

# The Journal of Parliamentary Information



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**The Journal of  
PARLIAMENTARY INFORMATION**

**Editor : M. N. KAUL, Bar-at-Law**

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# THE JOURNAL OF PARLIAMENTARY INFORMATION

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## Problems of Subordinate Legislation

### SPEAKER'S ADDRESS AT THE CONFERENCE OF CHAIRMEN OF COMMITTEES ON SUBORDINATE LEGISLATION

*[The first Conference of Chairmen of Committees on Subordinate Legislation was held at New Delhi on April 30, 1960 with Sardar Hukam Singh, Deputy Speaker and Chairman of the Committee on Subordinate Legislation, Lok Sabha, in the chair. The Conference was inaugurated by the Speaker, Shri M. Ananthasayanam Ayyangar. We reproduce below Shri Ayyangar's address on the occasion. —Editor.]*

Friends,

This is the first Conference of Chairmen of Committees on Subordinate Legislation of Lok Sabha and the State Legislatures. (Ours is a democratic State which has undertaken to promote the welfare of the people by securing and protecting a social order in which justice, liberty, equality and fraternity shall prevail. Naturally, therefore, the State's activities extend to every walk and aspect of the citizen's life and, consequently, the laws governing those activities have to be, of necessity, very large in number, wide in scope and complicated in nature.)

Legislation is the primary duty of the legislature and, for want of time

and of knowledge of details, the framing of rules and regulations is often entrusted to the executive. Matters of detail are not incorporated in the statutes as they may not be applicable for all time and may require changes from time to time. If they form part of the Act itself, they cannot be changed without amending the Act every time. Subordinate legislation has, therefore, become inevitable and indispensable in our country as in all other democratic countries like the U.K., U.S.A., Canada, Australia etc.

#### *Importance of Scrutiny*

But subordinate legislation presents a problem because it does not and cannot receive the same amount of public attention as is received by an Act of Parliament or [that] of a legislature before becoming binding. It is just possible that the executive may include in the rules matters which were never intended to be included therein by the legislature. Besides, the officers responsible for framing the rules may not be aware of the hardship caused or likely to be caused by the application of the rules to the masses of the country.



*Growing interest in the subject*

In our country, since the commencement of the Constitution, subordinate legislation has attracted the attention of Parliament and the Courts. On a number of occasions, concern has been expressed by members in the Lok Sabha about the delegation of 'blank cheque' legislative powers and the likelihood of its being misused by the executive. There have also been occasions when rules were discussed in the House and the amendments suggested by private members were accepted by the House, obviously because the suggestions were more in keeping with the needs of the day than the rules as originally framed by the Government.

Judicial decisions on subordinate legislation have also been increasing in volume ever since the decision of the late Federal Court in the case of *Jatindra Nath Gupta* in 1949 and the consequent reference by the President in 1951 of the *Delhi Laws Act* case to the Supreme Court for its advisory opinion on the question of validity of certain types of delegated legislation.

It is not only the legislature and the judiciary who have evinced much interest in delegated legislation in India; the public also have not lagged behind. Numerous articles on delegated legislation describing its utility, its inherent weaknesses etc. have appeared in several periodicals and journals of repute. Recently, the Indian Law Institute set up a Committee on Delegated Legislation under the chairmanship of Mr. Justice P. G. Mukerjee of Calcutta High Court to conduct research on this subject.

*Delegation in Financial Sphere*

The spheres in which delegation can be effected can be broadly divided into

two: one, the financial *i.e.*, relating to imposition, increase, decrease or levy of taxes, rates and fares; and the other, matters relating to other departments of the States. As for the first category, the Constitution lays down that no tax can be imposed except by the authority of law. If that is so, that power does not appear to be one which can be delegated. There are some provisions in the Railways Act under which rates can be increased without bringing the same before Parliament whereas any increase in postal rates beyond the specified rates has to come up before Parliament. The reasons for following two different procedures in similar circumstances do not appear to be clear when in both cases the charges are realised for services rendered.

*Limits to Delegation*

Then delegation relating to other matters may be considered. Here again, the question will be whether matters of a substantive nature and those which involve questions of policy could be delegated. All matters of policy must be decided by the legislature and only the details relating to the working of these policies should be left to the executive. Even here, as far as possible, non-controversial matters alone ought to be left for the rule-making power. They may include procedural matters also but the question whether right of appeal, barring of jurisdiction of courts, the composition of statutory boards etc. are matters that can be delegated to the rules framed by the Executive, requires consideration. I personally feel that such matters ought not to be delegated.

Apart from the subject-matter of delegation, the manner of delegation also calls for scrutiny. It was recently held by the Supreme Court that power

## *Problems of Subordinate Legislation*

to extend certain Acts by executive authority to some other areas or to extend the life of an Act with such modifications as the executive might deem fit, is too wide a power. It was ruled that only power to extend an Act either to other areas or for short periods may be given without the right to modify or amend except to the extent necessitated by the application of new circumstances. Such modifications must purely be of an ancillary and formal character and should not involve any change in the policy of the Act.

### *'Blank Cheque' Delegation*

It also happens often that powers are given in general terms to the executive to frame rules to carry out the purposes of an Act. Such a provision also seems to be too wide. It seems to be desirable that, as far as possible, matters for which rules may be framed must be indicated with some precision in the body of the Act itself and ancillary matters relating thereto by way of *ejusdem generis*.

### *Provision for Laying and Modification*

The rules framed under the rule-making power by the executive have for long been only notified in the respective Gazettes and were not subjected to the scrutiny of Parliament or the State Legislatures. In recent times, in almost every piece of legislation, whenever power to make rules is conferred on the Executive, it has been insisted upon in Parliament that there should be a provision that the rules must be placed on the Table of the House for modification, amendment or repeal within a specified period. Under such a provision, rules are framed by the executive in advance and they come into operation from the date of their publication but they are subject to alteration or modification later on by Parliament.

### *Scrutiny at Draft Stage*

It is a matter for consideration by you whether before the rules are notified, draft rules may not be scrutinised by the Committee on Subordinate Legislation. In cases where it is felt that the rules should have immediate effect, they may be given effect to from the date of the notification subject to the right of the Legislature to modify the same within a specified period after they are placed before it. In other cases where such urgency is not felt, the rules may be placed before the Committee for their consideration before they are given effect to and placed on the Tables of the Houses of Parliament or the Legislatures, as the case may be. What kind of publicity ought to be given to the draft rules before they are finalised and published in the final form in the Gazette is another matter for consideration by this Conference.

### *Rules under Central Legislation on State Subjects*

There are cases where central legislation is passed at the request of various State Governments and the State Legislatures for the sake of uniformity and co-ordination on several subjects and in such cases rules have to be framed to suit the conditions prevailing in each State. Are those rules to be made by the Central executive or the State executive? If they are made by the State executive, are the rules to be placed, for alteration or modification, on the Table of Parliament or on the Tables of the respective State Legislatures? Much can be said in favour of power being given to the respective State Governments to frame the rules and, while they do so, it is proper to expect that the rules should be scrutinised by the State Legislatures concerned. But there seems to be one defect in this procedure. The Central Legislature which

passes the law, loses all control over the rules so framed.

*Committee on Subordinate Legislation in Lok Sabha*

We have in Lok Sabha a Committee on Subordinate Legislation whose task is to examine the rules, as soon as they are placed on the Table of the House, to see whether the rules are relevant and consistent with the Act; whether they contain matters of a substantive nature and so on. We have also laid down as a rule of procedure that to every Bill which involves delegation of legislative powers, a statement ought to be appended showing the need for the framing of rules and the scope of those rules, so as to focus the attention of the Committee on Subordinate Legislation and also of the Members of Parliament on those provisions. Such a rule has been made to ensure that delegation of legislative powers does not take place without its implications being fully realised by the Members of Parliament.

This Committee also discharges one other useful function and that is bringing to the notice of the Government delay in framing the rules in case rules are not framed within a reasonable time after the commencement of the Act.

The Committee at the Centre has been working effectively. It has earned the commendation of Sir Cecil Carr—an authority on Subordinate Legislation, who has described it as a 'vigorous and independent body'. Recently, the Law Commission of India, in their Fourteenth Report, referring to the work done by the Committee, observed that it has performed, and is performing, very useful functions and keeps subordinate legislation under control.

*Constitution of the Committee in States*

In my address to the Conference of Presiding Officers of Legislative Bodies in India held in Madras in September, 1956, I had expressed the hope that Committees on Subordinate Legislation would come into existence in the States where there were none. As the rule-making power is increasingly used, the need for the existence of a Committee of the Legislature to scrutinise the rules becomes very great. I am glad to note that except for one or two States, such Committees have since been constituted in the States. There are some States where two separate committees are established for the two Houses while in most other States, as in the case of Parliament, only one Committee functions and is attached to the Lower House. In some States a Committee exists in the Lower House on which members of the Upper House are also associated. It is not for me to comment upon the comparative merits of the three methods obtaining in bicameral legislatures. Let us for the present watch the working of this system.

I would like to make another suggestion. I am not aware if it is already being done in State legislatures *i.e.*, setting up a machinery to examine the provisions of Bills which seek to delegate rule-making powers to the executive, and, if any provisions involve wide or exceptional delegation of legislative powers, bringing it to the notice of the House through the Chairman or one of the members of the Committee on Subordinate Legislation when the Bill is taken up for consideration in the House. This will ensure that whatever legislative powers are in future delegated by the legislature, they are scrutinised in advance by some machinery which is responsible to the House. Such an arrangement exists in Lok Sabha.



*Publication of Rules*

There is another matter which might engage the attention of the Committees on Subordinate Legislation—that is, the publication of subordinate legislation. As a general rule, the enabling Act provides for the publication of the rules in the official gazette. This does not appear to me to be very helpful or sufficient. The rules should be published in a systematic manner so that they may be referred to conveniently, located easily and understood by the public concerned. As things stand today, if you want to know, say—

- (a) what amendments have been made in the Schedule to an Act, *e.g.*, the Agricultural Grading and Marketing Act, 1938 or the Essential Commodities Act, 1955; or
- (b) whether a particular rule is still in operation or, if amended, where such amendments would be found; or
- (c) whether any rules have been framed under an Act at all; or
- (d) whether an Act which is required to be enforced by a notification has been brought into force and, if so, when.—

you cannot get the information easily. You shall have to wade through innumerable pages of the Gazette with no certainty of getting the correct or whole of the information. There is not a single Government publication which can help you in the matter. I am also not aware of any private publication which makes such information available to the public. In view of the principle that ignorance of law is no excuse, it becomes the bounden duty of the Government to give wide publicity to rules so that the public may not be taken unawares. A knowledge of law is the

first step for its due observance. In the U.K., besides the annual edition of statutory instruments, a number of other publications like the Guide to Government Orders, Numerical Tables of S.R. & O. and Statutory Instruments, are regularly brought out by the Government and sold to the public.

This question was raised by the Lok Sabha Committee and the Government have decided to bring out a publication on the lines of the India Code. This will go a long way in making the rules and regulations available to the public at one place.

*No Partisan Spirit*

In the end I will only recall what the late Shri G. V. Mavalankar in his address to the Lok Sabha Committee on Subordinate Legislation had stated: The Committee is not conceived, in any sense, as an opposition to the Executive Government or to the Administration. It is conceived as a body of persons who are in touch with the people and, not being concerned with the actual administration, are capable of taking independent and detached views. They are the collaborators, the cooperators and friends of the Administration and they approach the examination of the rules and regulations in that spirit. They have to examine the questions before them in a non-partisan manner as they are discharging a duty on behalf of the entire House and not on behalf of a party or section. Once a decision is taken, even though by the majority, it becomes the decision of the House and every Member of the Committee is bound to work on the basis that the laws enacted and the policies laid down have emanated from the entire House; and, therefore, examination of the implementation of those laws through rules admits of no party consideration.

# Estimates Committee (1959-60)

## SPEAKER'S ADDRESS AT THE VALEDICTORY SITTING\*

Shri Dasappa and Friends,

It gives me very great pleasure to be in your midst. The Estimates Committee is one of the two important financial Committees of Lok Sabha. I was myself the Chairman of the first Estimates Committee ten years ago.

### *Scope of examination*

The main object of the Estimates Committee is to suggest ways and means of economising expenditure. That must be your foremost object. But your suggestions for economy should not interfere with efficiency. You can cut off all the expenditure and then say, "we have saved so much."

You must also bear in mind that you have no right to interfere with the policy laid down by Parliament. The policy may, however, come indirectly under consideration. Whenever you find that a policy has led to enormous expenditure which could have been saved, you can certainly point out how a particular policy has landed the country in unnecessary wastage of public money. Those are the limits within which you can proceed.

### *Examination of Ad Hoc issues*

In addition to the regular examination of the Ministries taken up by the Committee, I have referred from time to time certain matters arising in the House

to the Committee. On one occasion, in regard to certain collieries owned by Government it was revealed during the question hour that, though the collieries were not being worked, as many as 4,000 workmen were being paid month after month. I said that that wastage ought to be put an end to, and I referred the matter to the Committee. Similarly, I referred the shortfall in production in Bharat Electronics and the increase in the estimates of the General Service Charges of the Rourkela Project to the Committee. I am very happy the Estimates Committee have dealt with all such issues referred to them by me and reported to the House. Generally, you take up certain subjects and go through them for a whole year. It may not catch the imagination of the people so much; but in regard to *ad hoc* issues, which are hot, if you address yourselves to them, then the people will feel that the Estimates Committee is doing a lot of good work.

### *Examination of witnesses*

Many officers of the Ministries appear before you and you cross-examine them. You must get information from them, without offending them, just as a bee sucks honey from a flower without destroying it. It is rather a difficult matter. It is not one man who cross-examines, but as many as 30 members do it.

\*Excerpt from the address delivered by the Speaker, Shri M. Ananthaswami Ayyangar, at the valedictory sitting of the Estimates Committee (1959-60), held on April 29, 1960.

## Estimates Committee (1959-60)

Once when I was ~~cross-examining~~ on a very important point eliciting information to support our case for economy and drawing out many answers against the interest of a particular officer, another member put him leading questions to show that all that I wanted to draw from him was wrong. Thereupon, I requested the witnesses to withdraw and then told the members that we should not contradict one another in the presence of witnesses lest we should appear in the position of having dissension amongst ourselves. Whatever differences we might have, we should settle them ourselves.

### *Sub-Committee on Public Undertakings*

I am extremely happy to learn that you have divided yourselves into small Study Groups, consisting of 7 or 8 members each. I understand that you have organised a sub-committee on public undertakings. I have been desirous of having a separate committee altogether for the purpose. But it is urged that the work of the two committees may overlap. Your present sub-committee is, however, as useful as an independent committee.

### *Record of good work*

I am very happy that your reports have been reviewed very well in the press and they have received uniform encomiums from one and all. The Estimates Committee even at the outset did so much of good work that this was reviewed very favourably in 1951 in the *World Economic Review* published by the UNESCO. I am sure that the period of encomiums is not over. Every day we heap encomiums on you and the Committee have attained a reputation. I must congratulate you, one and all, for the enormous work you have done and the interest you have taken.

### *Attendance in Committee*

Coming to attendance in the Committee, there is no meaning in merely having a quorum and doing things in the name of the Committee. I would like that the Committee should be fully attended. Otherwise we will not command the prestige that is necessary. An enormous burden rests on the shoulders of the Chairman who has to review the report before he presents it to Parliament and so guide the work of the Committee as to who should initiate the examination of the witnesses, what are the points on which emphasis has to be laid etc. The Chairman cannot be left alone. He ought to be assisted by others.

### *No whip in Committee*

So far as your reports are concerned, we never allow them to be discussed on the floor of the House. If these reports are debated on the floor of the House, the Minister can in nine cases out of ten get a whip issued and then with a majority vote on his side say that it is not possible to accept the recommendations. Fortunately, we have seen to it so far, and,— I am sure of the future also— that no whip is allowed to come within the four walls of this room. Party considerations do not come in here. Do not allow a whip or any kind of briefing or any attempt to canvass.

### *Discussion of budget*

As soon as the budget is prepared and placed on the Table of the House the general discussion on the budget goes on for four days. Thereafter, I would like the whole House to go into a committee, split itself into a number of sub-committees, one each for a Ministry, so that the Minister may sit along with the members across the table and then discuss matters relating to that Ministry on the basis of the recommendations of



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the Estimates Committee. But the time for it has not yet come.

*Exchange of retiring members*

I would like that a convention is established whereby members retiring from one Committee go to the other Committee. Whoever is retiring from the

Estimates Committee can go to the Public Accounts Committee and vice versa so that these members may have a full knowledge of the work of both the Committees, and a set of people here, that is, 45 people, may know A to Z of public finance i.e. before the budget is passed, after the budget is passed, and after the expenditure is incurred.

The proper duty of a representative Assembly in regard to matters of administration is not to decide them by its own vote, but to take care that the persons who have to decide them shall be proper persons.

—JOHN STUART MILL in *Utilitarianism*  
*Liberty and Representative Government*

## Short Notes

### Committees on Draft Third Five Year Plan

On September 6, 1960 the Speaker made the following announcement in Lok Sabha regarding the formation of Committees to consider the Draft Third Five Year Plan:

Hon. Members are aware that last time when the Second Five Year Plan was placed before the House in advance, I appointed four committees of the House.\* I appointed a sub-committee of the Business Advisory Committee to divide the subjects dealt with in the Plan and put them into four groups. I requested hon. Members to intimate to me or to the office the groups in which they wanted to serve in the order of their preference, so that I might assign the Members to one or other of those groups.

Now I intend constituting similar groups for considering the Third Five Year Plan. The first meeting of these groups will be held on the 8th. Thereafter, as soon as the House meets next time, they will go on meeting from day to day.

The names of these committees and the subjects tentatively are: Committee A—Policy, Resources and Allocations

These groups were made last time and with suitable modifications, they have been introduced here. Committee B—Industry, Power and Transport. Committee C—Agriculture and Rural Economy. Committee D—Social Services, Technical Man-power and Scientific Research. If a large number of people want to serve in Committee D, I would like to divide it into Committees D and E. Committee D—Social Services and Committee E—Technical Man-power and Scientific Research.

Hon. Members will kindly write to the office the groups in which they will serve in the order of their preference. If they want to serve on more than one committee, I will make it convenient. After the names are received, I will appoint the Chairman.

The proceedings of the committees will be placed in the Parliament Library as was done last time. The committees will send small abstracts of the proceedings to the House for its consideration later on.

Also, last time the committees were composed of Members from both Houses. I shall send a request to the other House that they may similarly suggest names for inclusion in one or the other of the committees.

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\* Cf. Article on the subject in JPI (II. 2) pp. 270—203.

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In pursuance of the announcement five Committees have been constituted. The following are the names of

Chairmen appointed by the Speaker for these Committees:

Committee	Chairman
(i) Committee A (Policy, Resources and Allocations)	Shri K. Santharam (Rajya Sabha)
(ii) Committee B (Industry, Power and Transport)	Shri Jairamdas Daulatram (Rajya Sabha)
(iii) Committee C (Agriculture and Rural Economy)	Dr. Ram Subhag Singh (Lok Sabha)
(iv) Committee D (Social Services)	Shri Mahavir Tyagi (Lok Sabha)
(v) Committee E (Technical Man-Power and Scientific Research)	Shri T. S. Avinashilingam Chettiar (Rajya Sabha)

### Parliamentary Papers in Hindi

Having regard to the provisions relating to Hindi in the Constitution, (Articles 120 & 351) Lok Sabha Secretariat has been endeavouring to supply members with more and more parliamentary papers in Hindi. Hindi translation of the debates was undertaken from the very first session of the Provisional Parliament in 1950. The practice of issuing separate Hindi lists for questions, for which notices were received from members in Hindi, was started the next year. In 1953, from the Seventh Session of First Lok Sabha, Hindi versions of the List of Business and the Bulletins were issued.

During the current year, two more items have been added to the list of

papers available in the Hindi version. These are the complete List of Questions for Oral Answer and the Synopsis of Debates (Proceedings Other than Questions and Answers), now regularly brought out from the middle of the Tenth Session and the commencement of the Eleventh Session respectively.

Copies of the complete List of Questions in Hindi are made available for members' use generally two days in advance of the day on which the questions are due for answer. The Hindi Synopsis of Debates is published simultaneously with the English version, and the synopsis for any day, in both the versions, is now available to members on the following day.

# Question Hour in Parliament\*

By

C. R. NARASIMHAN,

Member, Lok Sabha

In a democratic set-up, Parliament has to keep a steady watch over the Executive. Our Constitution, in Article 75(3), enjoins that the Council of Ministers shall be collectively responsible to the House of the People, which has now come to be known as the Lok Sabha. Similarly, under Article 164(2), the Council of Ministers of a State is collectively responsible to the Legislative Assembly of the State. If these provisions are not to become a farce, the inevitable price, namely, constant vigilance, has to be paid.

The Question Hour was described by a British Parliament Procedural Committee as "perhaps the readiest and the most effective method of Parliamentary control over the actions of the Executive." Seeking as we do, both by law and convention to follow the British Parliamentary tradition in this field, the same is true of the Question Hour in the Indian Parliament.

## *British Institution*

It is undoubtedly a unique British institution. The asking of questions in Parliament was a casually started and slowly developed process spread over several decades—in the case of the Mother of Parliaments. According to diligent researches made, it was somewhere in 1721 that the first question

was put in the House of Lords. Printed questions came into vogue in the House of Commons from the year 1835. In the words of Mr. Alfred C. Bossom, M.P., "Question Time in the House is one of the bulwarks of the citizen's liberty and independence." It is not given to all Parliaments to have this privilege of catechising Government directly. It is a practice and privilege enjoyed in the Commonwealth. Even in the United States, Ministers are not put to this ordeal. The first time a question was asked in the United States House of Representatives was in 1950. The British Parliamentary genius has developed this as an institution.

The object of putting a question is firstly to elicit information which is within the cognizance of the Minister. By asking questions, a member succeeds in bringing to his constituency's knowledge the nature and scope of his own activities in general and those pertaining to the particular interest of the constituency. Government also stand to gain by the system of questions inasmuch as they are enabled to know what doubts and tribulations agitate the minds of the people and afford the former an opportunity to explain matters to the public. It can serve as a thermometer indicating the prevalent temper of the people at large over an issue or issues.

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\*Reprinted with the kind permission of the Editor, *The Hindu, Madras*.

Parliament does not directly govern, though the Government may be that of a parliamentary form. There is a gap between Parliament's agents, the Ministers, on the one side and actual administration. This is now filled by what is termed as the bureaucracy. A vast field of administration has fallen into its hands. If anything, it is the Question Hour in Parliament that keeps bureaucracy on tenterhooks. Sometimes, it is only through questions put in the House that Ministers come to know of a prevailing evil in the administration. In the case of strongly entrenched Cabinets, the blurring of responsibility and the deterioration in responsiveness that may follow as a sequence, the Question Hour is one of the few weapons left in the armoury of the Opposition as well as the ruling party's own adherents.

The Question Hour can pinpoint administrative errors and put a searchlight on its failures. The Ministers thus cannot take things easily. The exciting battle of wits waged in the House is always an interesting sight. Naturally, the Visitors' Gallery during the Question Hour is always crowded. A lot of humour and tact is required on the part of a Minister to come out unscathed from this catechism. Even for the Leader of the Party in power, it is an opportunity to know how his Ministers and colleagues manage their allotted task and what their inherent capacity is. A lot of trouble is taken by the permanent officials to brief the Minister with answers for possible supplementaries also. While in the school class-room tests are only periodical events, for the Ministers this is a daily ordeal. Thus, the questions that are asked and the questions that may be asked in combination go strongly to make Ministers cautious and careful in their task of policy-making and routine administra-

tion. Woe betide the Minister who, badly or wrongly briefed, cuts a sorry figure in the House or the official who supplies such answers!

To give instances of the far-reaching effect of questions, we had the one about the Chinese occupation of Indian territory. The other was about the LIC's deal in Mundhra's shares. A series of chain reactions followed these questions.

As stated by Mr. Alfred C. Bossom, M.P., quoted earlier, the process of asking and answering questions is a vehicle for both Government and the members to dispel illusions, explain uncertainties, remedy injustices and reassure the public. Thus, it is a "valuable safety-valve and swift method of calling attention to wrongs otherwise overlooked".

As in similar matters, it is given to the Press to maintain the efficacy and effectiveness of this forum by giving it steady publicity. It goes without saying that it is the glare of publicity that awaits a particular matter that imports seriousness to a subject. Thus, Parliament, the Press and the people together form the bulwark of democracy.

#### *Drafting Ingenuity*

Rules regarding admissibility of questions are rather elaborate. Drafting ingenuity goes a long way in enabling a question to get admitted. A host of secretarial and clerical staff sort out the questions. The rules require ten clear days' notice for questions. Specific days are allotted to the respective Ministries. Starred questions can be followed by supplementaries. Unstarred questions elicit written answers and are generally confined to statistical and other routine matters. When urgency requires, short-notice questions

### *Question Hour in Parliament*

can be addressed. But it is left to the Minister concerned to waive notice.

On a rough estimate, the expenditure incurred on each admitted question comes to Rs. 60 and on each question that lapsed or was disallowed to Rs. 15. The annual expenditure on account of questions for the years 1956, 1957 and 1958 was Rs. 10 lakhs approximately each year. As many as 13,991 questions were asked in the Lok Sabha during the year 1959.

In the Lok Sabha, the one hour now allotted for questions is felt to be inadequate. Some feel that it should be extended by at least another half-an-hour. It should also be remembered that if an answer to a question is unsatisfactory, it is open to the aggrieved member to raise a debate on the subject. Many such debates have taken place in the Indian Parliament. A careless or casual answer will entail more trouble for the Minister.

*Distress always makes discontent, and men who are in trouble turn with interest and hope to every proposed remedy. It is our duty to treat their views with respect, for, while their theories may be false, their sufferings are real. It is well that we are taught by popular agitation the existence of evils. It is necessary for those who have charge of public affairs to learn what men have in their minds, what views they hold, at what ends they aim.... The follies of fanatics frequently teach wisdom better than the words of the wise.*

—HORATIO SEYMOUR in *The Government of the United States* (North American Review, November-December, 1878)



# Two Estimates Committees\*

By

S. L. SHAKDHER

Joint Secretary, Lok Sabha Secretariat

[This article is based on the first-hand knowledge of the writer of the working of the Estimates Committee in India and on the discussions which he had in London with the Clerk of the House and the Clerks of the Financial Committees of the House of Commons and written material supplied by them later.]

Among all the countries which follow the Commonwealth parliamentary system of procedure, the U.K., Canada and India<sup>1</sup> are the only countries which have the institution of Estimates Committee in their parliamentary system. In New Zealand, the Committee called the Public Accounts Committee is more akin to an Estimates Committee since its main duty is to examine all estimates prior to their consideration by the Committee of Supply.

Although the main conception behind the establishment of an Estimates Committee in the U.K. and India is the same, viz., that a representative Committee of parliament should examine the details of estimates of expenditure of Government thoroughly from year to year in a selective way, the procedure

and functions of the two committees differ in many respects. It is the purpose of this article to show how each one of the two committees has taken a path of its own and is functioning.

In the U.K., a Select Committee on Estimates was first formed in 1912. The Committee was re-appointed in 1913 and 1914. The outbreak of the war in 1914 brought to an end this short experiment and it was not till the end of July 1917 that a Select Committee on National Expenditure was formed from year to year. In 1921, the Select Committee on National Expenditure was not re-appointed and a Select Committee on Estimates was revived in its place. The Committee was re-appointed every year from 1921 till the outbreak of the last war. During the war years, 1939—45, a Select Committee on National Expenditure was appointed every year. In 1946, a Select Committee on Estimates was again appointed.

If one delves deeper, one finds it interesting to note that *ad hoc* committees, more or less the early counterparts of the Estimates Committee, have been in existence<sup>2</sup> since 1828. In 1828, a Select Committee was appointed to

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<sup>1</sup>In India, besides an Estimates Committee in the Lok Sabha, a majority of State Legislatures have formed Estimates Committees on the same model as at the Centre.

<sup>2</sup>A complete review tracing the origin and development of the Estimates Committee in the U.K. through the centuries is contained in the Elvewich Report of the Commission on National Expenditure for the session 1947-48.

