several electoral districts.

(2) Each electoral district shall elect one member by secret ballot; and, until Parliament otherwise provides, there shall be 109 electoral districts.

(3) The electoral districts shall be delimited by a Delimitation Commission, appointed by His Majesty in his discretion, in such manner that each shall contain, as nearly as may be practicable, an equal number of electors.

(4) Every citizen of Nepal, male or female, who has attained the age of twenty-one years shall be entitled to one vote in one electoral district.

(5) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, elections to the House of Representatives shall be vested in an Election Commission appointed by His Majesty in his discretion.

(7) Disputes arising out of or in connection with elections to the House of Representatives shall be referred to and decided by Election Tribunals appointed by the Chief Justice of Nepal; and any such decision shall be final, but subject to an appeal to

*Numbers at the beginning of Paras indicate the number of the Article in the Constitution.

Constitutional Developments

the Supreme Court on a point of law.

CHAPTER II: *Meetings of Parliament*

Summoning and Duration of Parliament

26. (1) More than four months shall not lapse between the dissolution of one House of Representatives and the meeting of the next House of Representatives.
- (2) Parliament may be summoned and dissolved by His Majesty.
- (3) Unless sooner dissolved a House of Representatives shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of Parliament.

Sessions and Meetings of Parliament

27. (1) His Majesty may from time to time terminate a session of Parliament by prorogation, but six months shall not lapse between the termination of one session and the beginning of the next.

CHAPTER III: *Presiding Officers*

Presidents and Deputy Presidents of the Senate

28. (1) The Senate shall, as soon as may be, elect two senators to be respectively the President and the Deputy President of the Senate, and thereafter whenever the office of the President or Deputy President falls vacant.

Speaker and Deputy Speaker of the House of Representatives

29. (1) The House of Representatives shall, as soon as may be, after a general election, elect two persons to be respectively the Speaker and the Deputy Speaker of the House of Representatives, and thereafter whenever the office of Speaker or of Deputy Speaker falls vacant.
- (2) If the person elected as Speaker is a member of the House of Representatives, his seat as such member shall become vacant, but he shall not thereby cease to be Speaker.
- (4) The Deputy Speaker shall be elected from among the members of the House of Representatives and shall vacate his office if he ceases to be a member of that House.

Remuneration of Presiding Officers

30. There shall be paid to the President and the Deputy President and members of the Senate and to the Speaker and Deputy Speaker and members of the House of Representatives such remuneration as may be respectively fixed by law or, until so fixed, by His Majesty.

CHAPTER IV: *Conduct of Business*

Oath or Affirmation by Members

31. Every member of either House of Parliament and every person entitled to take part in its proceedings shall, before taking his seat, take and subscribe before the President of the Senate or the Speaker of the House of Representatives, as the case may be, an oath

of allegiance, in the form prescribed by His Majesty.

Royal Addresses and Messages

32. (1) His Majesty may in his discretion address either House of Parliament or both Houses assembled together, and for that purpose may command the attendance of members.

(2) His Majesty may send messages to either House of Parliament and the House to which any message is so sent shall with all convenient despatch, consider any matter required by the message to be taken into consideration.

Restriction on Debate

34. (1) No discussion shall take place in either House of Parliament with respect to the conduct of His Majesty and his successors, provided that nothing in this clause shall limit criticism of his Majesty's Government.

(2) No discussion shall take place in either House of Parliament with respect to the conduct of the Chief Justice or any Judge of the Supreme Court in the discharge of his duties.

Privileges of Parliament

38. (3) No senator or member of the House of Representatives, shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Senate or the House of

Representatives or any Committee thereof.

(4) No person shall be liable to any proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, vote or proceedings.

(5) Subject to this Article, the privileges of either House of Parliament, the committees and the members thereof, may be determined by law.

CHAPTER V: Legislative Procedure

Introduction of Bills

40. (1) A Bill, other than Money Bill, may be introduced in either House of Parliament but a Money Bill shall be introduced only in the House of Representatives.

Passing of Bills

41. (1) A Bill which has been passed by one House of Parliament, shall be forthwith transmitted to the other House and shall be submitted for the Royal Assent, if it is passed by that other House.

(2) If a Money Bill has been passed by the House of Representatives and sent to the Senate, at least one month before the end of the session, and if it is not passed by the Senate within one month, it may be submitted for the Royal Assent without passing the Senate.

(3) If a Bill, other than a Money Bill or a Bill to amend this Constitution, is passed by the House of Rep-

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representatives and sent to the Senate at least one month before the end of the Session and

- (a) it is not passed by the Senate in that session; and
- (b) it is again passed by the House of Representatives in the next session and sent to the Senate at least one month before the end of that session; and
- (c) it is not passed by the Senate within one month;

It may be submitted for the Royal Assent without passing the Senate, provided that a period of not less than five months has elapsed between the date on which it passed the House of Representatives in the first of the sessions and the date on which it passed that House in the next session.

CHAPTER VI: *Financial Procedure*

General Provisions

- 44. (1) No tax shall be levied except by or under the authority of law.

Estimates of Revenue and Expenditure

- 46. (1) His Majesty shall, in respect of every financial year, cause to be laid before the House of Representatives a financial statement showing—
 - (a) the estimate of revenue from sources available in the previous financial year;
 - (b) the effect of proposed changes in the law relating to taxation;
 - (c) the sums required to meet ~~charges~~ on the Consolidated Fund;

- (d) the ~~sums~~ required to meet expenditure to be voted by Parliament; and

- (e) the sums to be provided by way of loans.

Votes on Account

- 48. (1) Parliament shall have power to vote money in advance as a vote on account, in respect of the estimated expenditure for a part of the next ensuing financial year pending the enactment of the Appropriation Bill.

CHAPTER VII: *Legislative Powers*

General Power of Legislation

51. Subject to the provisions of this Constitution, Parliament shall have power to make laws for the peace, order and good government of Nepal.

Ordinance

- 52. (1) If at any time except when both Houses of Parliament are in session, His Majesty is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require.—

- (2) An ordinance promulgated under this Article shall have the same force and effect as an *Ain* (law) but every such ordinance—

- (a) shall be laid before both Houses of Parliament and if resolutions disapproving it are passed by both Houses it shall cease to operate;
- (b) may be withdrawn at any time by His Majesty;

- (c) It shall cease to have effect after the lapse of forty-five days of the sitting of Parliament if it is not withdrawn according to sub-clauses (a) and (b).

Constitutional Amendments

53. (1) Parliament may amend or repeal any of the provisions of this Constitution by a Bill passed by both Houses of Parliament and assented to, by His Majesty.

Provided that—

- (a) A Bill to amend the Constitution shall be so described and shall contain no provisions other than those

relating to the amendment of the Constitution;

- (b) the Bill shall be deemed not to have passed the House of Representatives and the Senate unless it was supported on its final reading in each House by not less than two-thirds of all the members thereof;

- (c) the Bill shall, when presented for the Royal Assent, have endorsed on it a certificate by the Speaker of the House of Representatives and the President of the Senate that the provisions of this clause have been complied with.

Leadership and Political Institutions in India, edited by Richard L. Park and Irene Tinker (Princeton University Press, Princeton, New Jersey, 1959, pp. 486, \$10).

This is a collection of twenty-nine essays contributed by a group of Indian and American scholars to a seminar held by the Modern India Project at Berkeley and the Committee on South Asia of the Association for Asian Studies at the University of California, Berkeley during August 12—17, 1956. The study covers the question of leadership in several sectors of Indian life such as national and local politics, economic planning, public administration and government service, rural development etc.

The book is divided into eight parts. The first part dealing with the traditions of Indian leadership traces the influence of the old Indian classical thought and the effects of modernisation on the present-day Indian political ideas and concepts of leadership. The second part contains the profiles of three leaders of the Indian Independence movement—Jawaharlal Nehru, Subhas Chandra Bose and Vallabhbhai Patel—each illustrating a different facet of leadership.

The next part deals with the political institutions of modern India. In this section, an analysis is made of the political, educational and other backgrounds of the ministers who composed the Central Cabinet in 1956 and the role played by Parliament in decision-making. According to the authors,

"The Parliament of India plays only a limited role in decision making as far as basic policies are concerned. It is, however, the major law-making body, and it serves a useful role in the ventilation of grievances and as a public forum..... Unless a major reversal occurs in Indian politics, Parliament will almost certainly gain in influence and prestige."

The factors that come into play in local elections in the rural areas and the present language policy of the Government of India are also examined in this section. The difficulties in switching over to Hindi as the official language are explained in detail, but the conclusion that India is faced with a dilemma either to retain English or abolish it is open to question, as a suitable *via media* is not difficult to find.

The next section is devoted to the study of political parties in India. Special attention has been paid to the origins and predominant position of the Congress Party in the nationalist movement, its methods of organisation and the problems it has to face in the achievement of its goals and as leader of a political movement. The evolution of the Socialist movement in India and the present split in its ranks, the position of parties like the Hindu Maha Sabha and the Jan Sangh and lastly the organisation, role and leadership of the Communist Party are also dealt with in adequate detail.