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consider what further regulations and checks should be adopted for establishing an effective control upon all charges incurred in the safe custody and application of public money and this Committee was required to consider measures for reducing public expenditure. In 1848, three Select Committees were appointed to consider various classes of estimates. These Committees were appointed from year to year and in war periods, e.g., during the Crimean War and the Boer War, other committees to enquire into the condition of departments supplying the War Office contracts, etc., were formed. During the Boer War, also a Select Committee on National Expenditure was appointed in 1902 and re-appointed in 1903.

In India, following a memorandum<sup>3</sup> by Shri M. N. Kaul, then Secretary of the Constituent Assembly of India (Legislative), which was strongly commended for adoption by the then Speaker, Shri G. V. Mavalankar, the Estimates Committee was set up for the first time in 1950, after the present Constitution came into force. The Committee has been set up every year since then. There had been, however, a demand for the establishment of a committee like the Estimates Committee since 1938. The non-official members of the then Central Assembly had regularly voiced a demand for a committee with sufficient powers to examine

the expenditure of the Government; but the Government of the day always shelved the proposal on one pretext or another<sup>4</sup>.

In the U.K., the Committee on Estimates is a sessional committee<sup>5</sup> appointed on a Government motion from session to session. The motion contains the terms of reference of the Committee and also the names of members to be appointed to the Committee. Unlike the Public Accounts Committee, there is no mention of it in the Standing Orders of the House of Commons.

In India, the Estimates Committee is a standing committee whose scope of functions, method of appointment and other ancillary matters are provided in the Rules of Procedure and Conduct of Business in Lok Sabha<sup>6</sup>. The Motion for the election of the Committee for the following year is moved in the Lok Sabha by the Chairman of the Committee sometime (usually a fortnight) before the term of the current Committee comes to an end. The rules provide for election of members to the Committee by a system of proportional representation by single transferable vote. At the commencement of a new House, the first motion is made by a Minister of Government.

In the U.K., the number of members of the Committee is 36 and the quorum to constitute a meeting of the Commit-

<sup>3</sup>See the memorandum by Shri M. N. Kaul, Secretary, Constituent Assembly of India (Legislative), on the Reform of Parliamentary Procedure in India and the Notes thereon by Shri G. V. Mavalankar, Speaker, Constituent Assembly of India (Legislative).—Published by the Lok Sabha Secretariat.

<sup>4</sup>On the 25th August, 1937, in reply to a Question in the Central Legislative Assembly, the then Finance Member said that he did not propose to set up an Estimates Committee.

On the 8th April, 1938, during the discussion on a motion regarding the appointment of a retrenchment committee, in the Central Legislative Assembly, the then Finance Member showed his willingness to appoint instead an Estimates Committee provided a Government Official was appointed its Secretary and the subjects to be examined by the Committee were selected by the Finance Department of the Government. The House rejected the proposal because they did not like the Committee to work in an "official atmosphere".

On the 14th March, 1944 during the debate on a cut motion in the Central Legislative Assembly, the then Finance Member agreed in principle to the appointment of an Estimates Committee, but said that he could not agree to its functioning immediately.

(See L.A. Debates—1937, Vol. IV, pp. 506-7, 1938, Vol. III, pp. 2865-7 and 1944, Vol. II, p. 1072.)

<sup>5</sup>See May's Parliamentary Practice (Sixteenth Edition), pp. 680-1.

<sup>6</sup>See Rules 310-312 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

tee is fixed at seven. The Indian Committee consists of 30 members and the quorum is one-third of the number of members.

In the U.K., the Chairman of the Committee is elected by the members of the Committee after it has been constituted. In India, the Chairman is nominated by the Speaker provided that if the Deputy Speaker is a member of the Committee, he becomes the Chairman of the Committee automatically. No member, who is a Minister (which includes a Deputy Minister and a Parliamentary Secretary), can be appointed a member of the Committee and if a member after appointment to the Committee is appointed a Minister, he ceases to be a member of the Committee<sup>1</sup>. In the U.K., there is no such rule; but by convention, Ministers are not appointed members of the Committee and similarly, if a member of the Committee is appointed a Minister of Government, another member would normally be appointed to the Committee in his place<sup>2</sup>.

In India, the functions of the Committee are laid down in the Rules of Procedure and Directions by the Speaker issued from time to time, while in the U.K., the main terms of the Committee are stated in the motion and their amplitude and scope have been determined by conventions and practices from time to time. One of the interesting matters which has engaged the attention of the critics of the Indian Committee is that its terms of reference and their interpretation go possibly a little beyond its counterpart in the U.K. so far as

questions of policy are concerned. There is no doubt that in the case of the Indian Committee, the functions have been set out in the Rules of Procedure and the Directions issued by the Speaker, while in the case of the U.K. Committee one has to infer them mostly from the reports of the Committee and also from the descriptions of the various authors who have described the work and functions of the Committee in the U.K.

The functions of the Indian Committee are laid down as below:—

- (a) to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected;
- (b) to suggest alternative policies in order to bring about efficiency and economy in administration;
- (c) to examine whether the money is well laid out within the limits of the policy implied in the estimates; and
- (d) to suggest the form in which the estimates shall be presented to Parliament.

The Speaker, by a direction, has defined the amplitude of the term 'policy' referred to in clause (a) above. The direction states that "the term 'policy' relates only to policies laid down by Parliament<sup>3</sup> either by means of statutes or by specific resolutions passed by it from time to time".

<sup>1</sup>See Preamble to Rule 311 (1) of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

<sup>2</sup>No formal provision exists for the resignation of a member from the Committee.

<sup>3</sup>Shri C. D. Deshmukh, the then Finance Minister, said in the course of his speech on the 23rd May 1952, in Lok Sabha:—

"I look forward to continuing assistance from the labours of the Estimates Committee in securing that within the four corners of the policy laid down by Parliament the money authorized to be spent by it are utilized to the best possible advantage without avoidable waste."

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The Direction further provides that—

It shall be open to the Committee to examine any matter which may have been settled as a matter of policy by the Government in the discharge of its executive functions.<sup>10</sup>

With regard to clause (b), "the Committee shall not go against the policy approved by Parliament; but where it is established on evidence that a particular policy is not leading to the expected or desired results or is leading

to waste, it is the duty of the Committee to bring to the notice of the House that a change in policy is called for."<sup>11</sup>

"The fundamental objectives of the Committee are economy, efficiency in administration and ensuring that money is well laid out; but, if on close examination, it is revealed that large sums are going to waste because a certain policy is followed, the Committee may point out the defects and give reasons for the change in the policy for the consideration of the House."<sup>12</sup>

<sup>10</sup>In 1958 a question was raised in Government circles and it was widely discussed in the press that the Estimates Committee had criticised policy matters and attention was in particular drawn to para 27 of the Twenty-First Report of the Estimates Committee on the Planning Commission. In this para the Committee had *inter alia* stated as follows:

"... while the Prime Minister's formal association was absolutely necessary during the formative stages and while he would still have to provide the guidance and assistance to the Planning Commission so as to facilitate the success of planning, it is a matter for consideration whether it is still necessary for him to retain a formal connection with the Planning Commission. Similarly, it would also have to be considered whether it is necessary to continue the formal association of the Finance Minister and other Ministers of the Central Government with the Commission....."

It is not correct to say that the Committee has criticised a policy laid down by Parliament. There has never been any formal parliamentary approval of the composition of the Planning Commission. The first announcement regarding the constitution of the Planning Commission was made in the President's address to Parliament on the 31st January, 1950. Later during his Budget speech, the then Finance Minister, Dr. John Matthai, made an announcement about the personnel of the Commission.

It is interesting to note that Dr. John Matthai stated that Shri Jawaharlal Nehru, and not the Prime Minister, would be the Chairman of the Commission. None of the other members who were appointed to the Commission was a Minister of the then Government of India. It is thus clear that the intention was to constitute the Commission purely with non-officials and Prime Minister's association was in his individual capacity and not as the Prime Minister. No resolution nor a Bill was brought before Parliament to define the strength of the Commission, the qualifications for membership, the proportion between Minister and non-Minister members or the functions of the Commission. They were all settled by a Government Resolution dated the 15th March, 1950.

The strength of the Commission was changed from time to time and all these changes were made by Government in its executive ~~discretion~~ and were never placed before Parliament for their approval. Therefore, there can be no policy approved by Parliament in so far as this matter is concerned. It can at best be a policy settled by executive Government in the discharge of its executive functions to conduct the economic planning of the country. It is relevant to point out here that in the U.K. such a body would have been constituted by an Act of Parliament, *vide* for instance The Atomic Energy Authority Act.

<sup>11</sup>Direction No. 98(3) issued by the Speaker.

<sup>12</sup>Speaker, Shri M.A. Ayyangar, inaugurating the Estimates Committee in May 1959 said as follows:—

"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 implications. You must bear in mind constantly that you are a financial committee and you are concerned with all matters in which finance are involved. 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. Where the policy is leading to waste, you are entitled to comment on it in a suitable way".

In the U.K., as stated above, the motion<sup>19</sup> which is brought before the House every session for the appointment of the Committee states the terms of the Committee in the following words:

#### ESTIMATES

That a Select Committee be appointed to examine such of the estimates presented to this House as may seem fit to the Committee and to report what, if any, economies consistent with the policy implied in those estimates may be effected therein, and to suggest the form in which the estimates shall be presented for examination.

Earlier writers who have written on the Estimates Committee in the U.K. have, broadly speaking, stated that the Committee avoids all questions of policy. None of the writers has however made it clear in a detailed manner as to what is intended by them by the term 'policy'. Clearly a Committee of Parliament can only be bound by the policy laid down by Parliament. It cannot be limited in its work by the policy that Government may have laid down in the discharge of its executive functions subordinate to the policies laid down by Parliament. It is also to be noted that much of the procedure in the House of Commons is regulated by conventions and the written rules are considerably supplemented by unwritten practices. It takes a long time for the conventions and practices to find their way into the text-books. However, Professor K. C. Wheare, a distinguished writer on constitutional matters, writing in 1955 described the position in the U.K. in the following terms<sup>24</sup>—

It is not possible to argue in detail here the case for and against allowing

or encouraging the committees to consider policy or merits. It may be asserted, however, that much of the usefulness and reputation of the Public Accounts Committee, which is regarded as the model of the scrutinizing committees of the House of Commons, comes from its interest in questions of wastefulness, which certainly trespass upon questions of policy. It is certain, too, that a great part of the usefulness of the Estimates Committee comes from its freedom in interpreting its terms of reference. There has been too much theoretical dogmatism about the proper functioning of these committees. Policy does not necessarily mean party policy, nor high policy. There are many questions of policy which members of a select committee, of differing parties, could investigate without dividing themselves into Government supporters and Opposition supporters. The experience of the National Expenditure Committee and the Estimates Committee has demonstrated that already. It is wise, no doubt, not to widen the terms of reference of the committees by empowering them in express terms to consider policy. It is much better that these discussions of policy should arise necessarily from discussions of economy and value for money and efficiency, rather than that they should be raised directly.

The author further says<sup>18</sup>:

... some part of the interest which the Estimates Committee has aroused since 1945 is due to the fact that, in spite of the limitations in its terms of reference it does in fact encroach, from time to time, upon the field of 'policy'. It is difficult, of course, to know where policy begins. It has long been accepted that the Public Accounts Committee is entitled to scrutinize expenditure not only from the strict point of view of audit but also from the point of view of waste and extravagance. Does not that lead them into questions of policy? It must be admitted that it can. Even more likely is it that the Estimates Committee in considering proposals for expenditure is likely to be led into judgments upon waste and extravagance, which are bound to lead to judgments upon the wisdom of the policy which led to this expenditure.

<sup>18</sup>House of Commons Deb., 1956-57, Vol. 361, Col. 1645-6.

<sup>19</sup>Government by Committee by K. C. Wheare (p. 238)

<sup>24</sup>Government by Committee by K. C. Wheare (p. 237).

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Also Sir Gilbert Campion (later Lord Campion), Editor of *May's Parliamentary Practice* for many years, summed up the position before the Select Committee on Procedure (1945-46) as follows<sup>16</sup>:

Committees of the House of Commons on administrative matters are, in fact, advisory bodies used by the House for inquiry and to obtain information, and they generally inquire into definite happenings and criticise after the event, though as a result of the lessons they have learnt they may make suggestions for the future. It is difficult to see how such bodies could impair ministerial responsibility, even if matters of 'policy'—a very indefinite word—were assigned to them. If the House is not free to use them as it wishes, it is deprived, or deprives itself, of the most natural means of obtaining information and advice.

The above statements are amply borne out if a detailed study of the reports of the Estimates Committee in the U.K. is made. A statement prepared at random showing some of the recommendations, which touch upon policy matters, made by the Estimates Committee of the House of Commons is given in an Annexure.

In the U.K., the Estimates Committee normally works through its Sub-Committees. A number of Sub-Committees—usually five or six—are appointed and the subjects which the Committee has taken up for consideration during the year are divided among the Sub-Committees by a Steering Sub-Committee (Sub-Committee 'A') which also considers the procedural and other matters relating to the working of the Committee. The Sub-Committees take evidence

and formulate their reports which are then considered by the whole Committee.

In India, so far, the Sub-Committee system has been adopted only in one case, *viz.*, consideration of the estimates relating to the Ministry of Defence. In that case, the Sub-Committee was authorised to take evidence and formulate its report which was then considered by the whole Committee. Otherwise, the Estimates Committee itself considers all the matters which it has taken up for consideration during the year. The Committee usually appoints Study Groups and divides the subjects among the Study Groups. The Study Groups make an intensive study of the subjects which have been allotted to them and the members of the Committee may generally acquaint themselves with all subjects before the Committee. The Committee as a whole takes evidence and then comes to conclusions. It may then entrust the work of formulating the first draft of a report to the Study Group. The draft of the Study Group report is submitted to the Chairman of the Committee who may accept it or make such further changes in it as he may like. The draft report is circulated to the members of the whole Committee as the Chairman's report and it is then considered in detail by the whole Committee.

In the U.K., there is a separate Select Committee on Nationalised Industries<sup>17</sup> which has its own terms of reference. It is quite distinct from the Select Committee on Estimates since no estimates for these industries are laid before Parliament. The sphere of work of the Select Committee on Nationalised Industries is

<sup>16</sup>H.C. 189-1 (1945-46); P. 244.

<sup>17</sup>There are only eight such Nationalised Industries. The terms of reference of the Select Committee on Nationalised Industries are as follows:—

"That a Select Committee be appointed to examine the reports and accounts of the Nationalised Industries established by statute whose controlling boards are appointed by Ministers of the Crown and whose annual receipts are not wholly or mainly derived from moneys provided by Parliament or advanced from the Exchequer."



more comparable with (and indeed intentionally to some extent overlaps) that of the Committee on Public Accounts.

In India, at present the functions of examining Public Undertakings<sup>18</sup> which include nationalised industries are discharged by the Estimates Committee itself. Until now the Committee as a whole selected subjects for examination and dealt with them in the same manner as the estimates of any other department or Ministry. Quite recently, the Speaker has issued a direction constituting a Standing Sub-Committee of the Estimates Committee on the Public Undertakings. This Sub-Committee will take evidence, formulate its report which may then be considered by the whole Committee. In effect, the Sub-Committee on Public Undertakings will work as an independent entity excepting that the selection of subjects to be considered by the Sub-Committee will be made by the whole Committee and the draft report of the Sub-Committee will be considered by the whole Committee. The members of the Sub-Committee will also be selected by the Chairman of the Committee from amongst members of the Estimates Committee and the Sub-Committee will work under the guidance and directions of the Chairman of the Estimates Committee. This Committee will work on the same model as the Sub-Committee on Defence and it is to be seen how the experiment will work out in practice.

Both in the U.K. and India, work of the Estimates Committee begins after the estimates of expenditure have been

presented to the House. But in the U.K., the Estimates Committee frequently reports before the final vote on the estimates takes place, so that the House may be in possession of the views of the Estimates Committee before it has finally accepted the proposals of the Government in relation to those matters which the Estimates Committee has taken up for consideration during the year. This is possible because the estimates are voted nearly 5 or 6 months after these have been presented to Parliament<sup>19</sup>. It may, however, be pointed out that the consideration of estimates in the Committee of Supply is in no way contingent upon their previous consideration by the Estimates Committee.

In India, the reports of the Estimates Committee are submitted throughout the year irrespective of the fact that the House has voted the estimates. This is so because the estimates are presented to the House on the last day of February and they are passed before the end of April. In practice, the Estimates Committee has found it difficult to complete its work within the two months at its disposal. Legally and constitutionally, the reports of the Estimates Committee are not binding on the House or the Government. They are recommendations which the Government may accept or may feel bound not to accept because of various difficulties. Since the estimates are voted by Parliament in the shape of authorisations not exceeding certain upper limits, it is always open to Government to spend less and to accept the recommendations of the

<sup>18</sup>A public undertaking for the purposes of examination by the Estimates Committee has been defined in a direction of the Speaker as follows:

"... a public undertaking means an organisation endowed with a legal personality and set up by or under the provisions of a statute for undertaking on behalf of the Government of India an enterprise of industrial, commercial or financial nature or a special service in the public interest and possessing a large measure of administrative and financial autonomy."

<sup>19</sup>The Estimates are presented sometime in February and they are finally voted in July or August.

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Estimates Committee and effect economy. In any case the views of the Estimates Committee would have been reflected in the next year's estimates and the House can always draw attention to the previous reports and call for explanations from the Minister concerned as to why the estimates have not been prepared after taking into account the recommendations of the Estimates Committee. In practice, therefore, there is sufficient time for the Estimates Committee to investigate thoroughly into the matters and make considered recommendations and for Government to examine the recommendations of the Committee with care and for the House to give its considered opinion after taking into account the views of the Committee and Government.

In India, it is open to the Committee to call for details in respect of expenditure charged on the Consolidated Fund of India. The Speaker has also directed the Committee to scrutinise whether the classification of estimates between 'Voted' and 'Charged' has been done strictly in accordance with the provisions of the Constitution and Acts of Parliament.

In the U.K., the Estimates Committee does not undertake any tours or study on the spot of the organisations which they are examining for the time being. Sub-Committees are, however, given power to adjourn from place to place and have on occasions even travelled overseas (e.g., to Nageria). The Sub-Committees would not normally visit the central offices of Ministries, but frequently visit out-stations<sup>20</sup>. In India, the Study

Groups or the Sub-Committee or the whole Committee make frequent visits throughout the year to the central or out-station offices of the various organisations, departments or Ministries which are under examination by them. They obtain a visual impression of the organisation as well as information from the officers on the spot. This is of course done informally and only with a view to make a thorough study of the subject. The formal evidence is taken and formal discussions take place later in the Committee room in Parliament House at which the information obtained as a result of the Study Tour is exchanged with top officials of the organisation and their considered views obtained. The report of the Committee is based mainly on the formal evidence and formal discussions that have taken place in the Committee room. When Committees are on a study tour, informal meetings may be held at the place of visit but at such meetings no decisions are taken or minutes recorded.

In the U.K., the sub-committees frequently call non-officials to give evidence if, in their opinion, the advice of a non-official is germane to the inquiry. In India, too, non-officials may be invited to appear before the Committee to give evidence on any matter before the Committee<sup>21</sup>.

In the U.K., the meetings of the Committee or Sub-Committee are generally held during sessions of the House although by an authorisation from the House the Committee can meet during recess. The Committee or Sub-Com-

<sup>20</sup> Sub-Committee 'B' visited three Research establishments of the Department of Scientific and Industrial Research and the premises of the British Coal Utilisation Research Association and of the Printing, Packaging and Allied Trades Research Association. (Fifth Report (1957-58) from the Select Committee on Estimates on the Department of Scientific & Industrial Research).

<sup>21</sup> Since 1953-54, the Estimates Committee has called many non-official witnesses to give evidence. In 1958-59 alone about 15 such witnesses were called. They included retired Government servants, representatives of private industry, experts, outstanding public men and M. P.s.

mittee generally meets for about 2 hours at a time. In India, on the other hand, the Committee, the Study Groups and the Sub-Committees meet throughout the year, whether the House is in session or not. There is no obligation on the part of the Committee to seek any authorisation from the House. The duration of the sittings of Committees varies from 3 to 6 hours a day.

In the U.K., the report is from the Committee to the House and the mode of address is "Your Committee". The report is not signed by the members of the Committee because the report contains conclusions of the majority of the members and the proceedings of the Committee show how the members voted and what their differences were. In India, the report is signed by the Chairman and is presented by him on behalf of the Committee. The mode of presentation of report is "I, the Chairman, having been authorised by the Committee to submit this report on their behalf, present the report". The proceedings of the Committee indicate the manner in which the report was considered and the names and the number of members who were present when the report was approved. So far, the Committee has obtained unanimity on the conclusions which it has embodied in its reports. In one case only with regard to a particular matter in a report a member wished that his alternative view should be recorded in the minutes of the sitting of the Committee which was done. Sometimes, the Committee<sup>2</sup> itself may indicate in the report that there was another view in the Committee which was not accepted or there was a majority view for a particular matter without indicating who were in the minority or majority. The Committee does not work on party lines and therefore there is a spirit of compromise and give and take and the

matters are not pressed to division and no votes are recorded.

Both in India and the U.K., there are no minutes of dissent to the reports. In the U.K., the proceedings of the Committee indicate whether more than one draft report was presented and if so, which one was taken up for consideration. The evidence given before the Committee is presented to the House along with the report although the Committee is not obliged to report *all* the evidence taken before it. The report also gives indications as to the part of the evidence on which the particular observations or recommendations contained in the report are based. The minutes are thus written very briefly and give no indication about the gist of evidence or trend of discussions in the Committee. In India, on the other hand, the evidence is not presented to the House nor is it printed or made available to anybody. It forms part of the record of the Committee. Consequently, minutes are written elaborately and they indicate the gist of the discussions that took place in the Committee. Such minutes are impersonal and they may only indicate the salient features of a particular point of view or an observation. These minutes are presented to the House along with the report or a little later. There has been some discussion about the merits and demerits of presenting verbatim evidence given before the Committee to the House and thus making it available to the Government and the public. The advantages are of course obvious inasmuch as it will give a complete background to the readers of the reports of the Estimates Committee as to the trend of discussion in the Committee and the volume and strength of opinion and the level at which it was expressed before the Committee. But those who advocate that the evidence should not be

<sup>2</sup>Such a procedure is prohibited under the U.K. practice.

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divulged argue that the officials of the Government and others who appear before the Committee should speak freely and frankly and give their opinions and observations on the various matters before the Committee. If it were known that the evidence would be made public or made available to their superiors the officials might perhaps refrain from expressing their candid opinions and may only give formal replies which may prevent the Committee from coming to correct conclusions. Secondly, the evidence is so voluminous that it may be very costly to get it printed and circulated. Furthermore, most of the evidence given by the officials is based on voluminous written material so that the evidence by itself may not be quite fully explanatory unless the other documents are also printed along with it and this may raise questions of editing and also questions of infringing the secrecy of documents.

In India, after the report is finalised by the Committee, it is sent to the Ministry or Department concerned for verification of facts contained therein. A copy is also sent to the concerned Financial Adviser for similar purpose. The idea is that the factual statements made in the report should be correct in all respects so that there is no dispute between the Committee and the Department as to the facts later on. The Ministries while communicating corrections of facts sometimes do give their comments on the recommendations contained in the report. The Committee may also consider the comments of the Ministry and if any new facts have been brought to their attention even at that stage the Committee may review its recommendations and amend or modify its earlier

conclusions. The occasions on which the Committee has reconsidered its recommendations in the draft report have been very few; firstly, because the Ministries did not give their comments on proposed recommendations and secondly, only in very few cases any new facts were brought to the attention of the Committee to necessitate revision of its earlier conclusions. The Ministries are enjoined by a letter every time that the draft report should be kept secret before it is presented to the House. This direction of the Committee has always been followed by the Ministries and Departments.

In the U.K., the draft is not sent to the Ministry for verification. The Committee finalises its report on the basis of the evidence given before it and the draft report is not shown to anybody before it is presented to the House. After the report is presented to the House, the Ministries are at liberty to give their minutes or comments on the reports and present them to the House. In some cases it has happened that Government has disputed the facts contained in the report of the Estimates Committee<sup>23</sup>.

In India, the recommendations of the Estimates Committee are, since 1958, classified at the end of each report in an Appendix under the following heads:

- (a) Recommendations for improving the organisation and working of the Department.
- (b) Recommendations for effecting economy—an analysis of more important recommendations directed towards economy is also given. Where

<sup>23</sup>See White Paper on the report on *Foreign Office*. The Estimates Committee presented to the House of Commons on the 10th December, 1964, its Seventh Report on the *Foreign Service*. On the 17th December 1964, in answer to a question the Foreign Secretary referred to certain errors in the report. The Government subsequently presented a White Paper.

(H.C. Debates, Vol. 596, Cols. 683-3) and Appendix I of the Second Special Report of the Estimates Committee 1954-55.

possible, money value is also computed.

- (c) Miscellaneous or general recommendations.

It is however to be noted that the Committee does not proceed to analyse the figures comprising the estimates with a view to seeking justification for each sum included in the estimates just as a Budget Officer of the Government will do. Since the figures represent the activities of the Ministry or Department and the Committee is interested in examining those activities it scrutinizes them from the following points of view:

- (a) whether most modern and economical methods have been employed;
- (b) whether persons of requisite calibre on proper wages with necessary amenities and in right numbers have been put on the job;
- (c) whether duplication, delays and defective contracts have been avoided;
- (d) whether right consultation has preceded the execution of the job; and
- (e) whether the production is worth the money spent on it.

In the U.K., the reports do not contain any classification of recommendations.

In other respects the examination of the Estimates is conducted on the same lines as in India.

In India, no member of the Estimates Committee can be a member of a Committee appointed by Government for examination of a matter which is concurrently under the examination of the Estimates Committee, unless he has taken the permission of the Speaker before accepting nomination on the Government Committee. The Speaker, after consultation, with the Chairman of the Committee, may either allow a member to be a member or Chairman of a Government Committee or advise him to decline<sup>24</sup> the offer. The member may if he is keen on accepting nomination on the Government Committee resign<sup>25</sup> from the Estimates Committee. Where, however, the Speaker has permitted a member of the Estimates Committee to be a member<sup>26</sup> or Chairman of a Government Committee on the same subject which the Estimates Committee had been examining then, he has always stipulated that the report of the Government Committee should be made available to the Estimates Committee and it should not be released for publication without the permission of the Estimates Committee or before the Estimates Committee has presented its own report on the same matter<sup>27</sup>.

In the U.K., there are no such restrictions on the appointment of members of

<sup>24</sup>There is no such case on file.

<sup>25</sup>(a) Shri Mahavir Tyagi, Member, Estimates Committee resigned from the Committee on his appointment as Chairman of Government Committee regarding Direct Taxes Administration Enquiry (1968). The Estimates Committee had decided earlier to take up the examination of the Income-Tax Department.

(b) Shrimati Renuka Ray, Member, Estimates Committee (1948-50), resigned from the Committee on her appointment as a member of the Study Team on Social Welfare.

<sup>26</sup>In cases where the Estimates Committee was not considering the same subject, the stipulation that the report of the Government Committee should be made available to the Estimates Committee was not made.

<sup>27</sup>(a) Zaidi Committee report on Land Reclamation Project, 1953.

(b) Rau Committee on Damodar Valley Corporation, 1954.

(c) Enquiry Committee on Banaras Hindu University, 1957-58.

(d) Direct Taxes Administration Enquiry Committee, (1958).



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the Estimates Committee to the Committees appointed by Government for investigation of the same subject which is under the examination of the Estimates Committee.

Both in India and the U.K., the Committee has full powers to send for papers, persons, and records and the Government have the discretion to decline production of any paper if, in their opinion, its disclosure is prejudicial to the safety or interest of the State. In India, however, there is a further proviso that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker whose decision shall be final. Occasionally also Government have pleaded that, certain information being of a secret nature, papers and records relevant thereto might not be produced before the Committee. The Committee has insisted that unless Government certify that the disclosure of any paper is prejudicial to the safety or interest of the State all papers of confidential or secret nature should be produced before the Committee. In recent years, a convention has been established that if a witness says that a particular paper is secret, he may show it to the Chairman and if the Chairman is satisfied it would not be produced before the Committee and the Chairman may explain the position to the Committee. But if he directs that the paper should be produced before the Committee, the Government may either do so or refer the matter to the Speaker for his guidance. So far the question of production of secret papers has arisen only in a few cases and the matter has been settled to the satisfaction of the Committee and the Government by discussion and no case

has come up to the Speaker. In the U.K., the Speaker has no such powers in the matter and all such questions are disposed of by the Committee itself. If the Committee should feel that a paper which has been withheld from the Committee should be produced before it, the only course left open to it is to refer the matter to the House for its decision.

In India, after the report has been presented to the House, the Ministry or the Department concerned is to take action on the various recommendations and conclusions contained in the report which are summarised at the end of the report and consecutively numbered. After a lapse of some reasonable time, the Ministry or Department concerned is required to intimate to the Committee the nature of action taken on the recommendations and suggestions. The replies received from the Ministries and Departments concerned are analysed by the Committee in four Statements:

- (i) Statement I shows the recommendations and suggestions, etc., agreed to by the Government and implemented.
- (ii) Statement II shows the recommendations, which it has not been possible for the Ministry or Department to implement for reasons stated by them and which the Committee on reconsideration thinks should not be pressed.
- (iii) Statement III shows the recommendations which the Government are unable to accept for the reasons given by them but which the Committee feels should be implemented.
- (iv) Statement IV shows the recommendations to which final replies of Government have not been received.



These four statements are presented to the House in the form of a further report from the Committee and then it is left to the House to take such further action as it may like.

In India, the action taken by Government on the reports is sifted, analysed and considered by a Standing Sub-Committee of the Estimates Committee which is appointed at the beginning of each year. The Sub-Committee goes into every recommendation thoroughly and may sometimes call the departmental witnesses to amplify the written statement supplied by the Department. The report of the Sub-Committee is then placed before the whole Committee and it is only after the Committee has deliberated on it and approved it, that the final report is presented to the House. Sometimes this process of watching the implementation of recommendations is spread over many years<sup>24</sup> and the successive Committees consider them. This method has proved effective because the Ministers are answerable to the Committee for every recommendation and different Committees have had an opportunity of examining the same matter at different periods so that the soundness of the recommendation made by the Committee is open to test subsequently by different persons at different periods. So far, there have been no cases when there has been a conflict between the views of successive Committees. The Committee may, through lapse of time and in the changed circumstances, agree not to press a recommendation; but there has been no case

where the Committee has fundamentally disagreed with its predecessors on the merit or value of any recommendation.

In the U.K., there is no regular machinery whereby the implementation of recommendations is watched. Each Member is left to spell out the Government's attitude to a recommendation of the Committee either from the memoranda written by the Government departments or from the white papers placed before the House of Commons or from answers to Parliamentary questions or Government statements made in debate or otherwise from time to time.

In India, the House does not discuss the report of the Estimates Committee as such; but during the discussion on the budget and the demands for grants copious references are made to the reports of the Estimates Committee by members of the Opposition as well as Government Party and the Minister concerned is required to answer most of the criticisms made in the reports of the Estimates Committee indirectly in such debates. Reports of the Estimates Committee are also referred to during Question time when members seek information on the implementation of recommendations.

In the U.K., the Estimates Committee ceases to have any concern with the reports after they have been presented to the House. The same Committee or the successor Committee is not required to report the progress of the implementa-

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<sup>24</sup> The Committee is conscious of the fact that it should not proke a matter unnecessarily so that it may not have to deal with a large accumulation of arrears as years roll on. The delays are at present due to the slackness on the part of Government Departments in furnishing replies. Such belated views of the Government sometimes throw the recommendations of the Committee out of focus and it is waste of time and energy to pursue such recommendations. In such cases the Committee would do well to close the matter by making a report to the House on the delays in receiving replies and leave the matter to be settled by the House in such manner as it deems fit.

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tation of recommendations. After the presentation of a report the Ministry or Department concerned usually sends its reply to the Committee which then publishes it as a separate report. In such reports the Committee frequently comments on the departmental observations and calls for a further reply after taking evidence on the reply itself from departmental witnesses. Members do refer on Supply days to the reports of the Estimates Committee and ask the Minister what he has done in regard to the implementation of its recommendations. In recent years there have been a few instances<sup>29</sup> where the reports of the Estimates Committee have been discussed by the House on a specific motion.

In India, the Rules of Procedure of the House provide that the Speaker may from time to time issue directions to the Chairman of the Committee as he may consider necessary for regulating its procedure and organisation of work. Also, the Chairman may, if he thinks fit, refer any point of procedure to the Speaker for his decision. In pursuance of this power, the Speaker has issued a number of directions from time to time regulating the procedure of the Committee. These directions have been issued by the Speaker after considering concrete cases that have been brought to his notice by the Chairman or the Committee. By the rules and directions, the Committee or the Chairman of the Committee is bound to refer certain matters of procedure to the Speaker for

his decision or guidance, in case any need arises. This is done to avoid references to the House. The Committee by convention shows its draft reports to the Speaker before they are presented to the House. However, the Speaker has merely perused these reports and has never referred any matter to the Committee for reconsideration, amplification or elucidation.

In the U.K., as stated earlier, the Speaker is not concerned with the day to day functioning of the Committee and therefore no power is vested in him to give directions to the Committee. The Committee also does not inform him privately of the progress of the matters under consideration by the Committee. He is not officially cognizant of any matter until the Committee makes a report to the House.

In India, sometimes specific matters<sup>30</sup> have been referred by the Speaker or the House to the Committee for investigation and report. In the U.K., there is no such practice unless the matter pertains to the internal functioning of the Committee, e.g., on the 27th June, 1951, a complaint that written evidence submitted to a sub-committee of the Estimates Committee had been prematurely published was referred to the Estimates Committee for investigation and the Committee reported thereon.

In India, the Speaker may on a request being made to him and when

<sup>29</sup>23rd July, 1951—Debate on the Third Report (on Rearmament).

<sup>30</sup>1st July, 1953—Debate on the Eighth Report (on School Buildings).

20th Feb., 1950—Debate on the First Report (on the Police in England and Wales).

<sup>29</sup>25th March, 1951—Matter relating to loss in Railway collieries arising out of ~~the~~ *the* ~~Committee~~ *Chairman* on the relevant Supply Demand was referred by the Speaker to the Estimates Committee.

<sup>30</sup>21st February, 1951—Matter relating to Dindakuranyi Scheme arising out of a ~~Chairman~~ *Chairman* on a cut motion was referred by the Speaker to the Estimates Committee.

10th March, 1950—Matter relating to shortfall in production at the Bharat Electronics arising out of ~~re-~~ *re-* ~~ferences~~ *re-* ~~to~~ *to* questions was referred by the Speaker to the Estimates Committee.

the House is not in session<sup>21</sup> order the printing, publication or circulation of the report of the Committee before it is presented to the House. In that case, the report shall be presented to the House during its next session at the first convenient opportunity. Any business pending before the Committee does not lapse by reason only of the prorogation of the House and the Committee continues to function notwithstanding its prorogation. A Committee which is unable to complete its work before the expiration of its term or before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any preliminary report, memorandum or note which the Committee may have prepared or any evidence that the Committee may have taken is made available to the new Committee<sup>22</sup>. If a Committee has completed to report but is not able to present it to the House before its dissolution, the report is laid<sup>23</sup> on the Table by the Secretary of the House in the new House.

In the U.K., no such provision exists. The Committee becomes *functus officio* on prorogation and there is no provision whereby a successor Committee can take up the unfinished work of the pre-

vious Committee, unless the House authorises the new Committee to take up the work by specifically mentioning it in the motion<sup>24</sup> for the appointment of the new Committee or by a separate *ad hoc* Committee. There is also no provision for the printing, publication or circulation of the report of the Committee before its presentation to the House.

In India, written questionnaires are sent to the departmental witnesses for written replies before they are called to give oral evidence. Even during evidence, when questions are asked the witness may not give an answer immediately but suggest that a written memorandum will be supplied later. Consequently much of the work of the Committee is carried on in writing and less reliance is placed on or use is made of the oral evidence because it is only in amplification of the written replies. While the Committee calls for one or two witnesses from a Ministry, a practice has grown for the heads of Ministries and Departments to bring with them a large number of subordinate officers and records to the Committee. During the evidence, very little use is made of the records brought by the subordinate officers and of course there is very little consultation between

<sup>21</sup>45th Report (First Lok Sabha) on the Ministry of Community Development and 68th Report (First Lok Sabha) on the Ministry of Defence (Ordnance Factories).

<sup>22</sup>Sixth Report of 1953-54.

Seventh Report of 1953-54.

Tenth Report of 1953-54. (Minutes dated the 14th May, 1953—Vol. 3).

Thirty-third Report (Second Lok Sabha).

Thirty-sixth Report (Second Lok Sabha).

<sup>23</sup>67th Report (First Lok Sabha) Ministry of Defence—Hindustan Aircraft.

68th Report (First Lok Sabha) Ministry of Defence—Ordnance Factories.

<sup>24</sup>The following paragraph from the motion appointing the Estimates Committee for 1956-57 is relevant :

That the minutes of the Evidence taken before Sub-Committees D, B and F appointed by the Select Committee on Estimates in the 11st Session of Parliament, which were laid before the House on 9th November, be referred to the Committee.—(House of Commons Deb., 1956-57; Vol. 564, Coln. 1645-46).

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the heads of Departments and junior officers in the Committee. For most of the time, therefore, the junior subordinate officers are merely present there to watch the proceedings. The Committee has time and again brought it to the notice of the Ministries that only principal witnesses should come; but it has not excluded the other junior and subordinate officers from the meeting lest departmental witnesses should feel that they had not the necessary assistance at their disposal while giving their evidence. In the U.K., although the Departments concerned are asked to send whatever witnesses are most suitable only a few witnesses who are intimately connected with the subject matter of discussions appear before the Committee. Much of the material is collected in oral evidence. The witnesses give as much information as possible orally and there is very little left to be given in writing. Consequently, the Committee gets a more vivid picture and is able to appreciate the background better and its report is largely based on such evidence. This is not to say that written evidence is not placed before the Committee. Usually in the first instance Departments do send written memoranda and later may also supply further documents in amplification of oral evidence, all of which are printed along with oral evidence, but the volume of such written evidence is considerably small compared to the practice in India in this regard.

In the U.K., the Committee works mostly on Party lines as is evident from the divisions in the Committee on more important matters under discussion by the Committee. In India, on the other hand, the Committee works on non-party lines and there has been no division so far in the Committee on any

matter before the Committee. Members of the Opposition have frequently testified to the non-party character of the Committee<sup>30</sup>.

In India while the Committee is deliberating or taking evidence, refreshments are served. The Members also smoke and there is a good deal of informal atmosphere. The Committee also sits for a number of hours at a stretch. In the U.K., the Committee generally sits not more than two hours at a time. There is a formal atmosphere. No refreshments of any kind are served though members do smoke during deliberations but that too is prohibited during the taking of evidence.

Both in the U.K. and India the Estimates Committee has been working without the aid of the experts, unlike the Congressional Committees of the United States of America, that is to say, the Committee does not have the assistance of whole-time servants who are experts technically in the subjects which are under its examination. The Committee has not even the assistance of the Comptroller and Auditor-General. It has always been held that the Committee is a layman's committee and it must bring to bear the point of view of the layman on the matters under examination. If the Committee were to be assisted by experts then it might well happen that the Committee is dominated by those experts and ultimately it may lead to putting up experts on the Committee against the experts of the Government. Thereby there is a danger of conflict between the Committee and the Government and Parliament will lose the benefit of the advice of its own members assembled in the Estimates Committee. If an expert enquiry is wanted it should best be left to the de-

<sup>30</sup>See 'A Review of the Financial Committee, 1959'.

partment to constitute such an enquiry and the experts should be left to themselves to make suggestions. The Estimates Committee should not become a tool for expert examination which, properly speaking, is the sphere of the executive government.

In the U.K., the question of association of experts with the Committee has been raised in the past now and again, but the House of Commons wisely has always decided against it. In India, on the other hand, the Committee has never raised any question of expert assistance as during the years of its existence it has felt quite confident of dealing with the matters that have come before it in its own way. The previous Chairman of the Committee has, however, sometimes raised the question of associating experts with the Committee on a temporary basis but on the above considerations being pointed out to him he agreed that it was not correct in the long run to press for such assistance. The Committee should call, and in fact, the Indian Estimates Committee has often called, official and non-official experts as witnesses and gathered their opinion about the various matters under its examination and then the Committee, after having sifted such evidence, has come to its own conclusions without in any way basing its reports on direct reference to such evidence save in a few isolated instances<sup>36</sup>.

Both in India and the U.K., the Committees have been very much alive to the need of keeping separate the Parliamentary and executive responsibilities. The Committees have in various ways tried to steer clear of executive responsibilities, that is, they have avoided

all such steps which might involve them at the stage of formulation of policy or in the execution of the policy. For this reason the Indian Committee has, despite suggestions made to it from time to time, always turned down the proposal that it should examine the supplementary estimates before they are presented to the House. Since the supplementary estimates before presentation to the House are still in the executive field the Committee has thought it unwise to begin examination of the estimates at that stage. The Committee has always held that it could be fully seized of the supplementary estimates after they are presented to the House. Similarly, whenever the Committee has watched the implementation of the recommendations made by it from time to time the Committee has endeavoured to keep itself aloof from executive responsibility in watching the actual implementation. It is enough for the Committee if the Government say that they had accepted the recommendation or that necessary steps were being taken by them to implement a suggestion. The Committee has not gone further to see whether in fact the recommendation has been implemented. Of course, when the Committee takes up the examination of the estimates of the Ministry in the second or subsequent round it might examine generally the effect of the implementation of previous recommendations and so on but the Committee has not pursued the actual implementation in individual cases.

It has sometimes been said<sup>37</sup> that the officers who attend before the Estimates Committee are required to defend the policy of the Government. This is not a fact. The Committee has never asked

<sup>36</sup>Thirty-third Report of the Estimates Committee (Second Lok Sabha) on Steel.

<sup>37</sup>Address by Shri A. K. Chanda on Parliamentary control over national expenditure, to the members of the Madras Legislature.—(*Madras Legislature Information*, March 1959, Vol. I, No. 1).

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the official witnesses to explain the reasons behind or merits or the demerits of the Government's policy. The Committee has always thought that that lay in the sphere of a Minister and the House. The Committee has asked the departmental witnesses to explain how a policy is being implemented in practice by the executive officers. That is perfectly within the competence of the officers to say and to explain. Even if a question borders on a policy matter and the departmental witness says that that was a matter which lay in the sphere of the Minister to explain in the House the Committee has left the matter there and not tried to probe into it further. The idea behind calling departmental witnesses to appear before the Committee is that since the expenditure is authorised by the Civil Servants and is actually incurred by them it is they, properly speaking, who should be answerable for any wastes or mis-spending of funds in the execution of the policy laid down by Parliament. Therefore, there is a rule that the Committee should not ask the Ministers to appear before the Committee because firstly the Ministers are concerned with policy matters which the Committee does not enquire into and secondly the Ministers do not sanction day to day expenditures under the rules of business of Government and therefore they would not be able to explain why particular expenditures have been incurred. It is therefore that the Civil Servants and more particularly the Head of the Ministry or Department or Undertaking is called upon to justify the expenditures incurred by the Ministry or Depart-

ment. This position obtains both in India and the U.K.

It is also said<sup>19</sup> that the value of the recommendations made by the Committee is detracted from because the Government do not accept them. This impression is erroneous firstly because in the majority of cases the Government do accept recommendations as will be clear from the reports on the implementation of recommendations submitted by the Estimates Committee to the House from time to time. In some cases where Government have difficulties in accepting a recommendation and have reasons for that view they generally place the matter again before the Committee for its reconsideration. The Committee has in many cases accepted the Government's difficulties and dropped its earlier recommendation. It is only in some cases that the Government have not been able to implement the recommendations at once. It should, however, be noted that the Committee's main task is to influence the Government in its long-term thinking and plans and it will be difficult for any Government to come forward immediately with the acceptance of all the recommendations. The Government have naturally to consider each matter carefully and to consult the various interests involved before it can accept a recommendation. Sometimes the Committee's recommendations are of a far-reaching character and even though the Government have in the beginning demurred in accepting a recommendation they have eventually<sup>20</sup> done so. Successive Finance Ministers and other Ministers of Government

<sup>19</sup>Address by Shri A.K. Chanda on Parliamentary control over national expenditure, to the members of the Madras Legislature. (*Madras Legislature Information*, March 1959, Vol. I, No. 1).

<sup>20</sup>Nationalisation of the *Imperial Bank* vide paragraph 38, Ninth Report.



have always acknowledged the usefulness and influence of the Committee<sup>40</sup>.

The Indian Committee has come to play an important role in the Parliamentary system and this has been widely acknowledged in India and<sup>41</sup> abroad. For an objective appraisal of the Committee's work it will be necessary to go through the numerous editorials and articles in the daily papers and journals, the debates in Parliament and individual letters written by knowledgeable persons and experts on the work of the Committee. Barring an occasional criticism here and there on the merits or details of a recommendation or observation of the Committee there has been uniform appreciation of the work of the Committee and its useful role<sup>42</sup> in the financial administration of the country.

Similarly in the U.K., the Committee has won appreciation of its work from M.Ps, Press and Government. During war-time the Select Committee on National Expenditure (counterpart of peace-time Estimates Committee) did

valuable work and earned the praise of the then Prime Minister, Mr. (now Sir) Winston Churchill. The following extracts from his memoirs of the Second World War will show the extent to which the Committee succeeded in exerting an influence on the Government.

I have today read the report of the Select Committee on National Expenditure about tanks and guns. It is a masterly indictment which reflects on all who have been concerned at the War Office and the Ministry of Supply. It also reflects upon me as head of the Government, and upon the whole organisation.

So far only a formal acknowledgement has been sent to Sir John Wardlaw-Milne and his Committee. A very much more detailed and reasoned reply must be prepared, and should be in the hands of the Committee before Parliament meets on September 29. Let me know therefore before Wednesday next what you have done and are going to do in this field, and how far you are able to meet the criticisms of the Committee. Give me also the materials on which I can base a reply to the Committee, who

<sup>40</sup>Shri C. D. Deshmukh, Finance Minister, in a speech delivered in the House on the 10th April, 1951 said:

"All I can say is that we have every intention of treating the Estimates Committee as an ally and of seeing to what extent they will help us to conserve and apply our resources to the best possible advantage."

Winding up the debate in connection with the voting of Demands for Grants relating to the Ministry of Irrigation and Power, Shri Gulzari Lal Nanda, Minister for Irrigation and Power, said on the 7th April, 1954:

"I may also pay a special tribute to the work of the Estimates Committee..... I must say that their work in totality was exceedingly useful and of great assistance, and I must acknowledge it."

<sup>41</sup>In *Public Finance Survey: India* issued by the Department of Economic Affairs, United Nations, 1951 the following passage appears:

"..... Many of these reforms have been taken on the suggestion of the new Select Committee on the Estimates which started work in April, 1950, and before the end of the year had issued three reports, conspicuous for the range of their coverage and constructive criticism. The Committee is following a method of investigation by sub-committees which deal with particular problems or projects as a whole, rather than stick closely to the estimates of a particular ministry. Their major contribution has been advice on the reorganisation of ministries, which the Government has already taken up for early implementation."

<sup>42</sup>See "Recent Political Developments in India—II" by W. H. Morris-Jones. (*Parliamentary Affairs*, Winter 1958-59, Vol. XII, No. 1).



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have certainly rendered a high service in bringing this tangle of inefficiency and incompetence to my notice. It is now more than a fortnight since this report was put in your hands and those of the Ministry of Supply.

I must regard this matter as most serious, and one which requires immediate proposals for action from yourself, the Secretary of State for War, and the Minister of Supply so that at any rate

the future may be safeguarded."<sup>43</sup>

"Sir John Wardlaw-Milne was the Chairman of the powerful all-party Finance Committee whose reports of cases of administrative waste and inefficiency I had always studied with close attention. The Committee had a great deal of information at their disposal and many contacts with the outer circle of our war-machine."<sup>44</sup>

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### ANNEXURE

#### RECOMMENDATIONS CONTAINED IN U.K. REPORTS OF ESTIMATES COMMITTEE AND NATIONAL EXPENDITURE COMMITTEE INVOLVING CRITICISM OF POLICIES

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Year	Number of the Report	Para No.	Summary of Recommendations
<i>A—Recommendations criticising Government Policies</i>			
1939-40	4th (NBC)	68—72	Referring to Government's policy of subsidising food prices, the Committee stated that the adoption of the policy had opened a range of problems for enquiry which might otherwise possibly have been considered to be outside their terms of reference and also remarked that some accurate factual records were required in order that the Ministry might be able to review the facts of its operation and consider future policy.

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<sup>43</sup>Second World War, Vol. IV, pp. 795-6.  
<sup>44</sup>Second World War, Vol. IV, p. 352.

*Journal of Parliamentary Information*

Year	Number of the Report	Para No.	Summary of Recommendations
1940-41	6th (NEC)	20	<p>Referring to the significance of price policy in carrying out the programme of agricultural production, the Committee pointed out that action had not been based on a preconceived and clearly defined plan and had been of a tentative nature. The Committee further stated as follows:</p> <p style="padding-left: 40px;">"Considering our terms of reference, we do not feel entitled to say more than that if waste is to be directed into the most fruitful channels it is of great importance that a continuous planned price policy should be evolved."</p>
1940-41	24th	10	<p>The Committee recommended reconsideration of the release of miners from the Services. [According to Government's reply <i>vide</i> page 48 item (d) of First Report of 1941-42, this recommendation affected Government policy.]</p>
1955-56	5th	45	<p>Referring to two major policy decisions taken by Government in regard to certain building operations, the Committee proceeded to remark as follows :</p> <p style="padding-left: 40px;">"It is not the function of your Committee to comment on decisions of policy. Nevertheless your Committee recommend that where such a decision necessarily involves, as this decision did, abandonment of the productive use of money already spent, the department concerned should estimate the probable extent of the loss to the public together with the financial factors making up this loss."</p>
1953-54	3rd	2-5	<p>After pointing out that they were not empowered to comment on the policy which had given rise to certain votes, the Committee recommended that no more public money should be invested in or lent to the British Field Products Ltd.</p>
1955-56	7th	72	<p>Referring to the general policy of the Naval Research Establishment to have as many tools as possible made outside, the Committee stated as follows :</p> <p style="padding-left: 40px;">"Your Committee do not suggest that the policy should be reversed, but they recommend that it should be left entirely to the discretion of the superintendents whether the tools which they require are made in their own tool rooms or not."</p>
<i>B—Recommendations touching upon Government Policies</i>			
1955-56	4th	Legal Aid Scheme	<p>} The Committee have not criticised the policy but only suggested a better implementation of the policy.</p>
1956-57	3rd	Stores and Ordnance Depots of the Service Departments.	

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Year	Number of the Report	Para. No	Summary of Recommendations
1951-52	6th	66	Referring to the satisfactory advances made in child-care services since the Act of 1948, the Committee suggested re-examination of the existing policy when they recommended that each Secretary of State should appoint a Committee investigating every aspect of the service for which he was responsible and particularly the financial practice and policy.
1955-56	1st	27	The Committee recommended that all municipalities should be encouraged to own and operate airports and to this end the Ministry should re-state its policy on the municipal ownership of aerodromes and the conditions upon which agreement should be based.
1953-54	2nd	21	<i>Abolition of the Road Fund</i> —The Committee suggested that it would lead to greater clarity of the estimates if the Road Funds were abolished and the expenditure on roads provided for in a normal departmental vote and added—  “They, therefore, recommend that subject to there being no reasons of policy for the continuance of the present system consideration should be given by the Treasury to the introduction of the necessary legislation.”
<i>C—Recommendations tending to affect Policy</i>			
1939-40	3rd	30	The Committee recommended the formation of Local Committees consisting of representatives of organisations and associations connected with land and its management, to give advice on the requisitioning of lands for Defence purposes.
1941-42	8th	9—11	The Committee recommended the setting up of Regional Executive Board consisting of a whole-time paid Chairman and regional representatives of the Ministry of Labour and the three Supply Departments to perform various functions.
1941-42	8th	24—30 and 39	The Committee also made recommendations on general aspects such as devolution of responsibility to industrial organisations, methods affecting the spirit of the workers employed in industry and the question of taking workers into confidence about matters affecting Production.
1941-43	13th		An enquiry into the appointment of two persons from private industry to positions in Government Departments, with which their own firms had contractual relations, was made and a report was presented by the Committee, without any change having been made in their terms of reference.

*Journal of Parliamentary Information*

Year	Number of the Report	Para No.	Summary of Recommendations
1941-42	16th	109	<p>The Committee remarked that they were not satisfied that the existing arrangements for ministerial control of establishments in the Treasury were adequate and recommended the creation of a new post of Parliamentary Secretary exclusively concerned with civil service questions.</p> <p>In their reply in the Seventh Report of 1942-43 (page 15, item 'q' and page 16, item 's') the Government simply stated that fundamental changes in the machinery of Government were matters for ministerial decision.</p>
1952-53	13th	12	The Committee recommended the appointment of a Board of Trade Attache to the Foreign Office as a commercial diplomatic representative.
1951-52	4th	26	After criticising the layout of the sales areas of a company financed from public funds, the Committee suggested a re-organisation from the existing system of geographical sales division to a system of production division.
1955-56	7th	6	The Committee recommended an immediate examination to be made of the possibility of merging naval research and development establishment with research and development establishments working in other Government Departments. The Committee, however, added that the final decision on the exact establishments to be merged should rest with the Ministry of Defence.
1956-57	2nd	69-103	The Committee suggested that the military aircraft programme should be critically examined against the future background with a view to ensuring that the number of projects is the absolute minimum consistent with security. It also suggested that the question of co-ordination between guided weapons and aircraft should be carefully watched as there was clearly a sharp conflict of interest between the two fields.

# Legislative Control of Delegated Legislation

By

DR. RAMESH NARAIN MATHUR,

*Head of the Department of Political Science,  
S. G. T. B. Khalsa College, New Delhi*

Delegated legislation, a phenomenon of not very recent origin, has assumed special importance in the modern day.<sup>1</sup> A century ago, in the *laissez-faire* State, the function of the government was chiefly protective and regulatory. The State acted for the most part as a soldier, policeman and judge. But now the welfare activities of the State have assumed enormous proportions and the State machinery has developed into a gigantic organisation concerning itself with practically every aspect of the citizen's life. A direct consequence of this has been an immense increase in parliamentary business, leaving Parliament no time to concentrate except upon high policy and the basic problems of legislation. This means that to a great extent the constructive initiative must pass from Parliament to the government offices and semi-autonomous boards and commissions. In terms of law, this trend has manifested itself in numerous acts of legislative authorization in all democracies. Certain other factors,—such as the complicated and technical nature of much of present day legislation e.g. patents, trade marks, diseases, poisons, wireless telegraphy, intricacies of finance etc., which can be satisfactorily handled by experts alone, and requirements of elasticity to enable

continuous experiment and to provide for unforeseen contingencies and situations of emergency—have also favoured such delegation of legislative power. In the result, rule-making power is now increasingly conferred under statutory authority on Ministers, public servants and important governmental agencies.

There is no doubt that arbitrary exercise or abuse of rule-making powers by the Executive may constitute a threat to the liberty of the citizen, as pointed out by Lord Hewart in his book 'New Despotism', but it will be futile to oppose delegated legislation on that ground. The Committee on Ministers' Powers after making a searching inquiry on delegated legislation pronounced the verdict that it was necessary and inevitable. "The truth is", said the Report of the Committee, "that if Parliament were not willing to delegate law-making power, Parliament would be unable to pass the kind and quantity of legislation which modern public opinion requires." The Committee were of opinion that the alleged dangers could be obviated under certain safeguards. While increasing resort to delegated legislation is essential for the survival and welfare of democracies, this power should be exercised under the authority and scrupulous

<sup>1</sup> See Report of the Committee on Ministers' Powers, p. 21; and Bernard Schwartz 'Law and the Executive in Britain', p. 24.