The influence exerted by business and industry on the one hand and by trade unions on the other over political parties and governmental machinery forms the

theme of the following section. As regards the influence of the *Sarvodaya* movement on Indian politics, it is said,

Leaders of these movements exert great political influence, but do so almost entirely outside formal governmental machinery. Because these leaders are not responsible to an electorate, they represent a fundamental challenge to parliamentary democracy in India.

The section on 'Public Administration' considers the two Five-Year Plans along with their elaborate implementation machinery, the dependence of the Centre on the States, the dangers that might result from the growth of a suspicious attitude between administrative and elective officers and the changes that the community development scheme is bringing over district administration. The question of leadership in five typical villages—one each in North India Bombay, Mysore, Andhra and Karnataka—illustrating the new pattern of leadership that is arising in the countryside completes the study.

The contributors to the seminar have made use of the copious contemporary literature available in India and outside on their chosen subjects of study and have also had field experience in India, wherever possible. As a work on the several pressing problems of contemporary India, the book is of much current interest not only to politicians and administrators but also to the general public.

Honourable Members: A study of the British Backbencher by Peter G. Richards (Faber and Faber Ltd., London, 1959, pp. 285, Sh. 30).

Honourable Members by Dr. Richards is a survey of the British Parliament, more precisely the House of Commons, its working and procedures. It describes generally the role of the

'backbencher' in the Commons and traces in particular the developments affecting him since the end of the last War.

The survey begins with the selection of candidates by the two political parties for parliamentary elections. It refers in this connection to the role of the local party committees and the central executive of the party, the organisation and financing of the election campaign and the over-riding dominance of the party system to the virtual elimination of the independent candidate in the elections. An important feature of recent elections in Britain has been 'the lack of concern with personalities and with local and regional interests', and a streamlining of the electorate into the supporters of either the Conservative or the Labour Party with only a few marginal constituencies holding the balance. This has led to a 'uniformity of opinion throughout the country which facilitates the forecasting of results' although the last general election has belied this fact.

The rigour of party discipline inside Parliament gives very little scope to the backbencher either to exercise a free vote in most of the matters or to play a part in the making or unmaking of governments. His part is, however, not 'negligible', as is very often described, and is certainly decisive, when the Government feels weak on issues like the recent Suez episode. He is also generally allowed a free vote on matters of conscience such as the death penalty issue, questions of privilege and private members' business.

Further, the political activities of Members are complex and their meetings with Ministers are often marked by an air of 'intimacy and cordiality'. Many channels exist for them to press matters of individual or local concern.

although 'there is but rare opportunity to obtain exceptional treatment for those they represent'. A common advice given to new Members is:

"If you want to get something done, try writing to the Minister; if you want to make a row, raise it in the House."

Backbench Members can make themselves heard, if their group is 'sufficiently large and determined', in which case 'sanctions for indiscipline become ineffective'. A recent example of this is provided by the revolt of Bevan and his group against the Labour Party.

Members try to draw the public attention and gain prominence through a variety of media such as the Press, the platform, television and broadcasting. They have also some interest in business, industry, or trade union or even voluntary social service organisations, which help to bring them before the public eye and gradually secure political promotions. The rise to ministerial office is, however, often 'unpredictable', and 'the backbencher is allowed but a minor claim to public attention and his news value is lower than that of the personalities from the worlds of show, business or sport.' It is, however, to be admitted that "Honourable Members enjoy a position of respect in the community..... Responsible opinion recognises that Members perform functions central to the operation of a democratic system of government, by acting as the ultimate arbiter of the fate of Cabinets, as a channel of opinion between elections and as a watchdog over the executive". One, therefore, comes to the conclusion that—

"The existence of a representative assembly is central to the maintenance of a democratic form of rule; without backbenchers there would be no parliament. So, however imperfectly the average

Member may perform his duties however restricted and frustrated he may feel, the role he fills in our public life is vital."

Although the central theme of the book is thus intended to be the role of the backbencher in Parliament, the author has taken the occasion to describe in detail several other aspects of the working and procedures of the House, such as the election of the Speaker, the oath-taking ceremony, the process of legislation, question-hour, the work of the Estimates and the Public Accounts Committees, delegated legislation, Private Members' Bills, remuneration of Members, parliamentary privilege etc. He has thus made it a compendium of much useful and up-to-date information on the House of Commons, which is available only from a number of standard and other works. The book is at the same time eminently readable, interspersed with a few interesting anecdotes. It will be found useful by both the advanced student of parliamentary affairs as well as the lay reader who wants to have a knowledge of the British House of Commons.