<sup>2</sup> Reports, p. 23.



tiny of Parliament. The Executive must, as Herbert Morrison said in a speech at Bradford on March 5, 1944, make regulations "under quite specific powers given to it for particular purposes by Acts of Parliament. Parliament will exercise powers of supervision and control of this departmental legislation... There must be the utmost possible freedom of discussion among the chosen representatives of the people so that a genuine crystallization of public opinion may take place, followed by a genuine formulation of the national will."<sup>8</sup> The focus of our inquiry therefore should shift from the question of desirability of delegation to that of control over delegated legislation. It will be pertinent, to examine the problem of constitutional limits within which Parliament may delegate legislative power to the Executive in U.S.A., Britain, other British Commonwealth countries and India, and the nature and extent of legislative control over delegated legislation in these countries.

#### DELEGATED LEGISLATION IN U.S.A.

The doctrine *delegata potestas non potest delegari* (i.e. the Legislature cannot transfer the power of making laws to any other hands; for, it being but a delegated power from the people, they who have it cannot pass it over to others) stems from the doctrine of separation of powers on which the U.S. Constitution

is based. This rule prohibiting the delegation of legislative authority has been considerably modified by the vast expansion of legislative powers and the needs of administration. The delegation by Congress of the 'rule-making power' to federal agencies has now become a normal feature of the American federal government. There are no fewer than 115 federal agencies that issue rules and regulations affecting the public. Congress has adopted three different methods of delegating the business of rule-making to the Executive branch and to the various administrative agencies of the Government: (i) by specific grant of delegated power through the statutes setting up the particular agencies; (ii) by a single general statutory provision e.g. of the kind enacted by Congress in 1873 and now found in the United States Code, in Title 5 'Executive Departments' etc. Section 22, which has been the implicit source of much of the rule-making power exercised by the Executive Departments and all the subsidiary Bureaus in U.S.A. and (iii) the sweeping method of delegating legislative power by the Congress to the President through the so-called Reorganization Acts.<sup>9</sup> The Congress gives formal recognition to Presidential rule-making power i.e. the Presidential proclamations which are in the form of national announcements<sup>10</sup> and the executive orders by which the Chief Executive announces matters of high importance in the domestic sphere.<sup>11</sup>

<sup>8</sup>Crisp: *Parliamentary Government in Australia*, p. 251.

<sup>9</sup>By this Congress surrenders its constitutional power over the structure and organization of the Executive branch of the Federal Government to the President.

<sup>10</sup>A case of recognition of the idea of Proclamation by the President is to be found in the so-called 'Non-Intercourse Act' of 1809 which authorized the President to suspend the force of the Act by Proclamation under certain circumstances.

<sup>11</sup>An example of Congressional recognition of Presidential order is contained in the Act of May 29, 1890 concerning public lands. In that Act Congress specifically provided that "public lands" might be withdrawn from settlement "by order of the President."

## Legislative Control of Delegated Legislation

### Judicial Control in U.S.A.

In U.S.A. control of delegated legislation is left to the Courts,<sup>7</sup> and there is hardly any provision for laying it before the Congress for scrutiny, except in the case of the reorganization orders which have to be laid before the Congress for 60 days: during which period they can be annulled. The Congress nevertheless seeks to control delegated legislation indirectly through prescription of certain requirements to which it must conform. The Federal Register Act, 1935 provides for the publication in the Federal Register of all rules, regulations and orders of general applicability and legal effect, while antecedent publicity is secured by the Administrative Procedure Act, 1946, which requires notices of all proposed rules or amendments to be published at least thirty days before they become effective. Under the Federal Register Act, 1935 it is expressly provided that no document required to be published under the Act 'shall be valid as against any person who has not had actual knowledge thereof' unless it has actually been filed for publication. In a recent federal case<sup>8</sup> a criminal conviction was reversed because the regulation which a defendant had violated had never been published in the Federal Register.

### DELEGATED LEGISLATION IN BRITAIN

In countries like Britain, Canada, Australia, Ireland and India, where separation of powers in the strictest

sense of the term does not prevail, there is no constitutional difficulty in the delegation of legislative power by Parliament to the Executive. In England, however, certain standards to which delegation should conform have been formulated and departure therefrom is regarded as abnormal delegation. According to the Committee on Ministers' Powers, there are several types of delegation which should be regarded as abnormal.<sup>9</sup> They are:

(i) *Power to legislate on matters of principle*: Here the terms of delegation are very wide. A classic example is the now repealed sec. 136 of the Poor Law Act, 1930, which gave the Minister of Health power to make such regulations as he might think fit for the management of the poor. Another example is the power given to the Board of Trade by sec. 1 of the Patents, Designs and Trade Marks Act, 1888 to make such rules as were in the opinion of the Board required to give effect to that section.<sup>10</sup>

(ii) *Power to impose taxation*: Temporary delegated powers of taxation were conferred as an emergency measure by statute during the economic crisis of 1931, but the power conferred by the Import Duties Act, 1932 was not limited in time. The Act gave the Treasury power to exempt goods from the *ad valorem* duty of ten per cent imposed by the Act and to charge additional duties on certain classes of goods. Sec. 2 of the Emergency Powers (Defence) Act, 1939 provided that the Treasury

<sup>7</sup>The recent trend of Supreme Court decisions has been uniformly to uphold broad delegation of power to administrative agencies. However, in *Schechter Poultry Corp. v. United States* (1935) 295 U.S. 495 and *Pearson Refining Co. v. Ryan* (1935) 293 U.S. 389 the Supreme Court declared the federal law invalid for executive delegation. In these two cases the Supreme Court held the view that there must be an ascertainable legislative intent to which the exercise of delegated power must conform. A delegation without a standard is a 'delegation running riot'. A law of the Congress making delegation must be within the powers of the Congress, to pass and administrative procedures must be reasonably fair and must not offend the due process of law.

<sup>8</sup>*Hotch v. United States* 212 F.2. 280 (1954).

<sup>9</sup>The Report, op. cit., p. 30.

<sup>10</sup>*Furniture of Patents Agency v. Lushington* (1894) A.C. 347.

might by order impose, in connection with any scheme of control authorised by Defence Regulations, such charges as might be specified in the order. This Act was subsequently replaced by the Supplies and Services (Transitional Provisions) Act, 1945 and the Supplies and Services (Extended Purposes) Act, 1947.

(iii) *Power to amend, alter or modify an Act of Parliament:* Parliament sometimes delegates to a Minister the power of modifying the enabling Act so far as may appear to him to be necessary for the purpose of bringing the Act into operation. This has been done in several Local Government Acts, the National Insurance Act, 1911 (sec. 78) and the Rating and Valuation Act, 1925 (sec. 76). These provisions were mainly transitional and are no longer in force. The Committee on Ministers' Powers recommended that this power—nicknamed the 'Henry VIII Clause'—should never be used except to make necessary adaptations to bring an Act into operation and that such power should cease to operate within a year of the passing of the Act. This power has seldom been used after the recommendation of the Committee.

(iv) *Power to oust the jurisdiction of the Court:* The jurisdiction of the Court to declare delegated legislation *ultra vires* may be expressly excluded by Parliament. The Committee on Ministers' Powers regarded such powers as objectionable in normal times and justifiable only in emergencies or in cases where finality is desirable e.g. planning orders under which title to property is effected or stock exchange Regulations under which titles to property may be created or money raised, and regulations

under the Foreign Marriage Act, 1892, under which marriages may be entered into.

We may here refer also to (a) sub-delegation of power and (b) retrospective legislation, which have not been classed as "abnormal" by the Committee on Ministers' Powers, but which nevertheless merit mention.

(a) *Sub-delegation of power:* This practice was not challenged during the period of the duration of the two World Wars. "Sub-delegation", as Sir Cecil Carr points out, "can result in copious orders, the grand-children of the Act, which were sometimes more important to the obedient citizen than the regulations that were themselves the children of the Act". Even in times of peace audacious delegation has been made as is to be found in the Air Navigation Order of 1923, made under the Air Navigation Act, 1920. Under that Order the Secretary of State was defined as being either the Secretary of State or any person authorised by him to exercise any of the Secretary's powers. The Secretary of State also gave himself power to investigate into accidents to service aircraft, although the parent Act (sec. 18) excepted service aircraft from the operation of the statute, save in so far as His Majesty-in-Council might otherwise provide.<sup>11</sup> Though the Committee on Ministers' Powers made no mention of sub-delegation of powers in its report, the Scrutiny Committee of the House of Commons in its Third Special Report (paras 16 and 17) commented on cumulative delegations under Defence Regulations<sup>12</sup> thus:

Your Committee have sometimes had to take note of a pedigree of five

<sup>11</sup>The Air Navigation Act of 1920 was replaced by the Air Navigation Act of 1936 and the entire matter is now governed by the Civil Aviation Act, 1949.

<sup>12</sup>Cited in Allen: *Law and Orders*, p. 208.

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generations—(a) the statute; (b) the Defence Regulations made under the Statute; (c) the orders made under the Defence Regulations; (d) directions made under the orders; and (e) licences issued under the directions.

Your Committee hope that, now that hostilities have ceased, Departments may find themselves able so to frame any Order made under Defence Regulations that it will be self-contained—in other words, to be content with the grand-children of the statute and not to bring its great-grand children or great-great-grand children upon the scene. It is by no means clear that Parliament contemplated these cumulative delegation.

The correct position seems to be that sub-delegation of primary delegated powers expressly authorised by Parliament is legally permissible but not further sub-delegation of sub-delegated powers not contemplated by Parliament.<sup>10</sup>

(b) *Retrospective Legislation*: The Committee on Statutory Instruments appointed in 1944 recommended that retrospective legislation should be passed only by Parliament and not entrusted to the Ministers.

### *Judicial Control in Britain*

In Britain the power of judicial control over delegated legislation is limited.<sup>11</sup> Sometimes parliamentary statutes provide that the instruments made under the enabling section 'shall have effect as if enacted in this Act'. The purpose of this is to elevate departmental regulations to the status of Acts of Parliament and

hence beyond judicial control. The Patents, Designs and Trade Marks Act, 1883 conferred on the Board of Trade power to make such rules as, in the opinion of the Board, were necessary to give effect to the provisions of the Act governing registration of patent agents. Such rules, when made, were to have effect as if embodied in the Act itself. In *Institute of Patent Agents v. Lockwood*, 1894 A.C. 347 where the validity of the Register of Patent Agents Rules, 1889 came under consideration, the House of Lords held that such provisions excluded judicial review. However, in a subsequent decision of the House of Lords in *Minister of Health v. Rex ex parte Yaffe* (1930) 2 K.B. 98, it was held that 'the orders shall have effect as if enacted in this Act, clause did not oust the jurisdiction of the Courts if the order itself was not within the limits of the parent Act. According to the Committee on Ministers' Powers the validity of any order made under a provision so worded remains fully open to question.<sup>12</sup> The terms of reference of the Select Committee on Statutory Instruments (which was set up in 1944) required the Committee to consider whether or not to draw the attention of the House of Commons to an instrument on the ground that it was made in pursuance of an enactment containing specific provisions excluding it from challenge in the Courts, either at all times or after the expiration of a specific period. Finally, the Franks Committee on Administrative Tribunals and Enquiries recommended that no statute should contain words purporting to oust the jurisdiction of the courts. Sec. 11 of the Tribunals and Enquiries Act, 1958 gives effect to this recommendation in a modi-

<sup>10</sup>De Smith: *Judicial Review of Administrative Action*, p. 180.

<sup>11</sup>The Court can only examine if the Order is consistent with the main purpose of the parent Act. It cannot question the policy underlying the Order.

<sup>12</sup>The Report, op. cit., p. 40.

fied form.<sup>16</sup> It would appear from this that the courts do exercise at present their powers of review in spite of the statutory formulae ousting their jurisdiction. However, judicial review of delegated legislation is not an effective safeguard because merits of the exercise of discretion are immune from judicial control.

### *Legislative Safeguards*

The only effective safeguard against abuse of delegated legislation lies therefore in parliamentary scrutiny. Parliament provides two kinds of safeguards against abuse of delegated legislation. One is antecedent safeguard and the other, post-natal safeguard.

### *Antecedent Safeguards*

An antecedent safeguard is to ensure that delegation of legislative power is made to responsible bodies only *i.e.*, to authorities directly responsible to Parliament. Another safeguard is antecedent publicity of delegated legislation. This was provided for by sec. 1 of the Rules Publication Act, 1893, now replaced by the Statutory Instruments Act, 1946 which unfortunately omits the ante-natal safeguard of the earlier statute. Another useful safeguard is provision for consultation with the appropriate organized interests affected.<sup>17</sup> A number of Acts of the British Parliament require consultation

of such interests. Sec. 77 of the National Insurance Act, 1946 lays down that regulations made under the Act must be submitted in draft to the Advisory Committee concerned, whose report must be laid before Parliament along with the regulations when they have been made. Other Acts require direct consultations with associations of employers and workers.

### *Post-natal safeguards*

Post-natal safeguards consist broadly in the provision for adequate publicity to the statutory instruments when they have been made and their scrutiny by Parliament.

Immediately after the making of statutory instrument, it is required to be sent to the Queen's Printer and numbered, and copies are printed and sold as soon as possible.<sup>18</sup> H.M. Stationery Office, London is to publish lists showing the date on which every statutory instrument printed and sold by the Queen's Printer was first issued by that office. Sub-sec. (2) of sec. 3 of the Statutory Instruments Act, 1946 further provides as follows:

In any proceedings against any person for an offence consisting of a contravention of any such statutory instrument, it shall be a defence to prove that the instrument had not been issued by His Majesty's Stationery Office at the date of the alleged contravention

<sup>16</sup>Sec. 11 renders nugatory the formulae expressly taking away the right to apply for a *certiorari*. The section will not apply to sec. 26 of the British Nationality Act, 1948 or to any order of derogation of a court of law or the Foreign Compensation Commission where an Act makes special provision for application to the High Court within a time limited by the Act.—De Smith: *Judicial Review of Administrative Action*, p. 237.

<sup>17</sup>The Committee on Ministers' Powers was of the opinion that the system of consultation with particular interests specially affected by a proposed exercise of law-making power should be extended so as to ensure that such consults took place whenever practicable.—The Report, *op. cit.*, p. 66.

<sup>18</sup>The Statutory Instruments Act, 1946, sec. 3.



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unless it is proved that at that date reasonable steps had been taken for the purpose of bringing the purport of the instrument to the notice of the public, or of persons likely to be affected by it, or of the person charged.

In *Simmonds vs. Newell* (1953) 1 W.L.R. 826, a conviction for an offence under the Iron and Steel Prices Order was quashed by the Divisional Court because the Orders had not been printed, and no certificate had been issued either, under the Statutory Instruments Regulation, 1947, exempting them from being printed, and reasonable steps had also not been taken under sec. 3 (2) of the Act.

### Parliamentary Scrutiny

Parliamentary scrutiny of delegated legislation is secured through the "laying" of the rules made by the Executive before Parliament. The provision regarding "laying" in the different statutes are not uniform but take various forms, such as, for example—

- (i) laying of rules with no further provision for control;
- (ii) laying with the provision that the rules shall take immediate effect but be subject to annulment or modification within a specified period;
- (iii) laying with the provision that the operation of the rules

shall be deferred until approval is given by an affirmative resolution;<sup>19</sup>

- (iv) laying with the provision that the rules shall take immediate effect but shall require an affirmative resolution as a condition of continuance beyond a certain period.<sup>20</sup>

The procedure of laying by itself cannot ensure effective parliamentary control for a number of reasons. Firstly, Parliament in the midst of its pre-occupation is likely to overlook a set of regulations that comes before it. Secondly, the average member would hardly realise the consequences of a set of rules, unless he happened to be an expert on the topic to which they related. Thirdly, lack of parliamentary time would prevent all but the most important rules being debated even if a member called attention to them. Finally, the party machine and the Whips could be used to deal with serious opposition. The Committee on Ministers' Powers, therefore, suggested that there should be a standing committee of each House to report on all bills which sought to confer law-making powers on any delegated authority, and also on rules and regulations made under such power. The Lords' Committee known as the House of Lords' Special

<sup>19</sup>E.g., Sec. 14(4) of the Road Traffic Act, 1930 confers on the Minister of Transport power to make regulations varying the speed limits laid down in the five schedules to the Act. These regulations do not take effect until approved by each House of Parliament.

<sup>20</sup>E.g., under Sec. 19(2) of the Import Duties Act, an order made under the Act ceases to have effect at the expiration of 28 days from the date on which the order is made, unless it is approved within that period by an affirmative resolution of the House of Commons.

To cite another example, the Emergency Powers Act, 1920 authorises the issue of a Proclamation of a state of emergency in the event of a threat to the life of the community. The Proclamation remains in force for a month and during this period a code of regulations made by the Executive may operate but these regulations have effect for only seven days unless both Houses of Parliament resolve that they be continued for the rest of the month. At the time of the general strike in 1926, when a state of emergency was proclaimed month after month, the Executive had to approach the Legislature for an affirmative resolution again and again to keep the regulations alive.

Orders Committee<sup>21</sup> was already functioning since 1925. A Select Committee on Statutory Instruments was set up by the House of Commons in 1944 to scrutinise statutory instruments and determine whether the special attention of the House should be drawn to any of them on any of the following grounds:

- (a) that it imposed a charge on the public revenues or contained provisions requiring payments to be made to the exchequer;
- (b) that it is made under an enactment that excluded challenge in the courts;
- (c) that it appeared to make some unusual or unexpected use of the powers in the enabling Act under which it is made;
- (d) that it purported to have retrospective effect whereas the parent statute conferred no express authority so to provide;
- (e) that there appeared to be unjustifiable delay in the publication or in the laying of it before Parliament;
- (f) that there appeared to be unjustifiable delay in sending a notification to Mr. Speaker, where an instrument had come into operation before it had been laid before Parliament;
- (g) that for any special reason its form or purport called for elucidation.<sup>22</sup>

The Committee in the first eight years between 1944 and 1952 scrutinised 6900 instruments. The Committee, however, works under two main limitations: in the first place, its scrutiny is confined to matters of form and does not extend to policy which is a matter for Parliament; secondly, it may suggest to the House only either acceptance or rejection of the rules but cannot make proposals for their amendment.<sup>23</sup>

#### DELEGATED LEGISLATION IN NORTHERN IRELAND AND THE IRISH REPUBLIC

In the Irish Republic the two methods by which the legislature can exercise control over the powers which it has delegated to administrative bodies are either a confirmatory act, or the assent of the legislature by means of a resolution of either or both Houses. An even more widely used provision for the exercise of parliamentary control is however that of the 'negative resolution'. The statutory period within which the resolution for annulling can be passed in the Northern Ireland is 20 days and in the Irish Republic 21 days, as against 40 days in England. In Northern Ireland, a Joint Select Committee of the two Houses was set up in 1946 to scrutinize statutory instruments. In the Irish Republic a similar Committee was set up in 1954. The committee in Northern Ireland not only looks into the form but also the content of delegated legislation *i.e.* the policy of the legislation, unlike the Committees at Dublin and Westminster, whose main preoccupation is only with the form of the legislation. Both in Northern Ireland and the Irish Republic, Parliaments have legislated in regard to the method

<sup>21</sup>The scrutiny by this Committee is confined only to instruments requiring affirmative resolution and does not cover those subject to the 'negative procedure'.

<sup>22</sup>Herbert Morrison: *Government and Parliament*, pp. 153-54.

<sup>23</sup>The British Parliament does not modify the rules laid before it. It either approves them or rejects them — *Ibid.*, p. 153.

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of publishing of subordinate instruments. The Rules Publication Act, 1925, which governs the publication of subordinate instruments in Northern Ireland, provides for the numbering, printing, and publishing of Rules and Orders, with the exception of those whose publication is deemed unnecessary by the rule-making authority. The Statutory Instruments Act of 1947 makes provision for the numbering, printing and chronological classification of rules in the Irish Republic.<sup>24</sup>

- (b) that they do not trespass unduly on personal rights and liberties;
- (c) that they do not make the rights and liberties of citizens depend upon administrative, but only upon judicial decisions; and
- (d) that they are concerned only with administrative detail and do not amount to substantive legislation, which is a matter for parliamentary enactment.

### DELEGATED LEGISLATION IN AUSTRALIA

The Australian Parliament has also endeavoured to provide against the dangers arising from delegated legislation. Procedure regarding the making of regulations is governed in Australia by the Acts Interpretation Act, 1901. The Act requires that such regulations be notified in the Gazette, setting out their dates of commencement of operation, which must not be retrospective. Further, the regulations have to be laid on the Table within 15 days in both Houses and they are subject to disallowance upon notice given within 15 days in either House. These provisions do not however apply to Proclamations or Orders. The House of Representatives has set up no special committee for examining and reporting on these regulations in detail. The Senate Standing Committee, which was set up in 1932, does this work. Since its establishment 27 years ago, the Committee has scrutinised over 4000 regulations and about 800 ordinances.<sup>25</sup> It scrutinizes regulations to ascertain:

- (a) that they are in accord with the statute:

The procedure adopted by the Committee is that it obtains from the government department responsible for the issue of an instrument, a full explanation of it and its effects, and the reasons for making it. The Committee has broadened its scope of scrutiny which now does not exclude substantive matters. It is worth mentioning here that its reports, even when highly critical of the substance of delegated legislation, are considered on their merits and not on party lines.

### DELEGATED LEGISLATION IN NEW ZEALAND

In New Zealand the Regulation Act, 1936 provides for the publication of regulations in an official series called Statutory Regulations. At the drafting stage, interested parties are consulted. Regulations are laid on the Table when so required by the enabling statute and confirming Acts are passed at the end of each session when regulations are so laid. A Select Committee was set up in 1947 to report on regulations, but this Committee was not re-constituted. The Attorney-General examines all

<sup>24</sup> Donaldson : *Some Aspects of Irish Law*, Pp. 190-91.

<sup>25</sup> *Public Law*, Spring 1959.

regulations before they are issued and considers the desirability or otherwise of the issue of every regulation. There is also parliamentary debate on regulations.

#### DELEGATED LEGISLATION IN INDIA

The need for making detailed regulations to meet the expanding needs of a progressive welfare State gave a fillip to delegated legislation in India. In regard to the nature and scope of delegation as well as the provision for control, the delegating provisions in the different statutes widely vary. For example, in some of the statutes the Central Government empowered to make rules, publish them in the Official Gazette and bring them into force, with no provision for laying them on the Table of the House.<sup>26</sup> Some others empower the Central Government to make rules by notification in the official Gazette and require them to be laid before the Legislature as soon as may be after their publication in the Gazette.<sup>27</sup> There are also statutes which require draft rules to be laid on the Table for a specified period before final publication.<sup>28</sup> Some rules made by the

Central Government are required to be laid before Parliament for a specified period and are subject to modification, if any, by Parliament.<sup>29</sup> Under yet another type, the approval of the rules by an affirmative resolution of Parliament is required.<sup>30</sup>

Some of the statutes are very generally worded and confer wide powers on the State Government to make rules providing for any *matter* which under the provisions of the Act may be considered *expedient*. Sec. 112 of the Factory Act, 1948 is an example of this type of delegation. The power of making rules in such cases is limited only by the subject-matter and purpose of the Act. Also, authority is given sometimes to the appropriate government to add to the appendix or schedule given in the Act. Examples of this type of delegation are to be found in such statutes as the Minimum Wages Act, 1948<sup>31</sup> and the Employees' Provident Fund Act, 1952.<sup>32</sup> In *Edward Mills v. State of Ajmer* (1958) S.C.R. 735 it was held by the Supreme Court that such delegation was not unconstitutional.

<sup>26</sup> E.g., Sec. 8 of the Telegraph Wires (Unlawful Possession) Act, 1950; (ii) Secs. 189 & 191 of Air Force Act, 1950; (iii) Sec. 10 of the Nawab Salar Jung Bahadur (Administration of Assets) Act, 1950; (iv) Sec. 45 of the Banking Companies (Amendment) Act, 1950; (v) Sec. 14 of the Iron & Steel Companies (Amendment) Act, 1952.

<sup>27</sup> E.g., Sec. 203 of the Ajmer Tenancy and Land Records Act, 1950; (ii) Sec. 17 of the Coal Mines (Conservation and Safety) Act, 1952; (iii) Sec. 22 of the Requisitioning and Acquisition of Immovable Property Act, 1952; (iv) Sec. 11 of the Salaries and Allowances of Officers of Parliament Act, 1953.

<sup>28</sup> E.g., Sec. 20 of the Estate Duty Act, 1953.

<sup>29</sup> E.g., Sec. 10 of the National Highways Act, 1956, Sec. 114 of the Insurance Act, 1938, Sec. 34 of the Reserve and Auxiliary Air Forces Act, 1952 and Sec. 13(2) of the Central Sales Tax Act, 1956.

<sup>30</sup> E.g., Sec. 17 of the Mines and Minerals (Regulation) Act, 1957.

<sup>31</sup> The Minimum Wages Act, 1948 provides for fixing minimum rates of wages in certain employments mentioned in the Schedule and Sec. 27 thereof authorises the appropriate Government to add other employments to the Schedule.

<sup>32</sup> Under Sec. 1(3) of the Employees' Provident Fund Act, 1952, the provisions of the Act apply to all factories engaged in the industries specified in the First Schedule to the Act in which 50 or more persons are employed. The said section also reserves the right with the Central Government to apply the provisions of the Act to factories employing lesser number of people by issuing a notification in the Official Gazette with one month's notice. Sec. 4 of the Act delegates power to the Central Government to add to the First Schedule any other industry to which the provisions of the Act are to apply by notification in the Official Gazette.

## Legislative Control of Delegated Legislation

### Committee on Subordinate Legislation of Lok Sabha

In order to secure adequate parliamentary control of delegated legislation, a Committee on Subordinate Legislation was appointed in Lok Sabha in 1953. There were at first ten members on the Committee but this number was subsequently raised to fifteen. The function of the Committee is "to scrutinize and report to the House whether the powers to make regulations, rules, sub-rules, bye-laws etc. conferred by the Constitution or delegated by Parliament are being properly exercised within such delegation." Its terms of reference (which are laid down in Rule 320 of the Rules of Procedure of Lok Sabha and correspond broadly to those within the scope of the Commons Committee) are to consider whether the rule is in accord with the objects of the Constitution and the parent statute; whether it deals with a matter of substance more appropriate for parliamentary enactment; whether it imposes a tax or involves expenditure from the public revenues; whether it gives retrospective effect to any provision when it is not expressly authorised by the parent Act; whether it directly or indirectly bars the jurisdiction of the Courts; whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the parent Act, whether there has been unjustifiable delay in the publication or laying of the rules; and whether it calls for further elucidation. If the Committee is of opinion that any order should be annulled wholly or in part, or should be amended in any respect, it is to report this opinion and the grounds thereof to the House.

The Committee has already earned the reputation of being a vigorous and

independent body. The Committee has exerted itself mainly in three directions: (i) towards the evolution of a uniform pattern in the terms of delegation contained in the enabling statutes, especially with regard to the procedure relating to the laying of the rules before Parliament and the right of the latter to modify them; (ii) towards proper publicity to rules and improvement of their language; and (iii) towards scrutiny of the rules to ascertain if they are in accord with the object of the Constitution, the parent statutes and principles of natural justice.

With the object of uniform control, the Committee scrutinises the entire range of subordinate legislation, irrespective of whether any rule or order has been laid on the Table or not. With a view to securing uniformity in the provisions of statutes delegating legislative power, the Committee in its First Report (March, 1954) made the following recommendations:

- (i) That in the case of Bills containing proposals for delegation of legislative power, the memorandum regarding delegated legislation accompanying the Bill should explain the scope and the details of such proposals.
- (ii) That all rules should be laid on the Table for a uniform period of 30 days before the date of their final publication. (The Committee later agreed that if it was not expedient for rules to be laid before their publication, they might be laid as soon as possible thereafter, but with an explanatory note stating the reasons therefor.<sup>11</sup>)

<sup>11</sup> See Rule 317 of Rules of Procedure of Lok Sabha (Fifth Edition).

<sup>12</sup> Third Report (L.S.), paras 35-36.

- (iii) That in future the Acts authorising delegation of rule-making power should contain express provision that the rules made thereunder shall be subject to such modifications as the House might like to make.

The Committee recommended inclusion of suitable provisions on the above lines in all future Bills which sought to delegate power to make rules or which sought to amend earlier enactments for conferring such power. The Committee has also repeatedly emphasised that all rules should be laid on the Table without delay *i.e.*, within a period of 15 days of their publication and, if the House is not in session then, as soon as possible (but within 15 days) after the commencement of the following session.

Another set of recommendations of the Committee relate to the question of proper publicity to the rules and improvement in their language. In its Third Report (May 1955), the Committee recommended that all statutory rules and orders of concern or importance should be published at the Centre as well as in the States, that the translations of these rules and orders in the recognised languages of the States should also be published along with the English version in the respective State Gazettes; that press communiques should be issued to explain the general purport and the effect of the rules; and that the specific section of the parent Act should be invariably cited in the preamble to all rules and regulations for the purpose of enabling all concerned to know under what precise authority the rules have been framed. In its Fourth Report (May 1956) the Committee stressed the need for publicity of all

rules and orders in one Section of the Gazette and their being centrally numbered. Another recommendation was publishing of a consolidated index of rules every month or annually.

The Committee has made many useful recommendations which owe their origin to considerations of the public good and the legitimate bounds of subordinate legislation. To cite at random, an amendment to Rule 147 of the Central Excise Rules, 1944 (S.R.O. 416 of 1953) provided for the levy of duty on goods in the custody of a Government warehouse even where such goods might have been lost by theft before delivery of them had been taken by the owner. The Committee urged remission of duty in such cases. The Committee has been prompt in pointing out that provisions such as those regarding cognisibility of certain offences and restriction of powers of certain courts to try specified cases, of the nature found in rules 51 and 56 of the Mines and Minerals Concession Rules, 1949 (S.R.O. 1681 of 1951), should not be made through rules but should more appropriately be dealt with in an Act of Parliament. The Committee in its First Report (Second Lok Sabha, 1957) expressed its objection to retrospective effect being given to any provision by the rules in the absence of express authorisation in that behalf by the parent Act. The Committee has also drawn attention to the undesirability of sub-delegation on broad terms and recommended that some safeguards should be imposed before a delegated authority is given wide powers to sub-delegate its authority to another functionary. The Committee has observed that when an Act provides for regulation of certain matters by rules to be made thereunder, such rules should be framed expeditiously.



## *Legislative Control of Delegated Legislation*

### *Conclusion*

In conclusion, it may be observed that through the Committee Parliamentary control over delegated legislation in India has been continuous and effective. It may, however, be worthwhile to consider whether antecedent

publicity, provision for consultation and hearing of affected interests and right of representation to those interested, should also not be there before rules are finalised. In addition to being published in the Official Gazette, rules and regulations may also be notified in the press.

*Independence is a great thing; economic prosperity is a most desirable thing, but unless both these can be reconciled with freedom for the individual, life even in an independent and economically prosperous society will mean but little.*

—K. M. PANIKKAR in *The State And The Citizen*

# Constitution Amendment in India\*

The Constitution of a country is the fundamental law of the land—the basis on which all other laws in the country are made and enforced. It has been described as a “superior or supreme law”;<sup>1</sup> with “perhaps greater efficiency and authority”, and “higher sanctity”;<sup>2</sup> and more permanence than ordinary legislation. Nevertheless, an adequate provision for its amendment is considered implicit in the very nature of a constitution. A democratic constitution has to be particularly responsive to changing conditions, since a government founded on the principle of popular sovereignty “must make possible the fresh assertion of the popular will as that will changes.”<sup>3</sup>

Constitutions are usually classified as ‘flexible’ or ‘rigid’ depending on whether they can be amended by the legislature through the same process as any other law or by a special process laid down for that purpose.<sup>4</sup> The Constitution of India may be described as partly flexible and partly rigid. Explaining why it was necessary to introduce an element of flexibility in the Constitution, Shri Nehru observed in the Constituent Assembly:

While we want this Constitution to be as solid and as permanent in structure

as we can make it, nevertheless there is no permanence in Constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop a Nation's growth, the growth of a living, vital, organic people . . . In any event, we should not make a Constitution, such as some other great countries have, which are so rigid that they . . . cannot be adapted easily to changing conditions. Today especially, when the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow.<sup>5</sup>

Unlike many written constitutions, which have one uniform procedure for effecting “any change of any kind in any part of the constitution,” the Constitution of India provides for a variety in the amending process—a feature which has been commended by Prof. Wheare for the reason that uniformity in the amending process imposes “quite unnecessary restrictions” upon the amendment of parts of a Constitution.<sup>6</sup> Moreover, it avoids the difficult processes for amendment, such as a decision by a convention or referendum provided in some other constitutions. Explaining and commending the scheme of the amending provisions, Dr. Ambedkar, observed in the Constituent Assembly:

It is only for amendments of specific matters—and they are only few—that ratification of the State legislatures is

\*Prepared by the Research Branch, Lok Sabha Secretariat.

<sup>1</sup>K.C. Wheare: *Modern Constitutions*, London, 1951, P. 91; Also see Howard LeeMcBain : *The Living Constitution*, New York, 1948, Pp. 7—10.

<sup>2</sup>F. Quick and R. R. Garran : *The Annotated Constitution of the Australian Commonwealth*, Sydney, 1901, P. 316.

<sup>3</sup>*Encyclopaedia of Social Sciences*, New York, 1951, Vol. II, P. 21.

<sup>4</sup>Wheare : *op. cit.*, Pp. 21-22.

<sup>5</sup>C.A. Deb., Vol. VII, Nov. 8, 1948, Pp. 322-323.

<sup>6</sup>Wheare : *op. cit.*, P. 243.

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required. All other Articles of the Constitution are left to be amended by Parliament. The only limitation is that it shall be done by a majority of not less than two-thirds of the members of each House present and voting and a majority of the total membership of each House. It is difficult to conceive a simpler method of amending the Constitution.<sup>7</sup>

The Constitution provides for three categories of amendments:<sup>8</sup> first, those that can be effected by Parliament by a simple majority such as that required for the passing of any ordinary law—the amendments contemplated in Articles 4,<sup>9</sup> 169,<sup>10</sup> Para 7(2)<sup>11</sup> of Schedule V and Para 21(2)<sup>12</sup> of Schedule VI fall within this category and are specifically excluded from the purview of Article 368 which is the specific provision in the Constitution dealing with and prescribing 'the procedure for the amendment of the Constitution'; secondly, those that can be effected by Parlia-

ment by a prescribed 'special majority'; thirdly, those that require in addition to such 'special majority', ratification by at least one half of the State Legislatures.

In this connection it may also be mentioned that there are, as pointed out by Dr. Ambedkar, "innumerable Articles in the Constitution" which leave the matter subject to law made by Parliament.<sup>13</sup> For example, under Article 11 Parliament may make any provision relating to citizenship notwithstanding anything in Articles 5 to 10.<sup>14</sup> Thus, by passing ordinary laws Parliament may, in effect, modify or annul the operation of certain provisions of the Constitution, without actually amending them. Since however, such laws do not in fact make any change whatsoever in the letter of the Constitution they cannot be regarded as amendments of the Constitution nor categorised as such.

<sup>7</sup>C.A. Deb., Vol. VII, Nov. 4, 1948, P. 43.

<sup>8</sup>Shankari Prasad v. Union of India (1952) S.C.R. 89.

<sup>9</sup>Article 4 provides that laws made by Parliament under Article 2 (relating to admission or establishment of new States) and Article 3 (relating to formation of new States and alteration of areas, boundaries or names of existing States) effecting incidental or consequential amendments in the First Schedule or the Fourth Schedule (of the Constitution) shall not be deemed to be amendments of the Constitution for the purposes of Article 368. Thus for example the States Reorganisation Act, 1956 which brought about radical reorganisation of the States in India was passed by Parliament as an ordinary piece of legislation.

<sup>10</sup>Article 169 empowers Parliament to provide by law for the abolition or creation of Legislative Councils in States and declares that though such law shall contain such provisions for the amendment of the Constitution as may be necessary it shall not be deemed to be an amendment of the Constitution for the purposes of Article 368. The Legislative Councils Act, 1957 is an example of a law passed by Parliament in exercise of its powers under Article 169. The Act provided for the creation of a Legislative Council in Andhra Pradesh and for increasing the strength of the Legislative Councils in certain other States.

<sup>11</sup>The Fifth Schedule contains provisions as to the administration and control of Scheduled Areas and Scheduled Tribes. Para 7 of the Sch. vests Parliament with plenary powers to enact laws amending the Schedule and lays down that no such law shall be deemed to be an amendment of the Constitution for the purposes of Article 368.

<sup>12</sup>Under Para 21, Parliament has full power to enact laws amending the Sixth Schedule which contains provisions for the administration of Tribal Areas in Assam. No such law however is to be deemed to be an amendment of the Constitution for the purposes of Article 368.

<sup>13</sup>C.A. Deb. Vol. IX September 17, 1949 P. 1660.

<sup>14</sup>For further examples of similar Articles see: Part XXI of the Constitution—"Temporary and Transitional Provisions" whereby "Notwithstanding anything in this Constitution" power is given to Parliament to make laws with respect to certain matters included in the State List (Art. 309); Art. 370(1)(d) which empowers the President to modify by order provisions of the Constitution in their application to the State of Jammu & Kashmir; Provision to Arts. 63 (2) and 172(1) empowering Parliament to extend the lives of the House of the People and the Legislative Assembly of every State beyond a period of five years during the operation of a Proclamation of Emergency; and Art. 172(2) which provides that the composition of Legislative Councils of the States laid down in clause (3) of the same Article will hold good "until Parliament by law otherwise provides."

So far as the first category of amendments is concerned, the normal legislative procedures of the Houses of Parliament hold good since all such amendments are brought about by laws passed by Parliament in exercise of its ordinary legislative powers and the Constitution itself expressly exempts those laws from the special procedures laid down in Article 368 for effecting constitutional amendments.

The procedure for making amendments of the other two categories, is governed by Article 368<sup>16</sup> and may be analysed as follows:

(i) In the first place, an amendment can be initiated only by

the introduction of a Bill in either House of Parliament;

(ii) the bill so initiated must be passed in each House by a majority of the total membership<sup>16</sup> of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(iii) when the Bill is so passed, it must be presented to the President for his assent;

(iv) where the amendment seeks to make any change in any of the provisions<sup>17</sup> mentioned in the proviso to article 368, it must be ratified<sup>18</sup> by the Legislatures of not less than one half of the States;

<sup>16</sup>Art. 368 : 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:

Provided that if such amendment seeks to make any change in—

- (a) Article 54, article 73, article 162 or article 241, or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or
- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States<sup>18</sup> by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

<sup>16</sup>'Total membership' in this context has been defined to mean the total number of members comprising the House irrespective of any vacancies or absences on any account *vide* Explanation to Rule 159 of The Rules of Procedure and Conduct of Business in Lok Sabha.

<sup>17</sup>These provisions relate to certain matters concerning the federal structure or of common interest to both the Union and the States, *viz.*,

- (a) the election of the President (Arts. 54 and 55);
- (b) extent of the executive power of the Union and the States (Arts. 73 and 162);
- (c) the Supreme Court and the High Courts (Art. 241, Ch. IV of Pt. V, Ch. V of Pt. VI);
- (d) distribution of legislative powers between the Union and States (Ch. I of Pt. XI and Seventh Schedule);
- (e) representation of States in Parliament (Fourth Schedule); and
- (f) the procedure for amendment of the Constitution laid down in Art. 368.

<sup>18</sup>The Constitution (Third Amendment) Bill 1954 (for insertion of a substitute entry for Entry 33 of List III, of the Seventh Schedule), the Constitution (Sixth Amendment) Bill 1956 (for amendment of Arts. 249 and 246 and certain entries in the Union and State Lists in the Seventh Schedule) and the Constitution (Seventh Amendment) Bill 1956 (which sought to amend the Constitution *extensively consequent on the reorganisation of States made by the States Reorganisation Act*) were thus all ratified by the State Legislatures, after they were passed by both Houses of Parliament before they were presented to the President for assent.

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- (v) such ratification is to be by resolutions passed by the State Legislatures;
- (vi) no specific time limit for the ratification of an amending bill by the State Legislatures is laid down, the resolution ratifying the proposed amendment should, however, be passed before the amending bill is presented to the President for his assent;<sup>19</sup>
- (vii) the Constitution can be amended (1) only by Parliament and (2) in the manner provided. Any attempt to amend the Constitution by a legislature other than Parliament and in a manner different from that provided will be void and inoperative.<sup>20</sup>

In *Shankari Prasad v. Union of India*,<sup>21</sup> the Supreme Court held that "the terms of Article 368 are perfectly general and empower Parliament to amend the Constitution, without any exception whatever." One of the specific issues before the Court in that case was whether the Constitution (First Amendment) Act, which *inter alia* sought to abridge some of the fundamental rights guaranteed by Part III of the Constitution, was hit by the pro-

visions of clause (2) of Article 13. In this regard the Court held:

In the context of Article 13 "law" must be taken to mean rules or regulations made in exercise of ordinary legislative power and not amendments to the Constitution made in exercise of constituent power.<sup>22</sup>

In fact, the proviso to Article 368 enables Parliament to amend the provisions of this Article itself. Thus, along with the substitution of a new First Schedule in place of the original one this Article was also amended and the words "specified in Parts A and B of the First Schedule" in the proviso omitted by the Constitution (Seventh Amendment) Act, 1956.<sup>23</sup>

However, Article 368 is not a "complete code" in respect of the procedure provided by it. There are gaps in the procedure as to how and after what notice a Bill is to be introduced, how it is to be passed by each House and how the President's assent is to be obtained.<sup>24</sup> This point was also decided by the Supreme Court in *Shankari Prasad's case*. Delivering the judgment of the Court Patanjali Sastri J. observed:

Having provided for the constitution of a Parliament and prescribed a certain procedure for the conduct of its ordinary legislative business to be supplemented by rules made by each House (Article 118), the makers of the Constitution must be

<sup>19</sup>With regard to the corresponding provision in the U.S. Constitution, Article V, which also does not prescribe any time limit for ratification, the U.S. Supreme Court has held that the ratification must be within a reasonable time after the proposal (*Dillon v. Gloss*, 65 Law Ed 994), but that the Court has no power to determine what is a reasonable time (*Coleman v. Miller*, 83 Law Ed. 1385). It has further held that the efficacy of a ratification attacked on the ground that the legislature had previously rejected the amendment, is a political question within the ultimate power of Congress in the exercise of its control over the promulgation of the adoption of amendments. (*Coleman v. Miller*, *op. cit.*)

<sup>20</sup>*Abdul Rahuman v. Vithal Arjun*, A.I.R. 1958, Bombay 94.

<sup>21</sup>(1952) S.C.R. 89

<sup>22</sup>Article 13(2): The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

<sup>23</sup>*Shankari Prasad v. Union of India*, *op. cit.*

<sup>24</sup>Constitution (Seventh Amendment) Act, 1956, sec. 29 and Sch.

<sup>25</sup>*Shankari Prasad v. Union of India*, *op. cit.*

taken to have intended Parliament to follow that procedure, so far as it may be applicable consistently with the express provisions of Article 368, when they entrusted to it the power of amending the Constitution.<sup>26</sup>

Hence, subject to the conditions of special majority and ratification stipulated in Article 368, Bills for amending the Constitution are dealt with by Parliament following the same legislative process as applicable to any ordinary Bill.

In Lok Sabha, the Rules of Procedure make certain specific provisions with regard to Bills for amendment of the Constitution. They relate to (a) the voting procedure in the House at the various stages of such Bills, in the light of the requirements of Article 368; and (b) the procedure before introduction in the case of such Bills sponsored by Private Members.

Although the 'special majority' insisted upon by Article 368 is *prima facie* applicable only to the voting at the final stage, Lok Sabha Rules prescribe adherence to the constitutional requirement for all the *effective stages* of the Bill *i.e.* for adoption of the motion that the Bill be taken into consideration and the motion that the Bill as reported by the Select/Joint Committee be taken into consideration; for adoption of the clauses and schedules to the Bill; and finally for the adoption of the motion that the Bill be passed.<sup>27</sup> This provision, which represents the position arrived at after consultation with the

Attorney-General and detailed discussions in the Rules Committee, is evidently *ex-abundanti cautela*. It not only ensures, by a strict adherence to Article 368, the validity of the procedure adopted, but also guards against the possibility of the spirit and scheme of that Article being violated by the whole consideration of a Bill seeking to amend the Constitution, including its consideration clause by clause, being concluded in the House with only the bare quorum present.<sup>28</sup> Voting at all the above stages is by division.<sup>29</sup> The Speaker may, however, with the concurrence of the House, put any group of clauses or schedules together, provided that if any member requests that any of the clauses or schedules be put separately, the Speaker shall comply with such a request.<sup>30</sup> The Short Title, Enacting Formula and the Long Title may be adopted by a simple majority.<sup>31</sup> Similarly, for the adoption of amendments to clauses or schedules of the Bill, a simple majority will suffice.<sup>32</sup>

A Bill for amendment of the Constitution by a private member is governed by the rules applicable to private members' Bills in general. So, the period of one month's notice applies to such a Bill also. In addition, in Lok Sabha, such a Bill has to be examined and recommended by the Committee on Private Members' Bills and Resolutions before a motion for leave to introduce the Bill is included in the list of business.<sup>33</sup> The Committee has laid down

<sup>26</sup>*Ibid.*

<sup>27</sup>Rule 157, *Rules of Procedure And Conduct of Business In Lok Sabha* (Fifth Ed.) Lok Sabha Secretariat: New Delhi, 1957, p. 67.

<sup>28</sup>See Lok Sabha Rules Committee Minutes, dated April 17, 1956, Lok Sabha Secretariat, New Delhi, 1956.

<sup>29</sup>Rule 158, *op. cit.*, pp. 67-68.

<sup>30</sup>Rule 155, *op. cit.*, p. 66.

<sup>31</sup>*Ibid.*

<sup>32</sup>Rule 156, *op. cit.*, p. 67.

<sup>33</sup>Rule 294, *op. cit.*, pp. 124-125.



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the following principles as guiding criteria in making their recommendations in regard to these Bills:

- (i) The Constitution should be considered as a sacred document—a document which should not be lightly interfered with and it should be amended only when it is found absolutely necessary to do so. Such amendments may generally be brought forward when it is found that the interpretation of the various articles and provisions of the Constitution has not been in accordance with the intention behind such provisions and cases of lacunae or glaring inconsistencies have come to light. Such amendments should however normally be brought by Government after considering the matter in all its aspects and consulting experts, and taking such other advice as they may deem fit.
- (ii) Some time should elapse before a proper assessment of the working of the Constitution and its general effect is made so that any amendments that may be necessary are suggested as a result of sufficient experience.
- (iii) Generally speaking, notice of Bills from Private Members should be examined in the background of the proposals or measures which Government may be considering at the time so that consolidated proposals are brought forward before the House by Government after collecting sufficient material and taking expert advice.
- (iv) Whenever a private member's Bill raises issues of far-reaching importance and public interest, the Bill might be allowed to be introduced so that public opinion is ascertained and gauged to enable the House to consider the matter further. In determining whether a matter is of sufficient public importance it should be examined whether the particular provisions in the Constitution are adequate to satisfy the current ideas and public

demand at the time. In other words, the Constitution should be adapted to the current needs and demands of the progressive society and any rigidity which may impede progress should be avoided.<sup>24</sup>

In Rajya Sabha, the Rules of the House do not contain any special provisions with regard to Bills for amendment of the Constitution. The Rules relating to ordinary Bills apply, subject, of course, to the requirements of Article 368.

The procedure for amendment of the constitution has some special points of interest:

- (i) There is no separate constituent body for the purposes of amendment of the Constitution, constituent power also being vested in the Legislature.
- (ii) There is no limitation placed upon the amending power, that is to say, there is no provision of the Constitution which cannot be amended.
- (iii) The role of the States in constitution amendment is very limited. Apart from being associated in the process of constitutional amendment by the ratification procedure laid down in Article 368, all that is open to them is (1) to initiate the process for creating or abolishing the Legislative Councils in their legislatures,<sup>25</sup> and (2) to give their views on a proposed Parliamentary Bill seeking to affect the area, boundaries or name

<sup>24</sup>See First Report of the Committee (First Lok Sabha)

<sup>25</sup>Art. 169(1): Notwithstanding anything in Article 168 Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

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of any State or States, which has been referred to them under the Proviso to Article 3<sup>36</sup>—a reference which does not fetter the power of Parliament to make any further amendments to the Bill.<sup>37</sup>

During the first decade of its operation the Constitution has been amended

on eight occasions.<sup>38</sup> The relative ease with which the Constitution Amendment Acts—some of them introducing vital and extensive changes in the original document—have been enacted demonstrates the flexibility of the Indian Constitution and the simplicity of its amending process as compared to that of the older federal constitutions, like the constitutions of the U.S.A. and Australia.

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<sup>36</sup>Art. 3 Proviso : Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless where the proposal contained in the Bill affects the area, boundaries or name of any of the States \* \* \* the bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.

<sup>37</sup>See Ruling by the Speaker in Lok Sabha—L.S. Deb.: (II): August 7: 1956.

<sup>38</sup>First Amendment—1951; Second Amendment—1952; Third Amendment—1955; Fourth Amendment—1955; Fifth Amendment—1955; Sixth Amendment—1956; ~~Seventh Amendment—1956~~; Eighth Amendment—1965.

# Indian Financial System

## IMPORTANT CHANGES RESULTING FROM THE RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE\*

In the evolution of a democratic system of Government, acquisition by the Legislature of the power to grant or withhold moneys to the Executive has been an important landmark. It is, however, useless to give the Legislature the power of voting money for particular purposes, unless the Legislature could be assured that the money is wisely spent by the Executive and applied only to the authorised purpose or purposes. Under the Indian Constitution the accounts of the Executive are looked into by the Comptroller and Auditor-General who is an independent authority under the Constitution. He certifies the Appropriation Accounts in which expenditure is compared with the detailed appropriations made by the Executive of the grant given by the Legislature and comments thereon. The Legislature relies mainly upon the Public Accounts Committee to examine the reports of the Comptroller and Auditor General and thus complete the cycle of parliamentary financial control.

The Committee on Public Accounts is constituted by Parliament for each financial year for the 'examination of accounts showing the appropriation of the sums granted by Parliament to meet the Public expenditure'.

The year 1921-22 was the first year the expenditure of which was subject to the vote of the Legislative Assembly

constituted in early 1921 as a result of the Montagu-Chelmsford Reforms (1919). The Accounts of this year were, therefore, the first Accounts which the Committee was called upon to scrutinise in the exercise of its functions and to report to the Assembly on the action of the Government of India in giving effect to the wishes of the Assembly as expressed by its votes in regard to that part of the expenditure which was voted.<sup>1</sup> But by a convention which was observed ever since its inception, the Committee also dealt with 'non-voted' expenditure.

While discussing the utility of the scrutiny by the P.A.C. of the Accounts of the Government of India, the first Committee of 1921-22 made the following observations:

We are convinced that the existence of the P.A.C. and the knowledge that it will in due course scrutinise the accounts of the year's expenditure, examine witnesses from particular Departments, and call on the Government for explanations of any irregularities or of any failure to keep expenditure on voted items within the limits voted by the Assembly, will be most helpful in introducing new methods and machinery into the Departments of the Government of India in dealing with voted expenditure. The Departments of the Government of India will realise that they are now for the first time being brought face to face with the necessity of justifying their expenditure in detail to a responsible body of representatives of the Indian tax-payer. By realising this, they will be led naturally, as expenditure is incurred during the course of the year,

\*Prepared by the Public Accounts Committee Branch, Lok Sabha Secretariat.

<sup>1</sup>Para 1 of the Interim Report of the P.A.C. on the Accounts of 1921-22.

to keep in mind, and devise machinery for the task of justifying their expenditure before the Assembly.<sup>2</sup>

As years have gone by the Committee has made a number of recommendations which, having been accepted by Government, are treated as a body of 'case law' on financial administration.

The succeeding paras illustrate some of the important changes effected in the financial administration of India from time to time (both in the pre and post-Independence eras) as a result of the recommendations made by the Public Accounts Committee.

#### *Regularisation of Excess Grants*

The Committee of 1921-22 made a very important recommendation in the matter of Regularisation of Excess Grants which marked the first milestone on the road to the development of parliamentary control over public expenditure and which in the later years became a rule. The Committee stated:

If after the accounts for the year are closed, the total grant under any demand has been exceeded, the excess ought to be regularised by a vote of the Assembly. The excess would in the first instance be examined by the P.A.C. and in making a demand for an excess grant, the Government would place before the Assembly any recommendation that the Committee might desire to make.

With the coming into force of the Constitution, a demand for such excess has to be presented to Parliament as enjoined in Article 115(1)(b). In accordance with the recommendation of the Committee of 1921-22 the excesses are first examined by the P.A.C. This procedure has also been embodied in the Rules of Procedure.<sup>3</sup> Sub-rule (4) of Rule 308 of the Rules of Procedure and

Conduct of Business in Lok Sabha lays down as below:

(4) If any money has been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the Committee shall examine with reference to the facts of each case the circumstances leading to such an excess and make such recommendations as it may deem fit.

While examining the excesses relating to the year 1952-53, the Committee recommended that as soon as excesses in Accounts relating to a year which had just closed came to notice, the Comptroller and Auditor-General would, in advance of his main Audit Report on the Appropriation Accounts, report these excesses to Parliament in the prescribed manner.<sup>4</sup> This new procedure was followed with effect from the Accounts for 1953-54. This not only resulted in the expeditious regularisation of such excesses but also ensured that the time-lag between the detection of the excesses and their regularisation by Parliament was reduced to the inevitable minimum.

#### *Evolution of control of the Central Public Accounts Committee on Defence Expenditure*

In the earlier stages of the work of the Public Accounts Committee, there was some confusion regarding the competence of the Committee to deal with the Defence expenditure which was then 'non-voted'. The Committee that met in 1923 considered the Audit Reports on Army, Marine and Military Works Accounts for the year 1921-22 with the assistance of the Financial Adviser, Military Finance and the Military Accountant-General.

<sup>2</sup>Para 4, Interim Report of P.A.C. *ibid.*

<sup>3</sup>Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

<sup>4</sup>1st Report of P.A.C. (First Lok Sabha).

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In 1924, the relations between the Auditor-General and Military Accounts Department with reference to the preparation of the annual Appropriation Accounts and Audit Reports on Military expenditure were discussed. It was then agreed that while the Auditor-General's report on military expenditure should be submitted to the Secretary of State, a copy should be placed before the P.A.C. for its information only. At the same time, it was felt desirable that the Auditor-General's report on military expenditure and the Appropriation Report on which it was based should be subject to some definite and responsible examination and the then Finance Member undertook to arrange for the examination of the reports by a Committee of a Departmental character working under the Finance Department. This gave birth to the setting up of an *ad hoc* Committee to examine the Military Accounts.

The first Departmental Committee which was thus set up in 1925 was composed of the Finance Member, the Finance Secretary and the Army Secretary, who was later replaced by the Controller of Civil Accounts in 1929. The report of this *ad hoc* Committee (called the Military Accounts Committee) was placed before the Public Accounts Committee and incorporated as part of the latter's Report.

In 1926, the constitutional position of the P.A.C. was examined by the Finance Department in consultation with the Auditor-General and the Legislative Department and the conclusion reached was that the Committee was entitled to criticise and make recommendations in its report upon any matter dealt with in the Audit and Appropriation Reports or

in the Auditor-General's forwarding report, whether such matter related to expenditure voted or non-voted or receipts. It was further held that constitutionally the Defence Services Appropriation Accounts stood on the same footing as the other Accounts so far as the jurisdiction of the P.A.C. to deal with them was concerned.