* * * *

Democracy and the Challenge of Power.
by David Spitz (Columbia University Press, New York, 1958, pp. 228, \$)

Mr. David Spitz, the author of *Patterns of Anti-Democratic Thought* and Professor of Political Science at the Ohio State University, has analysed in the present volume the abuses of power in a democratic state and the methods of controlling them. It is a new assessment of the theories that have been so far advanced to control the abuses of power, such as the natural law and natural right doctrines, theories of absolute and qualified majority rule and the American principles of federalism and separation of powers.

The book has been broadly divided into two parts—the first part dealing with democracy and the abuses of power and the second dealing with democracy and the control of power.

In the first part, three questions are posed: (a) whether the principle of consent in a democratic form of government is a valid principle of authority; (b) whether democracy, even though based on consent, is not itself prone to invidious action; and (c) whether democracy suffers from abuses of power other than the oppressive and lawless acts of the government. Democracy, according to the author, has solved the problem of legitimate authority by rooting the power of government in the consent of the governed. It is the best system for the attainment of political freedom primarily because it provides for responsible control. The question of the right use of power, however, remains. Democratic states may also act oppressively and abrogate the basic rights of citizens, just like any other form of government. This may be due to several reasons, but the fact remains that while democracy is in principle a way of controlling the abuses of power, such abuses nevertheless persist in the practices of democratic states. This persistence of oppressive power the author calls the 'challenge of power'.

In addition to the oppressive acts of the government, democracy may also suffer from the arbitrary and abusive practices of individuals and groups, and the 'tyranny of the public sentiment'. The abuses of power by private people may be exercised through their control of different private organisations and may take the form of physical violence, economic sanctions, social segregation, discrimination etc. The tyranny of

public opinion may be either direct, as in cases where a non-conforming minority may suffer ridicule or contempt at the hands of the majority, or indirect, when people through their indifference and lack of vigilance allow many lawless acts of the government to go unchallenged.

Such being the different abuses of power, the problem is how to meet the challenge and control the abuses. The second part, therefore, deals with the several methods by which the abuses are attempted to be controlled. The first is the institutional approach whereby power is sought to be decentralised and distributed among several agencies as in the American political system. But it has been found in practice that no institutional arrangements or forms of government can fully guarantee that power will not be abused. The second method of preventing abuse is the 'withdrawal' of oppressed groups or individuals to safety, when the oppressor descends on them. This is, however, no remedy, as it rather avoids than control the abuse of power. A third method is to appeal to 'right principles' or to 'right men' against injustice and oppression. But even this appeal to 'allegedly objective right principles' or to certain 'well-adjusted' or 'democratic' or other 'allegedly right men' is not likely to eliminate the abuse. A fourth method is to appeal to an alternative mode of organisation of democracy. The usual modes are an appeal to bare majority rule or to an economic and social democracy. This alternative may not also, however, solve the problem, but on the other hand tend to increase the avenues for the abuse of power.

The above measures being thus inadequate, the challenge of power still remains. The quest for solution

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therefore continues. The author says that "the problem of power, to be adequately understood and dealt with, must be reduced at the outset to a *series* of problems involving *specific* oppressive acts"; for "the problem of power is not a single problem capable of being dealt with by a single solution, but it is many problems, requiring a multiplicity and variety of solutions, each calculated to meet a particular difficulty in an appropriate way". In this connection, democracy as a method of government "is a better device, than its alternative oligarchy, to control the variety of oppressive acts that repeatedly appear in a society—not on the ground that it

constitutes *'the'* solution, but rather on the ground that it better guarantees the right of free, experimental choice among different solutions". "This is a hard and perhaps paradoxical conclusion", but it is "the inescapable consequence of any attempt to apply the democratic principle in actual political practice."

The author thus comes to the somewhat inevitable conclusion that democracy is the best possible form of government. He has added useful notes to every chapter in the text and a fairly exhaustive bibliography at the end of the volume.

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Badan Sabha . . . Two Sessions

(I) From 9-3-59 to 13-3-59 . . . 24 . . . 2,292 1,055†

(II) From 29-4-59 to 9-5-59 (41 sittings)

† Includes 46 starred questions referred to unstarred questions. Includes one Short Notice question obtained as starred question.

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* Period of the session is not available.
† These numbers were recorded as entered and checked as entered.

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The figure includes questions received and obtained as Unanswered questions. Break-up figure for Unanswered Questions are not available.

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* Figures represent total number of questions received & admitted. Break-up figures are not available.

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**U.P. Legislature
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7 ..	18523	1227	..	599	43	26
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* Includes 338 Short Notice questions included in starred questions.
 (The Session started on 26-7-52. It ended on 2-4-59.)
 (†) Includes 34 questions submitted as starred.
 (‡) Notices for these questions were received as starred questions.