The (departmental) Military Accounts Committee continued to examine the Defence Accounts and submit its report to the Public Accounts Committee till 1931 when the latter reviewed the procedure. Accordingly the Public Accounts Committee recommended in para 31 of its Report on the Accounts for 1929-30, that the Military Accounts Committee should in future consist of the Finance Member as Chairman, the Finance Secretary and three non-official members nominated by the P.A.C.<sup>4</sup> from amongst members. The reconstituted Military Accounts Committee continued to function as such upto 1947.

On the attainment of Independence the Defence Expenditure became voted and a question arose whether there was any advantage in continuing the existing procedure of appointing a separate Military Accounts Committee to deal with the Defence Services Accounts and the Audit Report thereon or whether such accounts should also be examined and dealt with in the same way as other Civil Accounts and Reports by the Public Accounts Committee. The Public Accounts Committee of 1948-49 while examining the Accounts of the Defence Services and Audit Report thereon decided that these should in future be considered and dealt with by it and not by an *ad hoc* Committee as hitherto.<sup>5</sup> In pursuance of this decision, the Appropriation Accounts relating to the Defence

<sup>4</sup> App. XXI, P.A.C. Report, 1945-46.

<sup>5</sup> Para 3, Report of P.A.C. on Accounts for 1945-46.

Services are now being examined by the Public Accounts Committee in the same manner as Accounts of other Departments.

*Simplification of headings in Defence Budget*

The experience of the War Years had indicated that the pre-war classification, which had been more or less maintained in war-time, was not suitable. The Committee accepted the suggestion to simplify this with two purposes in view, first to reduce the burden on the Accounts offices and secondly to have a more effective budgetary control. It was decided that a few samples of the kind of changes proposed should be placed before the Committee so as to enable it more fully to appreciate the proposals.

The changes thus introduced in the budget and accounting heads in 1946-47 were further modified in 1947-48 and in 1948-49. These were revised mainly at the time of the framing of the estimates for the year 1949-50 and these changes in the budget and accounting heads were reflected in full in the estimates and accounts for the year 1949-50 and onwards.<sup>7</sup>

*Analysis of items in the consolidated trading account and consolidated profit and loss account of Military Farms*

Another recommendation of the Committee was that separate trading accounts for Military Farms by Commands or Circles should be furnished in future in order to enable it to see which set of farms was being run at a profit and

which at a loss. This enabled the Committee to exercise better control over the economics of the Military Farms.<sup>8</sup>

*Definition of 'New Service'*

The Committee which examined the Accounts for 1926-27 made the following observation in regard to the definition of "New Service" in regard to which no working rule had by then been laid down:

We agree with the Auditor-General that, as in England, there should be no cast-iron rule and that the application of the term to concrete cases could best be governed by the evolution of a body of case law. We recommend that, in placing cases before the standing Finance Committees, the Government of India should state whether the expenditure is in respect of a New Service; and that, if Audit holds a different view in particular cases, such cases should be brought to the notice of the Public Accounts Committee through the Appropriation Accounts.<sup>9</sup>

This position was re-affirmed by the Committee in its Sixteenth Report (First Lok Sabha).<sup>10</sup>

*Changes in classification of expenditure*

Where changes in the classification of expenditure were introduced during the course of the year the Committee desired that a full explanation for introducing the changes should be given in the Appropriation Accounts.<sup>11</sup> This is intended to check the powers of *virtuement* of the Executive.

*Introduction of Administrative Audit*

In para 10 of its Report on the Accounts of 1947-48 (post-partition) the Committee recommended that the Ministry of Finance in consultation with the Comptroller & Auditor-General should formulate comprehensive rules

<sup>7</sup>Item 66 Progs. (MAC) Report on Accounts for 1944-45, App. VI to P.A.C. Report for 1945-46.

<sup>8</sup>Para 32, Progs. M.A.C., Report on Accounts 1943-44.

<sup>9</sup>Para 22, Report on Accounts of 1926-27.

<sup>10</sup>Para 13 (R), pp. 8-9.

<sup>11</sup>Vol. 1(E), 34-35 (20-D).



## Indian Financial System

and regulations for introducing Administrative Audit in all large spending Departments such as the C.P.W.D. etc. on the pattern of the Administrative Audit in vogue in the M.E.S.<sup>12</sup> The Administrative Audit system envisaged the setting up of an organisation, independent of the project executive, for carrying out an internal audit of the project transactions. This organisation was to be in addition to the normal accounting and auditing organisations under the control of the C. & A.G. The system was intended to ensure an effective control on costs at every stage of construction of a project.

The Committee of 1951-52 reiterated this recommendation (para 23 of the First Report). The Committee of 1952-53 (para 134 of the 7th Report) recommended the introduction of the system in various River Valley Projects under the control of Government of India. This was accepted by the Ministry of Irrigation and Power.<sup>13</sup>

Accordingly the Ministry of Works, Housing and Supply have erected an organisation of a Chief Technical Examiner for carrying out an inspection of important works executed by the C.P.W.D. departmentally after completion as also during progress.<sup>14</sup> This organisation, according to the Ministry of Works, Housing and Supply is doing useful work as the following extracts will indicate:—

A Chief Technical Examiner's cell was set up on 31-5-1957 to ensure effective, independent and uninterrupted technical audit of works executed by the C.P.W.D. throughout the country.<sup>15</sup>

At the request of the Special Police Establishment and in consultation with the Administrative Vigilance Division of the Ministry of Home Affairs, it has been decided that the C.T.E. cell would also undertake investigation of cases of irregularities and malpractices referred to it by the SPE in respect of civil works executed by the C.P.W.D. and several other Departments of the Government of India.

The Cell, in addition to a number of special enquiries, carried out detailed scrutiny, including site-check of works, of Bills, contracts, Muster Rolls etc.<sup>16</sup>

The object of the C.T.E. Organisation is not merely to inspect works and find out irregularities or to detect overpayments, but also to act as a 'Preventive' by bringing to the notice of the Departmental Officers from time to time, and by constant check the drawbacks in terms and conditions of contracts or defects in specifications resulting, sometimes, in overpayments or execution of works below standard, so that they could be avoided in future. The object is three-fold: constructive suggestions, rectification of defects and recovery of over-payments.

As a result of continued vigilance and check on works, there has been a general awareness in the minds of both the officers and contractors, in the direction of executing improved quality of works and it is generally felt that such improvements have been brought about in works handled by the C.P.W.D.<sup>17</sup>

### Separation of Audit from Accounts

The Third Report of the Committee (1952-53) on 'Exchequer Control over Public Expenditure' made far-reaching recommendations in order to have effective control over financial transactions of the various Ministries and suggested the separation of Accounts from Audit. The Ministry of Finance have accepted

<sup>12</sup> Para 10, Report on Accounts of 1947-48 (para-Punjab).

<sup>13</sup> Para 197, 7th Report (2nd Lok Sabha) also App. XLVII, *ibid.* Vol. II.

<sup>14</sup> Para 57, *prog.*, 11th Report (1st Lok Sabha).

<sup>15</sup> Report, 1957-58, Ministry of W.H. & S., P. 2.

<sup>16</sup> Min. W.H. & S. Report (1958-59), P. 16.

<sup>17</sup> Min. W.H. & S. Report (1959-60), P. 22.

in principle the separation of Accounts from Audit.

Government have since agreed upon as part of the scheme of departmentalisation of Accounts, a system of centralised payments by Departmental Pay and Accounts Officers who would be responsible to see that no payment was made by them in excess of the grant or appropriation unless it was covered by a supplementary vote/appropriation or an advance from the Contingency Fund.

### *Reforms in the existing system of Budgeting and Financial Control*

In the 8th Report, the Committee of 1957-58 pointed out that the existing system of budgeting, administrative and financial control was not appropriate in the context of a planned national economy. The Committee suggested a re-orientation of the existing system in certain respects. Some of the important recommendations in this connection were—

(i) The budget estimates of a year should comprise only the outlay on standing charges, estimated expenditure on projects in progress, and a small provision for each new scheme or project which is likely to be taken up during the course of that year, but whose details have not been worked out sufficiently and accepted by the Finance Ministry. Simultaneously when seeking Parliament's approval for a small provision in respect of a new scheme, an idea of the approximate total outlay on the scheme should also be placed before Parliament. As and when details of the new scheme or a phase thereof are worked out, Parliament, if in session, should be approached for a supplementary grant; if Parliament is not in session, funds sufficient to cover the immediate expenditure on the scheme may be advanced out of the Contingency Fund and a supplementary grant for the full amount obtained from Parliament at the earliest possible opportunity.

(ii) So long as the provision made in the budget is not exceeded and there is no change in the scope or the total cost of a project, the administrative Ministry should have freedom to incur expenditure without having recourse to consultation with the Ministry of Finance. The Administrative Ministry should not, however, have the powers to reappropriate funds without the prior concurrence of Finance.

(iii) A readjustment in the relations between Finance and the administrative Ministries should be accompanied by delegation of powers by the administrative Ministries to lower officers commensurate with their status and responsibilities.

(iv) There should not be too much concentration of technical personnel in the Secretariat, when there was a crying demand for such personnel for field work.

(v) In the first year the Central grants towards schemes approved for matching grants should be placed at the disposal of the State Governments in advance at the commencement of the financial year with the condition that they should be utilised only on those schemes accepted for assistance. In subsequent years, the grants to be made should be regulated with reference to the State's performance in the previous year in fulfilling its own part of the programme as contemplated by making the grant.

Almost all of these recommendations which ushered in a more effective financial procedure ensuring flexibility and expeditiousness were accepted by Government<sup>18</sup>. These constituted an important land-mark in reforming the existing system of financial administration.

### *Examination of losses of cash, over-payments, etc. pertaining to the post-partition period, disclosed in the Appropriation Accounts (Defence Services)*

A statement of losses of cash, over-payments etc. pertaining to post-partition period finally dealt with during 1955-56 had been incorporated in the Appropriation Accounts of the Defence Services for the year 1955-56. The total losses etc. amounted to nearly Rs. 2.40 crores excluding the losses whose mode-

<sup>18</sup>8th Report (H.L.S.), Vol. II, App. II.

## Indian Financial System

tary value could not be assessed. The Committee of 1958-59 examined some of these cases and came to the conclusion that the losses etc. resulted mainly from defects in contracts, shortcomings of personnel, defective storage, or failure of safety devices like fire fighting units. The Committee expressed the hope that Government would review the existing procedure, codal formalities etc. and take action to streamline them.<sup>19</sup>

The Government have initiated action on these recommendations.

### *Inclusion of a review of the financial working of the Railways in the Appropriation Accounts of the Railways*

In order to enable the Committee to perform the best and most valuable function which it is capable of performing, namely, to watch the general financial results of the working of the Railways, in addition to seeing that public money is properly expended and accurately accounted for, it was necessary that the Committee should be furnished by the Railway Board with an exhaustive general review of the working of

the Railways.<sup>20</sup> Such a review is being furnished with the Appropriation Accounts by the Railway Board every year.

### *Exhibition in accounts of adjustments between the Consolidated Fund of India and the Public Accounts regarding the expenditure from various reserves created out of revenues.*

In its 10th Report (1953-54), the Committee pointed out that the Depreciation Reserve Fund (Railways) should not be kept apart from the General Revenues but should form part of the Consolidated Fund of India as envisaged in Article 266 of the Constitution.<sup>21</sup> The Railway Board decided in consultation with the Ministry of Finance and Comptroller and Auditor-General to adopt an accounting device by means of which the expenditure should first be treated to have been incurred from the 'Consolidated Fund' and the 'Consolidated Fund' being recouped by transfer of an equal amount from the 'Public Account'. This procedure is being followed in respect of all earmarked funds like Cess Funds on various commodities.

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<sup>19</sup>17th Report (I.L.S.), Para 61.

<sup>20</sup>Para 92, Progs. Report of P.A.C. on Accounts of 1929-30.

<sup>21</sup>10R (P.A.C.-I.L.S.), Para 109.

# Some Parliamentary Activities

## PARLIAMENTARY QUESTIONS

### **Lok Sabha: Annual Reports of Public Undertakings**

In answer to a question\* in Lok Sabha on August 30, 1960 as to whether Government proposed fixing a time-limit for presentation of annual reports of public undertakings to Parliament as in U.S.A. and U.K., the Minister of Industry (Shri Manubhai Shah) drew attention to the provision made in revised section 639(1) in the Companies (Amendment) Bill, 1959, pending before Parliament. This section stipulates that Government shall cause the annual report on the working and affairs of a government company to be laid before Parliament within three months of the annual general meeting of the company.

\* . . . \*

## PROCEDURAL MATTERS

### *Lok Sabha*

### **Adjournment motion on matters arising during the recess of Parliament**

On August 1, 1960, when Lok Sabha re-assembled for its monsoon session, several notices of adjournment motions were received to discuss "the situation arising out of the recent strike by the Central Government Employees."

Withholding his consent to the motion, the Speaker observed that although a matter that took place when Parliament was not in session could be raised on

an adjournment motion in the following session, it was necessary that in such cases the matter should continue to be urgent and important on the date on which the adjournment motion is tabled.

\* . . \*

### **Resolution on Matters relating to Human rights arising out of Incidents in a Foreign Country**

On March 29, 1960, the Prime Minister moved the following resolution in Lok Sabha:

That this House deplores and records its deep sorrow at the tragic incidents which occurred at Sharpeville and in Langa township near Capetown in South Africa on March 21, 1960, resulting in the death of a large number of Africans from police firing. It sends its deep sympathy to the Africans who have suffered from this firing and from the policy of racial discrimination and the suppression of the African people in their own homeland.

Placing the resolution before the House, the Speaker observed:

We do not ordinarily, as the Prime Minister has referred, take notice of events that occur in any particular country. But this is not an event which is of a political nature. It is a human one, a moral issue. It opposes the human rights that have been declared and it affects the conscience of the world. In that spirit, discussion may go on and we may express our deep sense of sorrow.

The resolution was unanimously adopted after the spokesman of various

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\*L.Q. No. 912.

## Some Parliamentary Activities

groups had spoken supporting the resolution. Members then stood in silence for a minute to express sorrow at the incidents.

. . . .

### Suspension of a Member merely by taking the sense of the House

On February 9, 1960, the Speaker named a member (Shri Jagdish Awasthi) for disregarding the authority of the Chair and after taking the sense of the House suspended him from the service of the House for a period of seven days.

Next day, a point of order was raised that the procedure followed was not in accordance with the terms of Rule 374\* inasmuch as the question that the member be suspended from the service of the House had not been put to the vote of the House. The Leader of the House suggested that as a measure of apprehension had arisen in regard to the matter, the member might be allowed to come back to the House. He also suggested that in future whenever a member was to be suspended, a formal motion might be put to the vote of the House so as not to leave any misapprehension in anyone's mind in regard to naming a member.

Thereupon the Speaker observed:

Inasmuch as there is a volume of opinion to the effect that Shri Jagdish Awasthi should come back into the House, I have no objection to allow him to come back.

. . . .

\*Rule 374 reads as follows :

- (1) The Speaker may, if he deems it necessary, name a member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof.
  - (2) If a member is so named by the Speaker, he shall forthwith put the question that the member (naming him) be suspended from the service of the House for a period not exceeding the remainder of the session.
- . . . .

### Convention that Members bear Message From the President Standing

A new convention was started in the Lok Sabha on February 26, 1960 when the Speaker requested the Members to stand in their places to hear a message from the President being read out to them. The President's message was in reply to the motion of thanks for his Address, adopted by the House on February 22, 1960.

When asked by a Member why this new convention was being adopted, the Speaker observed that it was only a proper gesture to do so in the case of a message from the Head of the State.

. . . .

### Laying of Government's Replies prior to examination of the Audit Report by P.A.C.

On April 28, 1960, when the Speaker called the Minister of Defence to lay on the Table a statement containing replies to various matters raised in the Audit Report on Defence Services, 1960, a point of order was raised that it was against the procedure of the House to lay such a statement on the Table as such replies were always placed, in the first instance, before the Public Accounts Committee and it was only after the Committee had reported on the audit objections and Government's replies thereto that the matter came up before the House for discussion.

The Minister of Defence pointed out that just before the demands relating to his Ministry were taken up, the Audit Report in question was presented to the House and Members were also permitted

by the Speaker to refer, during the discussion, to the points mentioned in the Audit Report. As such, the matter had, he added, received publicity in the Press and lest only one side of the picture should be known, Government considered it necessary to lay a factual statement on the Table with regard to the points raised in the discussion earlier.

Ruling out the point of order, the Speaker, *inter alia*, observed:

There is no rule of procedure involved in this matter. The procedure is that the Audit Report goes before the Public Accounts Committee which examines it. As the matter was referred to in advance on the floor of the House, it is just and proper that the Government, with respect to whom observations have been made in the Audit Report, must have as early an opportunity to explain its position as possible, lest there should be only one version. So there is nothing objectionable in this.

**Reference to Audit Report on the floor of the House prior to consideration by P.A.C.**

On April 9, 1960, during the discussion on the Demands for Grants relating to the Ministry of Defence, a reference was made to the 'Audit Report, Defence Services, 1960' which had been laid on the Table the previous day. A point of order was raised regarding the propriety of referring to the Report before the Ministry had answered the audit objections and the matter had been looked into by the Public Accounts Committee. Some Members opposed

the point of order on the ground that once the Audit Report was laid on the Table, the House was seized of it and a reference to it was in order. The Speaker, thereupon, ruled:\*

The Audit Report has been placed on the Table of the House. It is one thing to say, we have not had sufficient time to go through the Audit Report, and unless we go through the evidence, we may not be able to do full justice; it is another thing to say that you ought not to refer to the Audit Report at all. That is the point that is before me, that is, when once the Audit Report has been placed on the Table of the House, unless it is looked into and reported upon by the Public Accounts Committee, it ought not to be referred to. . . . Let us assume that the Public Accounts Committee takes months to deal with it; it may be legitimately taken, not that it wants to delay. Therefore, it may be said that when once the report is placed on the Table of the House, it is open to the House to refer to it. . . . When the Public Accounts Committee present its report, then, if necessary, we shall have a discussion upon that. . . . as this Audit Report is concerned, hon. Members could refer to it. They may refute it or support it.

**COMMITTEES AT WORK**

**Committee on Petitions: Procedure for disposal of representations on service grievances**

The Committee on Petitions, at their sitting held on February 22, 1960 examined the question whether representations of Government employees regarding their service grievances should be entertained by the Committee. The Committee noted that normally adequate

\*In the House of Commons, U.K., also, it has been ruled by the Chair that a member may be out of order in referring to the proceedings before a Committee (on Public Accounts) before it reports to the House, but the subject-matter of the report of the Comptroller and Auditor-General can be referred to at any time in the House although the House would find it convenient in ordinary circumstances to await the report of the Public Accounts Committee on the matter.

On the 31st Mar. 1965, in reply to some supplementary questions relating to expenditure on guided missiles referred to in the report of the Comptroller and Auditor General the Minister concerned stated that the Accounting Officer of his Department would shortly be giving detailed evidence on the subject before the Committee on Public Accounts, which he was sure, the House would not wish him to anticipate. On the 11th Apr. 1965, when the same subject matter mentioned in the report of the Comptroller and Auditor General was referred to and a point was raised as to whether it would be in order for a Minister or any member to refer to anything which was before the P.A.C. or some other Select Committee, the Speaker gave the above ruling—(H.C. Deb. 21-3-60 cc. 19—22; and 11-4-60 cc. 87;—76).

### *Some Parliamentary Activities*

machinery already existed in the respective Departments to look into such representations, but at the same time felt that in spite of such machinery there might be occasionally cases of genuine hardship where the affected persons had been denied such remedy. To meet with such cases, the Committee laid down the following procedure:

(i) Such representations will be considered by the Committee only in the following circumstances:

- (a) where rules, regulations on the subject were contrary to, or were not in consonance with, the provisions of the Constitution or equity;
- (b) where decision had been taken arbitrarily, *i.e.* without applying the rules, or where it had not the force of law or rules;
- (c) where the petitioner had not been given a reasonable opportunity of being heard or for representing his case, or relevant and material information necessary for representing his case had been denied to him;
- (d) where the reasons given for the executive action taken against the petitioner, or for the decision, disclosed a patent error of law or of application of rules;
- (e) where there appeared to be a *prima facie* case of miscarriage of justice;
- (f) where the grievance of the petitioner was such that the

rules or regulations needed amendment although his case had been correctly decided *e.g.* some class or category of Government servants had been adversely affected by enforcement of the rules.

In border-line cases, reference will be made to the concerned Ministry to ascertain whether the petitioner had exhausted all the avenues open to him; at what level the representation was finally disposed of; whether the petitioner's complaint was against the harshness of the rules or the non-application of the discretionary powers vested in the executive authorities under the rules; and whether the facts stated in the petition were correct.

If, on receipt of the facts from the Ministry, it is found that the petitioner had not exhausted all the avenues or remedies available to him, he will be advised accordingly. In other cases, where so ordered by the Chairman, the matter will be placed before the Committee.

(ii) In the case of representations from employees or ex-employees of the Ministry of Defence, the practice of forwarding them to that Ministry for disposal direct, as already directed by the Committee, will continue.

(iii) Representations from an employee or ex-employee of a State Government disclosing a genuine grievance might be forwarded to the Chief Secretary of the State concerned with the approval of the Chairman, while in other cases they will be filed.

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REFERENCES ON PARLIAMEN-  
TARY PRACTICE

**President's Recommendation—Whether necessary for Amendments under Art. 117(3) of the Constitution?**

**Q. (i)** Whether an amendment which involves expenditure from the Consolidated Fund of India requires recommendation of the President under Art. 117(3) of the Constitution?

**(ii)** In case the necessary recommendation of the President for the consideration of a Bill has been received, whether fresh recommendation will be required for an amendment proposing an increase in the quantum of expenditure contemplated in the original Bill?

**Ans. (i)** An amendment to a Bill does not come within the purview of Art. 117(3) of the Constitution, which refers only to "a Bill" and not to an amendment. The wordings used in clauses (1) and (3) of Art. 117 are distinctly different. While in the former clause the words are "Bill or amendment", the latter clause refers only to "a Bill".

**(ii)** Where the President has already recommended under cl. (3) of Art. 117 the consideration of a Bill, no further recommendation of the President is required for an amendment proposing an increase in the quantum of expenditure contemplated by the original Bill.

**Appointment of members of Lok Sabha on Government Committees**

**Q.** Whether the Speaker of Lok Sabha is consulted before members of Lok Sabha are nominated to Committees set up by Government e.g. the Northern Railway Zonal Railway Users' Consultative Committee?

**Ans.** Where an Act of Parliament or a resolution of the Government of India

under which a Government Committee is constituted provides for representation of Lok Sabha thereon by election by the House or by nomination by the Speaker, the members representing Lok Sabha are elected by the House on a motion made by the Minister concerned, or nominated by the Speaker on receipt of a specific request from the Ministry concerned, as the case may be.

Where the rules or resolutions under which a Government Committee is constituted do not provide for members of Lok Sabha being elected by the House or nominated by the Speaker, it is not the practice for the Speaker to recommend names of members of Lok Sabha for nomination by the Government. If any such request is received, Government are advised to consult the Minister of Parliamentary Affairs.

In the case of National Railway Users' Consultative Council at the Centre, the rules for the formation of the Council provide for appointment of 18 members of Parliament (12 from Lok Sabha and 6 from Rajya Sabha) by the Minister of Railways. The members of Parliament are nominated directly by the Minister of Railways after obtaining the recommendations of the Minister of Parliamentary Affairs. The Minister of Railways has never approached the Speaker for making recommendations for nomination of members of Parliament on this body.

**Reappointment of a Member to a Committee or Office from which he has resigned**

**Q.** Whether it is permissible under parliamentary procedure and practice to move a motion for the appointment of the same member once again to the

### Some Parliamentary Activities

office which he has already resigned; and whether prior consent of the member concerned to serve in the said office, if appointed, is necessary.

*Ans.* There is no bar to moving a motion for appointment of the same member again to an office or Committee from which he has resigned. As regards the consent of the member, Rule 254(2) of the Rules of Procedure of Lok Sabha (Fifth Edition) provides:

No member shall be appointed to a Committee if he is not willing to serve on it. The proposer shall ascertain whether the member whose name is proposed by him is willing to serve on the Committee.

The pre-requisite condition that a member should be willing to serve on a Committee is specifically provided for in the 'Nomination Paper' for election to parliamentary committees in Lok Sabha. In the case of Committees to which members are appointed by the Speaker, the willingness of a member is ascertained in writing on a prescribed form before issuing the notification.

The principle of ascertaining the consent of the member before proposing his name to a Committee has also been reiterated\* from the Chair from time to time.

#### **Estimates Committee—Examination of State undertakings whose estimates do not figure in the Budget estimates**

*Q.* Whether it is within the purview of the Estimates Committee to examine during a year the budget estimates of State and State-aided industrial undertakings and corporations where Government has invested funds, although no

provision has been made for such investment during the particular year?

*Ans.* Under the Rules of Procedure of Lok Sabha the scope of examination by the Estimates Committee is not restricted to the estimates which figure in the Annual Financial Statement presented to Parliament. The Committee may, at its discretion, examine any State undertaking or Government company, irrespective of the inclusion or otherwise of its estimates in the Annual Financial Statement for that particular year.

#### **Competence of P.A.C. to discuss Policy Matters**

*Q.* (i) Whether the Public Accounts Committee can discuss questions involving policy as they come up in the course of scrutiny of accounts?

(ii) Whether approval by the House of any of the financial transactions prevents the Committee from scrutinising these items?

(iii) Whether it is not the right of the Committee to invite the attention of Government to the defects in their policy in case such a policy led to waste and inefficiency?

*Ans.* The Public Accounts Committee is not concerned with questions of policy in the broader sense. In matters where the policy of the Government is settled or well-established the Committee would not attempt any enquiry. What it scrutinises is the application of policy—its form and its

*Cf.* "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." [L.S. Deb. (II): 26-11-1956, p. 1044.]

results. In the course of this scrutiny it is within the competence of the Committee to enquire whether or not there has been any extravagance or waste in any transaction. Obviously, the dividing line between the two cannot be easily drawn. Indeed, it would be impossible sometimes to discuss the one without encroaching upon the other, when questions of wise spending, economy and waste come into play.

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**Financial Committees—Whether all work should be completed during their term?**

**Q.** Whether the Estimates and Public Accounts Committees should complete all of their work during their term or whether they can leave some work incomplete for the succeeding Committees to complete?

**Ans.** Under Rule 285 of the Rules of Procedure of Lok Sabha—

A Committee which is unable to complete its work before the expiration of its term or before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken shall be made available to the new Committee.

The Estimates Committee endeavours to complete the examination of all the subjects selected for examination before the end of its term. However, since the work of the Committee is of a continuous nature any work left unfinished at the end of its term is normally carried over for examination by the succeeding

Committee at the stage where it was left.

The scrutiny of replies of Government to the reports of the Committee is also of a continuous nature and any unfinished part of such scrutiny during the term of the Committee is taken up by the succeeding Committee from the stage at which it is left.

In the matter of selection of subjects, the Committee normally completes its vention whereunder some of the subjects to be examined by the succeeding Committee are selected by the outgoing Committee to facilitate collection of material in the interregnum and to allow the work of the Committee to be evenly spread out. For example, the Estimates Committee (1959-60) selected three subjects for examination during 1960-61.

The work of the Public Accounts Committee for a year is well-defined and the Committee normally completes it before it demits office. There has been no occasion when the Committee left the examination of the Appropriation Accounts for a year and the Audit Report thereon half way for the successor Committee to take up. However, in the past when Appropriation Accounts and Audit Report relating to more than one year\* were presented to Parliament in a year by the Comptroller and Auditor-General, the Committee confined its attention to the earlier Accounts/Report, leaving the Accounts/Report for the subsequent year to the successor Committee to consider.

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\* Appropriation Accounts (Civil) 1950-51, 1951-52 and Audit Reports thereon were presented to Parliament during 1954-55. The P.A.C. of 1954-55 examined the Accounts of 1950-51 only (15th Report, I L.S.); while the next Committee of 1955-56 examined the Accounts of 1951-52 (16th Report, I L.S.).

# Constitutional Matters

## SCOPE OF ART. 3 OF THE CONSTITUTION: POINTS FROM THE SUPREME COURT OPINION ON REFERENCE BY THE PRESIDENT *RE. IMPLEMENTATION OF THE INDO-PAKISTAN AGREEMENT RELATING TO BERUBARI UNION AND EXCHANGE OF COOCH-BEHAR ENCLAVES*

Whether cession of a part of the territory of India in favour of a foreign State could be effected by legislation under Art. 3 of the Constitution was the main question answered in an opinion pronounced by a Special Bench of the Supreme Court on March 14, 1960 on a special reference made by the President under Art. 143(1) of the Constitution.

### *Background*

The Prime Ministers of India and Pakistan entered into an agreement in 1958 under which a portion of the Berubari Union No. 12 in West Bengal was to be transferred to Pakistan and certain enclaves which formed part of the former territory of Cooch-Bihar were to be exchanged by the two countries. Doubts arose whether the Agreement could be implemented by executive action alone or whether legislation would be necessary for the purpose and in the latter case what form the legislation would take. The President referred the matter, under Art. 143(1) of the Constitution, to the Supreme Court for its opinion.

### *Main Issues*

In answering the reference, the Supreme Court examined two main questions:—

- (1) Whether the transfer of a part of the Berubari Union and the exchange of enclaves involved cession or alienation of national territory?

- (2) If so, whether the Agreement between the two Prime Ministers providing for this cession could be implemented by legislation under Art. 3 of the Constitution?

With regard to the first point, in respect of the Berubari Union, it was contended by the Attorney General on behalf of the Government of India that all that the Agreement purported to do was to ascertain or delineate the exact boundary which had already been fixed by the Radcliffe Award in 1947 and that even if in the process of such ascertainment or delineation some land had to be yielded to Pakistan there was no real cession of territory or alteration of boundary involving any change in the description of territories of West Bengal in the First Schedule to the Constitution. As for the exchange of Cooch-Bihar enclaves, the indirect suggestion was that it was to be looked upon as a part of the general and broader agreement about the Berubari Union and viewed in that context, even that could not be said to involve cession of any territory.

Rejecting the above contentions, the Supreme Court held:

We have carefully considered all the clauses in the Agreement and we are satisfied that it does not purport to be, and has not been, treated as a result of any interpretation of the award and its terms; it has been reached independently of the award and for reasons and considerations which appeared to the parties to be wise and expedient. . . . It is an Agreement by which a part of the territory of India has been ceded to Pakistan

and the question referred to us in respect of this Agreement must, therefore, be considered on the basis that it involves cession or alienation of a part of India's territory.

He (the Attorney-General) contended that the implementation of the Agreement..... would not necessitate any change in the First Schedule to the Constitution because, according to him, Berubari Union was never legally included in the territorial description of West Bengal contained in the said Schedule..... As we have already indicated, since the award was announced (in 1947) Berubari Union has remained in possession of India and has been always treated as a part of West Bengal and governed as such. In view of this factual position there should be no difficulty in holding that it falls within the territories which immediately before the commencement of the Constitution were comprised in the Province of West Bengal. Therefore, as a result of the implementation of this Agreement the boundaries of West Bengal would be altered and the content of Entry 13 in the First Schedule to the Constitution would be affected.

What was true about the Agreement in respect of Berubari Union, the Court observed, was still more emphatically true about the exchange of the Coçh-Bihar enclaves.

With regard to the second point, the Attorney-General argued that the words used in Art. 3(c) were wide enough to include the case of cession of national territory in favour of a foreign country which causes the diminution of the area of the State in question and, therefore, if at all any legislation was necessary to implement the Agreement, a law passed by Parliament under Art. 3 would be sufficient. The Attorney-General also urged that if it was held that Parliament must act under Art. 368 and not under Art. 3 to implement the Agreement, it would in effect deprive the Legislature of West Bengal of an opportunity to express its views on the cession of the territory in question.

The Supreme Court did not accept the above view. It held:

Even if Art. 3(c) receives the widest interpretation it would be difficult to accept the argument that it covers a case of cession of a part of national territory in favour of a foreign State. The diminution of the area of any State to which it refers postulates that the area diminished from the State in question should and must continue to be a part of the territory of India; it may increase the area of any other State or may be dealt with in any other manner authorised either by Art. 3 or other relevant provisions of the Constitution; but it would not cease to be a part of the territory of India..... Therefore, we feel no hesitation in holding that the power to cede national territory cannot be read in Art. 3(c) by implication.

There is another consideration which is of considerable importance in construing Art. 3(c). As we have already indicated Art. 3 does not in terms refer to the Union territories, and there can be no doubt that Art. 3(c) does not cover them and so, if a part of the Union territory has to be ceded to a foreign State no law relating to Art. 3 would be competent in respect of such cession..... It would be unreasonable, illogical and anomalous to suggest that, whereas the cession of a part of the Union territory has to be implemented by legislation relating to Art. 368, cession of a part of the State territories can be implemented by legislation under Art. 3. We cannot, therefore, accept the argument..... that an agreement which involves a cession of a part of the territory of India in favour of a foreign State can be implemented by Parliament by passing a law under Art. 3 of the Constitution.

As for the argument that legislation under Art. 368 would mean depriving the West Bengal Legislature of its opportunity to express its views on the cession, the Supreme Court's reply was that "if on its fair and reasonable construction Art. 3 is inapplicable, this incidental consequence cannot be avoided."

On the main questions considered by it the Supreme Court summed up its conclusions thus:

The Agreement amounts to a cession of a part of the territory of India in favour

## *Constitutional Matters*

of Pakistan; and so its implementation would naturally involve the alteration of the content of and the consequent amendment of Art. 1 and of the relevant part of the First Schedule to the Constitution, because such implementation would necessarily lead to the diminution of the territory of Union of India. Such an amendment can be made under Art. 368 .....Parliament may, however, if it so chooses, pass a law amending Art. 3 of

the Constitution so as to cover cases of cession of the territory of India in favour of a foreign State. If such a law is passed then Parliament may be competent to make a law under the amended Art. 3 to implement the Agreement in question. On the other hand, if the necessary law is passed under Art. 368 itself that alone would be sufficient to implement the Agreement.



# Conferences

## CONFERENCE OF CHAIRMEN OF COMMITTEES ON SUBORDINATE LEGISLATION

NEW DELHI  
(April 30, 1960)

The first Conference of Chairmen of Committees on Subordinate Legislation was held on April 30, 1960 in Parliament House, New Delhi under the chairmanship of Sardar Hukam Singh, Deputy Speaker and Chairman of the Committee on Subordinate Legislation of Lok Sabha. Shri M. Ananthasayanam Ayyangar, Speaker of Lok Sabha inaugurated the Conference.\*

Chairmen of Committees on Subordinate Legislation from thirteen State Legislatures participated in the Conference.

The agenda for the Conference included a number of procedural points which broadly related to the scope of subordinate legislation, the procedure for laying and publication of rules and regulations, the scope of function of the Committee on Subordinate Legislation and procedure in the Committee. Some of these points were:

- (a) In the light of the Constitution of India the criteria for demarcation of the 'essential legislative functions', which cannot be delegated by the Legislature, from 'the power to fill up the details' which may be enjoyed by subordinate authorities.
- (b) Scope of the clause conferring power 'to make rules to give effect to the provisions of this Act' usually found in statutes.
- (c) Desirability of evolving a uniform policy regarding laying

of rules and regulations before the Legislature and procedure for numbering them by a central authority.

- (d) Desirability of prescribing a uniform time limit for framing of rules by government.
- (e) Competence of a State Legislature to make provision in laws requiring the rules framed by the State Government under a central law on a Union subject to be laid before them.
- (f) Scope of function of the Committee on Subordinate Legislation in respect of—(a) rules/regulations not laid before the legislature; (b) rules and amendments in draft; (c) questions of policy, merits and vices of the rules and regulations; (d) provisions in the parent Act delegating extraordinary powers to adapt, alter or modify the provisions of the Act; (e) departmental instruments (*i.e.* non-statutory rules, executive orders etc.) having the force of law; (f) rules relating to the functioning of autonomous statutory bodies.
- (g) The period to be fixed for notices of modification of rules and the procedure to be followed for transmission of

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\*The inaugural address of the Speaker has been reproduced elsewhere in this Journal.

## Conferences

amendments to modifications adopted by one House to the other House, where rules are subject to modification by both Houses.

- (h) Question of inclusion of the Minister of Law as a member of the Committee and the attendance of the Law Officers of the Government and Legal Remembrancer on the Committee.
- (i) Desirability of evolving a uniform procedure for implementation of the recommendations of the Committee.
- (j) Question of maintaining, by the various States, uniformity in rules on particular or individual subject-heads.
- (k) Question of dissemination and exchange of knowledge on the subject of subordinate legislation through a journal, brochure, a Central Library etc.

After the inaugural speech by the Speaker, Lok Sabha, Sardar Hukam Singh, Deputy Speaker and Chairman of the Committee on Subordinate Legislation, Lok Sabha, addressed the Conference.

### CHAIRMAN'S ADDRESS

Hon'ble Speaker, brother Chairmen of Committees:

I am very happy to welcome you all to this Conference of Chairmen of the Committees on Subordinate Legislation. I am sure I would be voicing your inner feelings if I convey to the Hon'ble Speaker my grateful thanks on behalf of this Conference for agreeing to come over here and inaugurate it. You have

just listened to his illuminating address. After his speech, perhaps there was no need for me to say anything further. But I crave your indulgence to say a few words from my experience of the functioning of the Committee at the Centre.

### *Legal Background Useful*

In the first place, I would refer to its membership. The Committee on Subordinate Legislation is more or less in the nature of an Expert Committee. It is, therefore, desirable that at least a good proportion of members of the Committee should be drawn from those who have some background in the study or practice of law. Such knowledge has been found to be of great help in the day-to-day functioning of the Committee. When questions concerning subordinate legislation are raised in the House, lawyer members of the Committee have always spoken with authority and played a prominent part in such discussions.

### *Permanent Secretarial Staff*

The continuous preliminary examination of rules and regulations made by the executive has to be undertaken. Obviously, the members who are already pre-occupied with multifarious activities cannot be expected to take up examination of each and every 'Order' which at the Centre come to over a thousand annually and some of which run into a number of printed pages. This task has to be assigned to a permanent secretarial staff attached to the Committee who should be specially chosen for it and allowed to build up experience in course of time.

By this I do not mean that the members of the Committee should not exercise any initiative. In fact the effectiveness of the Committee depends a great

deal upon the devotion and the interest that the members take in the work of the Committee. The members should be encouraged to undertake examination and study of the statutory rules and regulations, if necessary with the assistance of the Secretariat and place their views before the Committee for their consideration.

#### *Committee at the Centre*

The Committee at the Centre, which was first constituted in December, 1953, has been working with remarkable harmony and its discussions are absolutely free from party considerations. On no occasion has the Chairman been asked to take votes on a question under consideration. In fact all decisions have been unanimous so far.

#### *No Rigidly Legalistic Attitude*

Although the scope of examination of the Committee extends to the form as well as content of a rule or regulation, it is not necessary for the Committee to adopt a rigidly legalistic attitude towards any set of rules under its examination. In the course of its work, the Committee should not lose sight of the fact that the ultimate aim and end of all rules and regulations is the larger public good. The Committee at the Centre have made a number of recommendations with this end in view. To illustrate,—

- (a) Bye-law 20 of the Bye-laws for the Regulation of Public Water Supply etc., and Collection of Water Charges in Deolali Cantonment (S.R.O. 80 of 1957) laid down that consumers shall be supplied meters at their own cost, which will nevertheless become the property of the Cantonment Board. There appeared to be no reason why

the meters supplied at the cost of the consumers should become the property of the Board. On a reference being made to the Ministry of Defence the offending portion of the bye-law was omitted.

Similarly, bye-law 26 of the same Bye-laws authorised the Cantonment Board to close, stop, reduce or restrict the supply of water *inter alia* in respect of classes of persons. It was felt that such a provision might lead to discrimination between different classes of persons. Again, on a reference to the Ministry the bye-law in question was amended suitably.

- (b) Proviso to Regulation 8 (1) (a) of the Coal Mines Regulations, 1957, which were issued under section 57 of the Mines Act, 1952 required that in case the owner of a coal mine was a member of a firm or other association of individuals he shall intimate to the Chief Inspector of Mines any change, if it occurs, in the membership of such a firm or association. This requirement appeared to be of an unusual nature inasmuch as an owner of a mine might be a member of a number of associations such as a club, a company, a philanthropic society etc. which had no concern with the working of a mine. On a clarification being sought, the Ministry of Labour and Employment stated that the intention was that if the owner of a mine was a firm

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or any other association the change in the membership thereof need be communicated to the Chief Inspector of Mines. The Ministry amended the regulation accordingly.

- (c) An amendment to the Nasirabad Cantonment Bye-laws regulating the grazing of animals (S.R.O. 336 of 1955), which was made in pursuance of powers conferred for the regulation of the grazing animals by section 282(1) (21) of the Cantonments Act, 1924, provided that no animal shall be permitted to graze on the Cantonment grazing land without a permit to be obtained from the Executive Officer on payment of such grazing fee as may be fixed by the Cantonment Board.

The Committee observed that the power to impose fees by rules or bye-laws should expressly be given in the parent Act and recommended that the Cantonments Act, 1924 ought to be suitably amended in order to enable the Cantonment Board to levy such grazing fees.

- (d) Clause 2 of the Punjab Sugarcane (Prohibition of Use or Manufacture of Gur) Order, 1959 imposed an unreasonable restriction upon the sugarcane growers living close to a sugar mill by prohibiting the manufacture of Gur, even for their own consumption. Though the order has been withdrawn by the Government, the Committee is still considering the desirability of reporting about

it to the House so that such orders are not issued hereafter.

### *Problem of Non-exercise of Rule-making Power*

The Committee at the Centre recently came across a problem and I do not know whether it exists in the States also. Since the recommendation of the Committee in a way concerns the States I would like to bring it to your notice. The problem is one resulting from non-exercise of rule-making power by the Government. The Central Acts confer rule-making powers on the Government to regulate certain matters mentioned therein but sometimes Government do not exercise that power immediately or for a very long time. This non-exercise of rule-making power might cause hardship to the persons concerned.

The Committee in its Fifth Report made a recommendation that ordinary 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 will 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.

It has also been brought to the notice of the Committee that there are several instances, where rule-making power delegated to State Governments under the Central Acts has not been exercised by the State Governments. In this connection the Committee have decided that hereafter, 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 Governments concerned.

*Rules relating to Commodities*

I would like the Committee on Subordinate Legislation to pay particular attention to the rules and regulations which are issued for the regulation of trade and commerce in commodities and their production, supply and distribution, and similar other rules which affect a large portion of our population. In such cases, sometimes, plenary powers of granting or refusing to grant licences, and power of suspension and cancellation thereof, are conferred on the licensing authority, sometimes even without requiring him to assign reasons for his action and hear the aggrieved party before passing the orders. For example,—

- (a) Certain Customs Duties Drawback Rules of 1954, made under Sec. 43B (3) of the Sea Customs Act, 1878, provided that drawback would be admissible for the period during which the notification in respect of the goods was in force under Sec. 43B (1) of the said Act. The effect of such a provision was that the drawback would not be available where goods were acquired while the notification was in force but was revoked before the claim to drawback accrued. The Committee felt that such a provision was likely to cause hardship to persons who imported goods in anticipation of earning drawback and recommended that there should be a rule expressly pro-

viding for a reasonable period of notice being given before any scheme of drawback was revoked. The Government assured the Committee that the withdrawal of notification under Sec. 43B (1) of the Sea Customs Act would be subject to the previous publication as prescribed under section 21 of the General Clauses Act which would ensure reasonable notice of cancellation.

- (b) Rule 15 of the Coal Mines Conservation and Safety Rules, 1954 conferred wide powers on the Chairman of the Coal Board to suspend or reduce in rank an employee of the Board or to dismiss certain categories of employees at his discretion. The Chairman was not also required to follow any prescribed procedure, such as institution of an enquiry or affording an opportunity to the person concerned to explain his position etc. The rules also did not provide for an appellate authority.

The Committee recommended that proper procedure for these should be provided in the Rules. The recommendation of the Committee was accepted by the Government.

- (c) Certain Control Orders, which were issued under the Essential Commodities Act, 1955, conferred on the authorized officers very wide powers of entry into premises, conducting searches and effecting seizures, but safeguards like the presence of two witnesses, preparation of an inventory of goods seized, and giving of

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copy thereof to the persons concerned, were not provided as is required under sections 102 and 103 of the Criminal Procedure Code, 1898. At the instance of the Committee, the Control Orders were amended suitably.

### *Watch on Implementation of Recommendations*

The Committee should also not remain content after making recommendations or expressing their views on a particular matter but should keep a watch as to how far their recommendations have been implemented by the Government. The Committee may make a recommendation today but it may become out of date after some time due to change in the situation demanding a modification in the recommendation. In such a case the Committee ought to amend their

earlier recommendation accordingly. Then again, there may be some recommendations which cannot be implemented due to various administrative or financial difficulties or the results likely to be obtained by their implementation may not be commensurate with the time, expenditure and labour involved in their implementation. In such cases, if the Committee are satisfied with the arguments advanced by the Government, they should drop those recommendations. But, where the Committee feel that the implementation of a particular recommendation will be in the public interest, the Committee ought to insist on its implementation, and, if necessary, bring the matter to the notice of the House for its final decision. But I do not visualise, as the practice at the Centre has shown, that a situation would arise which would require the intervention of the House.

# Editorial

We open this issue with excerpts from two speeches by Speaker Shri M. Ananthasayanam Ayyangar, one being the inaugural address to the Conference of Chairmen of Committees on Subordinate Legislation and the other the valedictory address to the outgoing Estimates Committee. In his inaugural address the Speaker has dwelt on the nature of subordinate legislation and certain connected problems. In his speech to the Estimates Committee he has emphasized some of the basic ideas concerning the functions and working of the Committee.

In this issue, a few articles have been included which, we hope, will be found both informative and interesting. The first article on the Question Hour in Parliament by Shri C. R. Narasimhan, a member of Lok Sabha, lucidly explains the significance of the Question Hour and the reasons for its important place in parliamentary proceedings. The next article by Shri S. L. Shakhder, Joint Secretary, Lok Sabha Secretariat, is a comparative study of the Committees on Estimates in the U.K. and India. With the latter he has been associated from its very inception and regarding the former he has gathered extensive knowledge during his sojourns in U.K. and discussions with the officers of the House of Commons. The article is thus specially valuable, based as it is, on the author's personal knowledge of the

working of the Committee in both the countries.

Dr. Ramesh Narain Mathur deals with delegated legislation and the provisions for its control in the U.S.A., Britain, Australia, New Zealand and India, while the article that follows it explains the constitutional provisions and the procedure relating to amendments to the Constitution in India. The last article is devoted to a resume and analysis of the influence the Public Accounts Committee has been exercising on the Indian financial system and the changes that have been affected therein as a consequence of the vigil and initiative of the Committee.

We are starting, from this issue, a new section to the Journal, viz., "Recent Literature on Parliamentary Affairs" wherein we propose to list recent books, articles and special reports on parliamentary matters. The present issue covers, under this section, literature published during the period April to September of this year. We trust this feature will be of some interest and use to persons engaged on such studies.

Statistical information pertaining to State Legislatures given in the Appendices could not have been compiled but for the kind and active co-operation of the State Legislature Secretariats.



## Book Reviews

**Voting in Democracies** by Enid Lakeman and James D. Lambert (Faber and Faber, 24 Russell Square, London, 1959; pp. 303; 25s.)

The authors have examined in the present volume the mechanics of various majority and proportional electoral systems and their influence upon the character of parliamentary institutions and of the governments of the countries using them.

Chapter I, discussing the purposes of elections, shows how certain "cruder systems of voting", one of which, according to the authors, is the British method for parliamentary elections, fail to secure the four commonly accepted chief aims of democratic government, *viz.*, representation of important minorities, rule of majority, voter's choice of representative and the stability and continuity in government.

In Chapter II, it has been argued that the first-past-the-post system, otherwise known as simple majority vote with only one ballot, is unreliable inasmuch as it frequently excludes from Parliament men and women whose contribution to it would be most valuable. Chapter III illustrates the variations of the said system.

Chapter IV describes the semi-proportional systems of voting, *e.g.*, the limited vote, the single non-transferable vote, the cumulative vote and the *poisson* system. Chapter V illustrates the list systems of proportional representation. All the list systems have one thing in

common: that every vote is automatically, without further reference to the voter's wishes, added to the total of the list on which a particular candidate appears. The single transferable vote has been discussed in Chapter VI. The fundamental advantage of this type of vote, according to authors, is that it makes possible the fair representation of opinions which do not coincide with party decisions.

While discussing some technical and political aspects of proportional representation in Chapters VII and VIII, the authors plead that the manifest advantages of the single transferable vote in the conditions of a plural society are attainable even if there is illiteracy.

The authors have further suggested that the single transferable vote would assist in the change of attitude of a citizen, who should be made a responsible and conscious partner in government, as it would give the representative greater independence and would free the electorate from the tyranny of party by offering a wider choice of candidates.

Discussing at length, in two exclusive chapters—*viz.* IX and X—the various aspects of proportional representation in list system and the transferable vote, the authors have dwelt upon the experiences of the continental and some other countries in respect of these systems of voting. Pleading for the adoption of the system of proportional representation and single transferable vote in Britain, the authors have concluded the work by remarking that a parliament

so elected will possess a solid authority and an enhanced prestige, and will become in truth the authentic expression of the national will.

Documented and informative, as the study is, its usefulness has been increased by the analytic treatment of the subject, suggestions for reform and the addition of lot of relevant statistical and other data in several appendices together with a brief bibliography at the end.

**India and the Commonwealth** by Aloo J. Dastur (Harold Laski Institute of Political Science, Ahmedabad, 1960, pp. 24, Re. 1)

This booklet, comprising the Laski Memorial Lecture, 1959, delivered by Dr. Miss Aloo J. Dastur, Professor in Politics, University of Bombay, gives an account of the transformation of the British Empire into the Commonwealth of Nations and the mutual relations of the members of the Commonwealth during the last decade or so, with special reference to the role of India.

A fundamental change was brought about in the character of the Commonwealth when India decided to become a Republic and at the same time to continue her membership of the Commonwealth. By this decision India caused a breach in the principle of 'common allegiance to the Crown' which had, till then, formed the basis of the unity of the Commonwealth. Subsequently, she contributed to the expanding independence of the members within the Commonwealth by being the first to abolish the appeal to the judicial committee of the Privy Council. With the passage of time India's independence of action in world affairs has also become obvious.

Dr. Dastur describes the place of consultation and co-operation in the relationship of the Commonwealth countries. She also takes note of the disputes between individual members of the Commonwealth and the tendency among member States to become increasingly 'independent in pursuit of self-interest' in the economic and political spheres as well as in defence matters. She admits she has no adequate explanation how the Commonwealth association could have withstood all these strains and stresses 'unless it be that conflicts *inter se* are not allowed to be raised at Commonwealth meets but at the world forum of the United Nations'. She is hopeful of the Commonwealth surviving the eclipse of parliamentary democracy and individual freedom in some of the member States 'because by common consent each refrains from interfering in the internal affairs of the other.'

**Aspects of Audit Control** by Asok Chanda (Asia Publishing House, Bombay, 1960, pp. 80, Rs. 7.50).

This is a collection of three lectures delivered by Shri Asok Chanda, ex-Comptroller and Auditor General of India, under the auspices of the Indian Institute of Public Administration.

In the first lecture on audit in a democracy, Shri Chanda outlines the evolution of the audit organization and the present day role of the audit authority in the U.K., U.S.A., France and India. He points out that the responsibilities of the office of the Comptroller and Auditor General in India in regard to the audit of receipts are yet to be fully developed. Shri Chanda also considers it unfortunate that the terms and conditions of his office, unlike that of the supreme judiciary, have not been prescribed in the

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Constitution itself but left to legislation by Parliament. This, in his opinion, has left the office unprotected from possible "future executive and legislative aggression".

The second lecture recounts the developments in the auditing and accounting arrangements in India in the last fifty years and the several attempts made for the separation of the two. According to Shri Chanda, transfer of accounting functions alone has no meaning unless it is accompanied by delegation of financial responsibility to the administrative departments. On grounds of economy, he does not favour any change at the present juncture but instead recommends a major overhaul of the accounting system and the simplification of its processes.

The concluding lecture is devoted to the accountability of public enterprises. It is interesting to note that the issue of accountability has assumed an acute form only in U.K. In the U.S.A., for example, the theory of the autonomous corporation has never been countenanced in practice. The Hoover Commission was definite that 'business enterprises do not and should not derive any special organisational status from the

fact that they are business enterprises and not some other type of governmental activity.'

In regard to India, the author seems to be satisfied that the requirements of public accountability are largely met. In order, however, to ensure fuller accountability he has a few suggestions to offer, and these include preparation of capital budget in the case of public enterprises and its laying annually before Parliament; provision for regulating the establishment of reserves, the treatment of surplus moneys etc.; the procedure of Parliament granting authority to borrow, specifying the limit; and laying of financial statement on the coming year's operations and expectations before Parliament. In view of the common criticism that the facade of autonomy is created mainly to defeat parliamentary control, Shri Chanda counsels that 'there must be adequate and valid, if not compelling, reasons before the company or corporation form of management is adopted' and 'once so constituted, these should be made autonomous in reality and not in theory, government exercising only the rights of a shareholder.'

The Indian Institute of Public Administration have done well to bring out in book form these informative lectures which may be read with interest.

# Recent Literature on Parliamentary Affairs

## BOOKS

### General

1. **Parliamentary Supervision of Delegated Legislation** by John E. Kersell (Stevens & Sons Ltd., London, 1960). (The practices in U.K., Australia, New Zealand and Canada discussed).

### India

2. **Gujerat Legislative Assembly Rules** (Director, Government Printing, Publications and Stationery, Ahmedabad, 1960).
3. **India's Constitution in the Making** by B. N. Rau (Oriental Longmans Private Ltd., 1960).
4. **Our Fundamental Rights: Their Nature and Extent (As Judicially Determined)** by D. N. Banerjee (The World Press Private Ltd., 1960).
5. **Rules of Procedure and Conduct of Business of the Uttar Pradesh Legislative Council** (Superintendent, Printing and Stationery, Lucknow, 1960).
6. **A Selection of Decisions from the Chair drawn from the Sessions of November 1956 to September 1959** (Director, Government Publications and Stationery, Bombay, 1960).

### U.K.

7. **Dod's Parliamentary Companion, 1960** (Business Dictionaries, London, 1960).
8. **Great Parliamentary Occasions** by J. Enoch Powell (Herbert Jenkins, London, 1960). (A description of famous occasions in the British Parliament from 14th to the 20th century).
9. **Parliament and People** by Edward Heath (Conservative Political Centre, 1960).
10. **Standing Orders of the House of Commons as they are to have effect for the remainder of the Session, 1959-60** (H.M.S.O., London, 1960).

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### India

1. **Andhra Pradesh, Legislative Assembly: Committee on Privileges (Fifth Report)** (Legislative Assembly Secretariat, Hyderabad, 1960). (Report regarding the *Deccan Chronicle* Case).
2. **Lok Sabha (2nd): Parliamentary Committees---A Summary of Work (Tenth Session, 1960)** (Lok Sabha Secretariat, New Delhi, 1960).

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3. Punjab. Vidhan Sabha: Committees, 1959-60 (Vidhan Sabha Secretariat, Chandigarh, 1960). (A brief review of the work of several committees appointed on different subjects).
4. Punjab. Vidhan Sabha: Committee on Privileges (Vidhan Sabha Secretariat, Chandigarh, 1960). (Report regarding the publication of an article in the 'People's Guardian', Chandigarh, under the caption 'Odious Characters of Punjab Politics', in its issue dated the 19th December, 1959).
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## APPENDIX I

*Summary showing the activities of the House of Parliament Since Legislation Indroducing the period 1st January to 31st June, 1960*

Name of the House/Legislature	Session during the period	Legislation No. of bills passed	Questions		Short Notice	Committees Names	Point of Interest					
			Started	Unstarred				No. of Mem- bers				
		Government Members	Private Members	Notices received	Admitted							
1	2	3	4	5	6	7	8	9	10	11	12	13
14	1st Session From 3-3-60 to 29-4-60 (60 sittings)	18	362	1970	3608	3973	382	16	15	15	15	15



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

Committee on Public Accounts . . . . .	22
Committee on Subordinate Legislation . . . . .	15
General Purposes Committee . . . . .	20
House Committee . . . . .	12
Joint Committee on Offices of Profit . . . . .	15
Joint Committee on Salaries and Allowances of Members of Parliament . . . . .	15
Rules Committee . . . . .	15
Joint Committee on the Bombay Reorganization Bill, 1960 . . . . .	45
Business Advisory Committee . . . . .	10
Committee on Petitions . . . . .	5
Committee of Privileges . . . . .	10
Committee on Rules . . . . .	15
General Purposes Committee . . . . .	16
House Committee . . . . .	7
Joint Committee on the Delhi Primary Education Bill, 1960 . . . . .	45

Rajya Sabha. . . . . Two Sessions: 23 .. 2261 1003 191 399<sup>e</sup> 29 5

(i) From 8-2-60 to 11-3-60 (25 sittings) and  
(ii) from 6-4-60 to 29-4-60 (18 sittings).

## Appendices

Andhra Pradesh Legislative Assembly	7	3724	1048	76	127	33	Business Advisory Committee	9	
	(i) Ninth Session— From 16-3-60 to 26-3-60 (12 sittings); and						Committee on Estimates	24	
	(ii) Tenth Session— Commenced on 22-4-60 and had not concluded by 30-6-60 (7 sittings during the period under review)						Committee of Privileges	16	
							Committee on Public Accounts	24	
Andhra Pradesh Legislative Council	7	434	451**	23	21	46	12	House Committee	7
	One Session— Second Session— Commenced on 27-7-59 and had not concluded by 30-6-60 (16 sittings during the period under review)						Committee on Government Assurances	5	
							Committee on Petitions	5	
Assam Legislative Assembly	17	382	372	716	682	1	7	House Committee	7
	One Session : From 26-2-60 to 11-4-60 (11 sittings)						Business Advisory Committee	7	
							Committee on Estimates	10	
							Committee on Government Assurances	7	
							Committee on Petitions	5	

\* Figures are given in the original report and are subject to correction.  
\*\* Figures are given in the original report and are subject to correction.

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12 13

1 2 3 4 5 6 7 8 9 10 11

	1	2	3	4	5	6	7	8	9	10	11	12	13
Other Vishwa Sabha													
One Session : From 3-2-60 to 20-6-60 (76 sittings)			10	..	5180	3137	656	638	676	543			
Committee of Privileges													7
Committee on Public Accounts													7
Committee on Subordinate Legislation													7
House Committee													6
Business Advisory Committee													11
Committee on Enlistment													25
Committee on Governmental Assurances													15
Committee on Petitions													5
Committee of Privileges													13
Committee on Public Accounts													17
Committee on Subordinate Legislation													10
House Committee													18
Library Committee													33
Business Advisory Committee													7
Committee on Government Assurances													11
Other Vishwa Sabha													
One Session : New Session From 3-2-60 to 18-6-60 (58 sittings)			10	1	893	805	29	26	10	9			

## Appendices

Committee on Petitions relating to Bills . . . . .	7				
Committee on Private Members' Bills and Resolutions . . . . .	11				
Committee of Privileges . . . . .	11				
Committee on Sub-ordinating Legislation . . . . .	11				
House Committee . . . . .	11				
Library Committee . . . . .	13				
Rules Committee . . . . .	15				
Business Advisory Committee . . . . .	5				
Committee on Governmental Assurance . . . . .	7				
Committee of Privileges . . . . .	7				
Committee on Public Accounts . . . . .	8				
House & Library Committee . . . . .	9				
Rules Committee . . . . .	7				
Committee on Governmental Assurance . . . . .	5				
Committee on Privileges . . . . .	5				
Committee of Privileges . . . . .	5				
General Purpose Committee . . . . .	6				
House Committee . . . . .	4				

**Jawan & Kambur** One Session  
 From 8-2-60 to 18-3-60 (28 sittings)

**Jawan and Kambur** One Session  
 From 8-2-60 to 19-3-60 (19 sittings)

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	1	2	3	4	5	6	7	8	9	10	11	12	13
<b>Kerala Legislative Assembly</b>													
One Session :													
From 12-3-60 to 12-3-60 :			6	..	918	909			6	3			
(72 sittings)													
												Rules Committee . . .	6
												Library Committee . . .	4
												Committee on Estimates . . .	7
												Committee on Government Assurances . . .	7
												Committee on Petitions . . .	7
												Committee of Privileges . . .	7
												Committee on Private Members' Bills and Resolutions . . .	7
												Committee on Public Accounts . . .	7
												Committee on Subordinate Legislation . . .	7
												House Committee . . .	7
												Library Advisory Committee . . .	7
												Rules Committee . . .	9
												Business Advisory Committee . . .	15
												Committee on Delegated Legislation . . .	10
												Committee on Estimates . . .	15
												Committee on Government Assurances . . .	10
<b>Madhya Pradesh Vidhan Sabha</b>													
One Session :													
From 29-1-60 to 8-4-60 :			20	..	3221	1849	1142	773	41	11			
(45 sittings)													

## Appendices

Committee on Petitions . . . . .	5
Committee of Privileges . . . . .	15
Committee on Public Accounts . . . . .	10
House Committee . . . . .	10
Library Committee . . . . .	10
Rules Committee . . . . .	15
Business Advisory Committee . . . . .	8
Committee on Estimates . . . . .	27
Committee on Government Assurance . . . . .	15
Committee on Petitions . . . . .	7
Committee of Privileges . . . . .	12
Committee on Private Members' Bills and Resolutions . . . . .	13
Committee on Public Accounts . . . . .	27
Committee on Subordinate Legislation . . . . .	19
Library Committee . . . . .	20

Maharashtra Legis. Assembly  
 One Session:  
 From 2-3-60 to  
 31-3-60 (16 sittings)

\* This includes 16 Short Notice Questions submitted as Starred Questions.

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Rules Committee (Assembly) . . . . .	15
Committee on Absence of Members from the Sitings of the House . . . . .	15
Joint Committee of both the Houses for framing Rules and Orders under the Bombay Legislature Members' Salaries and Allowances Act, 1956 . . . . .	15
Business Advisory Committee . . . . .	8
Committee of Privileges . . . . .	10
Committee on Absence of Members from the Sitings of the House . . . . .	10
Committee on Government Assurances . . . . .	9
Committee on Petitions . . . . .	5
Committee on Private Members' Bills and Resolutions . . . . .	8
Rules Committee (Council) . . . . .	9

Maharashtra Legislative Council  
 One Session:  
 From 2-3-60 to 25-3-60 (12 sittings)



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Madras Legislative Assembly	One Session: Eighth Session from 5-12-1959 to 11-5-1960 (37 sittings)	14	..	1530	1020	274	274	12	12	Business Advisory Committee	11		
										Committee on Estimates	22		
										Committee on Government Assurances	7		
										Committee on Public Accounts	21		
										Committee on Subordinate Legislation	13		
										House Committee	16		
										Business Advisory Committee	9		
										Committee on Government Assurances	5		
										Committee of Privileges	10		
										House Committee	9		
										Committee on Estimates	12		
										Committee of Privileges	9		
										Committee on Private Members' Bills and Resolutions	10		
										Committee on Public Accounts	15		
Madras Legislative Council	One Session: Seventeenth Session 12-59 and Provisions in 11-60 (15 sittings during the Festival under review)	14	..	309	268	1	1	6	6	Business Advisory Committee	9		
										Committee on Government Assurances	5		
										Committee of Privileges	10		
										House Committee	9		
										Committee on Estimates	12		
										Committee of Privileges	9		
										Committee on Private Members' Bills and Resolutions	10		
										Committee on Public Accounts	15		
		Mysore Legislative Assembly	One Session: From 2-3-60 to 19-4-60 (18 sittings)	4	..	137	131	36	36	33	33	19	
													..

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	1	2	3	4	5	6	7	8	9	10	11	12	13
Orissa Legislative Assembly			8		2595°	1964°							
		One Session : Fifth Session—From 17-2-60 to 28-4-60 (43 sittings)											
													9
													5
Punjab Vidhan Sabha			15		1557	1057	617	437	27	15			
		One Session : From 15-2-60 to 27-4-60 (38 sittings)											
													9
													8
													6
													10
													9
													9
													5
													12
												8	
												20	
												5	

## Appendices

	15	469	440*	122	110†	25	1		65
<b>Punjab Legislative Council</b>	One Session : From 15-3-60 to 3-5-60 (19 sittings)							Hindi Regional Committee . . . . .	
								Library Committee . . . . .	6
								Punjabi Regional Committee . . . . .	87
								Committee connected with the Comfort and Convenience of the Members . . . . .	8
								Committee connected with the business of the Council . . . . .	5
								<i>Ad-hoc</i> Committee on the Punjab Gram Panchayat (Amendment) Bill, 1960 . . . . .	4
								Committee on Government Assurance . . . . .	6
								Committee on Petitions . . . . .	8
								Committee on Subordinate Legislation . . . . .	4
								Library Committee (a) . . . . .	8
								Library Committee (b) . . . . .	7
								Rules Committee . . . . .	8
								Committee on Estimates . . . . .	15

**Punjab Legislative Council** :  
One Session :  
From 24-2-60 to  
18-9-60 (37 sittings)

21                      1925                      1388                      31                      21                      20                      1

\* Figures represent total number of questions received and starred      Break-up of figures not furnished.  
includes 20 Short Notice Questions admitted as Starred Questions.  
† Includes 13 Starred Questions admitted as Unstarred Questions

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	1	2	3	4	5	6	7	8	9	10	11	12	13
Committee on Government Assurances . . . . .													5
Committee on Petitions . . . . .													10
Committee of Privileges . . . . .													10
Committee on Public Accounts . . . . .													10
Committee on Subordinate Legislation . . . . .													10
House Committee . . . . .													5
Select Committee on the Rajasthan Land Revenue and Public Demands Recovery (Amendment) Bill, 1956 . . . . .													16
Select Committee on the Rajasthan Social Education Board Bill, 1958 (Private Member's) Bill. . . . .													25
Business Advisory Committee . . . . .													15
Committee on Privileges . . . . .													10
Committee on Delegated Legislation . . . . .													15
Committee on Estimates . . . . .													25

U. P. Legislative Assembly  
 One Session : 12  
 Second Session—  
 From 9-2-60 to  
 9-5-60 (48 sittings).

## Appendices

Committee on Government Assurances . . .	15	
Committee on Petitions . . .	15	
Committee on Public Accounts . . .	21	
Rules Committee . . .	15	
Business Advisory Committee . . .	10	
Committee on Government Assurances . . .	11	
Committee on Petitions . . .	10	
Committee of Privileges . . .	10	
House Committee . . .	10	
Rules Committee . . .	10	

U. P. Legislative Council

One Session : 5

From 6-1-60 to 12-4-60 (26 sittings)

844 431 49 58 101 22

\*Includes 939 Short Notice Questions

## APPENDIX II

*List of Bills passed by the Houses of Parliament and assented to by the President during the period 1st January to 30th June, 1960*

Serial No.	Title of Bill	Date of Assent by the President
1	The Constitution (Eighteenth Amendment) Bill, 1960 . . . . .	5-1-1960
2	The Administration of Evacuee Property (Amendment) Bill, 1960 . . . . .	27-2-1960
3	The Displaced Persons (Compensation and Rehabilitation) Amendment Bill, 1960 . . . . .	27-2-1960
4	The Appropriation Bill, 1960 . . . . .	7-3-1960
5	The Imports and Exports (Control) Amendment Bill, 1960 . . . . .	7-3-1960
6	The Motor Vehicles (Amendment) Bill, 1960 . . . . .	12-3-1960
7	The Geneva Conventions Bill, 1960 . . . . .	12-3-1960
8	Appropriation (Railways) Bill, 1960 . . . . .	16-3-1960
9	The Appropriation (Railways) No. 2 Bill, 1960 . . . . .	16-3-1960
10	The Appropriation (Vote on Account) Bill, 1960 . . . . .	19-3-1960
11	The Orphanages and Other Charitable Homes (Supervision and Control) Bill, 1960 . . . . .	9-4-1960
12	The Bombay Reorganisation Act, 1960 . . . . .	25-4-1960
13	The Appropriation (No. 2) Bill, 1960 . . . . .	26-4-1960
14	The Finance Bill, 1960 . . . . .	28-4-1960
15	The Reserve Bank of India (Amendment) Bill, 1960 . . . . .	30-4-1960
16	The Appropriation (Railways) No. 3 Bill, 1960 . . . . .	30-4-1960
17	The Estate Duty (Amendment) Bill, 1960 . . . . .	6-5-1960
18	The Supreme Court (Number of Judges) Amendment Bill, 1960 . . . . .	6-5-1960
19	The Indian Boilers (Amendment) Bill, 1960 . . . . .	6-5-1960
20	The Hindu Marriages (Validation of Proceedings) Bill, 1960 . . . . .	6-5-1960
21	The Representation of the People (Amendment) Bill, 1960 . . . . .	8-5-1960

## APPENDIX III

List of Bills passed by the State Legislatures during the period 1st January to 30th June, 1960

### Administration

#### *Andhra Pradesh*

1. The Andhra Pradesh Panchayat Samitis and Zilla Parishads (Amendment) Bill, 1960.
2. The Hyderabad Gram Panchayats (Andhra Pradesh Amendment) Bill, 1960.

#### *Assam*

1. The Assam Autonomous Districts Administration of Justice Bill, 1960.
2. The Assam Loud Speakers (Control) Bill, 1959.
3. The Assam Maintenance of Public Order (Amendment) Bill, 1960.

#### *Jammu and Kashmir*

1. A Bill further to amend the Police Act, Svt., 1983.
2. A Bill further to amend the Prevention of Corruption Act, Svt., 2006
3. A Bill further to amend the Jammu and Kashmir Town Area Act, Svt., 2012.
4. A Bill to consolidate and amend the law relating to co-operative Societies.

#### *Kerala*

1. The Kerala Stay of Eviction Proceedings (Amendment) Bill, 1960.

#### *Madhya Pradesh*

1. The Madhya Pradesh Housing Board (Amendment) Bill, 1959.
2. The Madhya Pradesh Town (Perry Pherris) Control Bill, 1959.
3. The Madhya Bharat Panchayat Madhya Pradesh (Amendment) Bill, 1960.
4. The Madhya Pradesh Accommodation Control (Amendment) Bill, 1960.

#### *Maharashtra*

1. The Bombay Statutory Corporations (Regional Reorganisation) Bill, 1960.
2. The Bombay Co-operative Societies (Extension) Bill, 1960.

#### *Madras*

1. The Madras Districts Collectors' Powers (Delegation) Amendment Bill, 1960.
2. The Press and Registration of Books (Madras Amendment) Bill, 1960.
3. The Madras City Tenants' Protection (Amendment) Bill, 1960.

#### *Punjab*

1. The Indian Treasure-Trove (Punjab Amendment) Bill, 1960.
2. The Punjab Gram Panchayats (Amendment) Bill, 1959.

#### *Rajasthan*

1. The Rajasthan Panchayats (Amendment) Bill, 1960.
2. The Rajasthan Armed Constabulary (Amendment) Bill, 1959.
3. The Rajasthan Premises (Control of Rent and Eviction) Amendment Bill, 1954.

#### *Uttar Pradesh*

1. The Uttar Pradesh Recovery of Government Dues (Acquired Estates and Determined Loans) Bill, 1959



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## Education

### Bihar

1. The Bihar High School (Control and Regulation of Administration) Bill, 1959.
2. The Bihar State Universities (Patna University of Bihar, Bhagalpur and Ranchi) Bill, 1960.
3. The Patna University and the University of Bihar (Amendment) Bill, 1960.

## Finance

### Andhra Pradesh

1. The Andhra Pradesh Sale of Motor Spirit Taxation Bill, 1960.
2. The Andhra Pradesh Appropriation Bill, 1960.
3. The Andhra Pradesh Appropriation (No. 2) Bill, 1960.

### Assam

1. The Assam (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation (Amendment) Bill, 1960.
2. The Assam Sales Tax (Amendment) Bill, 1960.
3. The Assam Finance Bill, 1960.
4. The Assam Appropriation (No. 1) Bill, 1960.
5. The Assam Appropriation (No. 2) Bill, 1960.
6. The Assam Contingency Fund (Amendment) Bill, 1960.
7. The Assam Motor Vehicles Taxation (Amendment) Bill, 1960.
8. The Assam Taxation (On Goods Carried by Roads or Inland Waterways) (Amendment) Bill, 1960.

### Bihar

1. The Bihar Contingency Fund (Amendment) Bill, 1960.
2. The Bihar Appropriation (No. 2) Bill, 1960.
3. The Appropriation Bill, 1960.
4. The Bihar Finance Bill, 1960.

### Jammu and Kashmir

1. A Bill to authorise Payment and Appropriation of certain further sums from and out of the Consolidated Fund of the Jammu and Kashmir State for the service of the Financial Year 1959-60.
2. A Bill to authorise Payment and Appropriation of certain sums from and out of the Consolidated Fund of the Jammu and Kashmir State for the service of the Financial Year 1960-61.
3. The Jammu and Kashmir Emergency Relief Fund Bill, 1960.
4. The Jammu and Kashmir General Sales Tax (Amendment) Bill, 1960.
5. A Bill further to amend the Jammu and Kashmir Motor Spirit (Taxation of Sales) Act, Svt., 2005.
6. A Bill to amend the Stamp Act, Svt., 1977.
7. A Bill to provide for the establishment and maintenance in the State of a fund for meeting expenditure on relief of distress caused by serious drought, flood or other natural calamities in any part of the State.

### Kerala

1. The General Sales Tax (Amendment) Bill, 1960.
2. The Kerala Appropriation (No. 1) Bill, 1960.
3. The Kerala Appropriation (Vote on Account) Bill, 1960.

### Madhya Pradesh

1. The Indian Stamps (M.P. Amendment) Bill, 1959.
2. The C.P. and Berar Entertainment Duty (Amendment) Bill, 1960.
3. The Madhya Pradesh Local Fund Audit (Amendment) Bill, 1960.

## Appendices

4. The C.P. and Berar Finance (Amendment) Bill, 1960.
5. The Madhya Pradesh Appropriation Bill, 1960.
6. The Madhya Pradesh Appropriation (No. 2) Bill, 1960.
7. The Madhya Pradesh General Sales Tax (Amendment) Bill, 1960.
8. The Madhya Pradesh Sales of Motor Spirit and Lubricants Taxation (Amendment) Bill, 1960.
9. The Madhya Pradesh Motor Vehicle Taxation (Amendment) Bill, 1960.

### *Maharashtra*

1. The Bombay Appropriation (Excess Expenditure) Bill, 1960.
2. The Bombay (Supplementary) Appropriation Bill, 1960.
3. The Bombay Appropriation (Vote on Account) Bill, 1960.

### *Madras*

1. The Madras Agricultural Income-tax (Amendment) Bill.
2. The Madras Appropriation (Vote on Account) Bill, 1960.
3. The Madras Appropriation Bill, 1960.
4. The Madras Appropriation (No. 2) Bill, 1960.
5. The Madras Coinage (Alteration of References) Bill, 1960.
6. The Courtallam Township (Validation of Taxes and Library Cess) Bill, 1960.

### *Mysore*

1. The Mysore Appropriation Bill, 1960.
2. The Mysore Appropriation (Vote on Account) Bill, 1960.
3. The Mysore Appropriation (No. 2) Bill, 1960.

### *Orissa*

1. The Orissa Motor Spirit (Taxation and Sales) (Amendment) Bill, 1960.
2. The Orissa Appropriation Bill, 1960.
3. The Orissa Appropriation (No. 2) Bill, 1960.
4. The Orissa Taxation (On Goods Carried by Roads or Inland Water ways) (Amendment) Bill, 1960.

### *Punjab*

1. The Punjab Appropriation (No. 4) Bill, 1960.
2. The Punjab Appropriation (No. 5) Bill, 1960.
3. The Indian Stamp (Punjab Amendment) Bill, 1960.
4. The Punjab General Sales Tax (Amendment) Bill, 1960.
5. The Punjab Motor Spirit (Taxation of Sales) (Amendment) Bill, 1960.
6. The Punjab General Sales Tax (Amendment and Validation) Bill, 1960.

### *Rajasthan*

1. The Rajasthan Agricultural Income-tax (Amendment) Bill, 1960.
2. The Rajasthan Appropriation (No. 1) Bill, 1960.
3. The Rajasthan Appropriation (No. 2) Bill, 1960.
4. The Rajasthan Entertainment Tax (Amendment) Bill, 1960.
5. The Rajasthan Land Revenue (Surcharge) Bill, 1960.
6. The Rajasthan Sales Tax (Amendment) Bill, 1960.
7. The Rajasthan Sales of Motor Spirit Taxation (Amendment) Bill, 1960.

### *Uttar Pradesh*

1. The Government Grants (U.P. Amendment) Bill, 1959.
2. The U.P. Appropriation Bill, 1960.
3. The Uttar Pradesh Appropriation (Second Supplementary 1959-60) Bill, 1960

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## Health

### *Bihar*

1. The Bihar Corneal Grafting Bill, 1958.

### *Jammu and Kashmir*

1. A Bill further to amend the Jammu and Kashmir Drugs Act, Samvat 2006.

### *Madras*

1. The Madras Anatomy (Amendment) Act, 1960.
2. The Madras Corneal Grafting Bill, 1960.

### *Orissa*

1. The Orissa Vaccination Bill, 1959.
2. The Orissa Ayurvedic Medicines Bill, 1959.

### *Uttar Pradesh*

1. The U.P. Nurses, Midwives, Assistant Midwives and Health Visitors Registration (Amendment) Bill, 1960.

## Labour and Employment

### *Assam*

1. The Assam Tea Plantations Provident Fund Schemes (Amendment) Bill, 1960.

### *Jammu and Kashmir*

1. A Bill to require employers in industrial establishment formally to define conditions of employment under them.
2. A Bill to consolidate and amend the law relating to the regulation of conditions of work and employment in shops and commercial establishments.

### *Madhya Pradesh*

1. The Madhya Pradesh Industrial Relations Bill, 1959.
2. The Indian Trade Union (M.P. Amendment) Bill, 1959.

## Land and Agriculture

### *Andhra Pradesh*

1. The Andhra Tenancy (Andhra Pradesh Amendment) Bill, 1960.
2. The Andhra Preservation of Private Forests, (Andhra Pradesh Amendment) Bill, 1960.
3. The Miltas Estates (Abolition and Conversion into Ryotwari) (Andhra Pradesh Amendment) Bill, 1960.

### *Assam*

1. The Assam Fixation of Ceiling on Land Holdings (Amendment) Bill, 1959.
2. The Assam Embankment and Drainage Validation Bill, 1960.
3. The Assam Co-operative Land Mortgage Bank Bill, 1960.

### *Bihar*

1. The Bihar Agricultural Product Markets Bill, 1958.

### *Jammu and Kashmir*

1. A Bill to provide for the Consolidation of Agricultural Holdings in the Jammu and Kashmir States for development of agriculture.
2. A Bill further to amend the Jammu and Kashmir Land Revenue Act, 1956.

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1. The Madhya Pradesh Agricultural Produce Market Bill, 1959.
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### Maharashtra

1. The Bombay Taluqdari Tenure Abolition (Amendment) Bill, 1960.
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### Madras

1. The Madras Buildings (Lease and Rent Control) Amendment Bill, 1960.
2. The Madras Gramdan Villages (Repayment of Debts) Amendment Bill, 1960.

### Orissa

1. The Orissa Land Reforms Bill, 1959.

### Punjab

1. The East Punjab Holdings (Consolidation and Prevention of Fragmentation) (Second Amendment and Validation) Bill, 1960.
2. The Northern India Canal and Drainage (Punjab Amendment) Bill, 1960.

### Rajasthan

1. The Rajasthan Tenancy (Amendment) Bill, 1959.
2. The Rajasthan Tenancy (Second Amendment) Bill, 1960.
3. The Rajasthan Seeds and Seedlings Bill, 1958.
4. The Rajasthan Warehouses (Amendment) Bill, 1959.
5. The Rajasthan Irrigation and Drainage (Amendment) Bill, 1960.
6. The Rajasthan Land Acquisition (Amendment) Bill, 1959.

### Uttar Pradesh

1. The Uttar Pradesh (Regulation of Building Operations) (Amendment) Bill, 1960.
2. The Kumaon and Uttarakhand Zamindari Abolition and Land Reforms Bill, 1957.

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1. The Assam Court-Fees (Amendment) Bill, 1960.

### Bihar

1. The Bengal, Agra and Assam Civil Courts (Bihar Amendment) Bill, 1960.

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1. A Bill further to amend the Code of Criminal Procedure, Svt., 1969.
2. A Bill to amend and Certify the law relating to Adoption and Maintenance among Hindus.
3. A Bill further to amend the Code of Civil Procedure Act, Svt., 1977.
4. A Bill further to amend the Constitution of Jammu and Kashmir.
5. A Bill further to amend the Registration Act, Svt., 1977.
6. A Bill to amend the Jammu and Kashmir Representation of the People Act, 1957.

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1. The Madhya Pradesh General Clauses (Amendment) Bill, 1960.

### Maharashtra

1. The Madhya Pradesh Temporary Postponement of Execution of Decrees (Amendment) Bill, 1960.

### Madras

1. The Legal Practitioners (Madras Amendment) Bill, 1960.

### Punjab

1. The Punjab Laws (Extension No. 7) Bill, 1960.
2. The Punjab Repealing Bill, 1960.
3. The Court Fees (Punjab Amendment) Bill, 1960.

### Rajasthan

1. The Rajasthan Jagir Decisions and Proceedings (Validation) Amendment Bill, 1960.

### Uttar Pradesh

1. The U.P. Muslim Waqfs Bill, 1960.
2. The U.P. Uttarakhand Division (Application of Laws) Bill, 1960.

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### Bihar

1. The Bihar Legislature (Members' Salaries and Allowances) Bill, 1960.

### Jammu and Kashmir

1. A Bill to provide for the Salaries and Allowances of the Members of the Jammu and Kashmir State Legislature.

### Kerala

1. The Payment of Salaries and Allowances (Amendment) Bill, 1960.

### Mysore

1. The Mysore Legislature Salaries (Amendment) Bill, 1960.

### Orissa

1. The Orissa Legislative Assembly Proceeding (Protection of Publication) Bill, 1958.

### Rajasthan

1. The Rajasthan Legislative Assembly (Officers and Members Emoluments) Amendment Bill, 1960.

### Uttar Pradesh

1. The U.P. State Legislature Members (Prevention of Disqualification) (Supplementary) (Amendment) Bill, 1959.

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1. The Uttar Pradesh Hindu Public Religious Institutions (Prevention of Distribution of Properties) (Temporary Powers) Bill, 1960.

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#### *Punjab*

1. The Punjab Good Conduct Prisoners (Temporary Release) Bill, 1959.

#### *Rajasthan*

1. The Rajasthan Gaushalas Bill, 1958.

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2. A Bill to provide for the establishment of State Statutory Board for encouraging and intensifying the Khadi and Village Industries in the State of Jammu and Kashmir.
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#### *Kerala*

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#### *Rajasthan*

1. The Rajasthan Weights and Measures (Enforcement) Amendment Bill, 1959.
2. The Rajasthan Non-trading Companies Bill, 1959.

#### *Uttar Pradesh*

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1. A Bill further to amend the Jammu and Kashmir Motor Vehicles Act, Svt. 1997.

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1. The Northern India Ferries (U.P.) (Amendment) Bill, 1959.

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1	2	3	4	5	6	7	8	9	10	11	12	13	14
Andhra Pradesh	2			3		..	3	..				8	
Assam	3	1		8	..	1	3	1	..			17	
Bihar	..	..	3	4	1	..	1	1	1	..	..	11	
Jammu & Kashmir	4	3	..	7	1	2	4	6	1	1	1	30	
Kerala	1	1		3		..	..	..	1	..	..	6	
Madhya Pradesh	4	..	..	9	..	2	4	1	..	..	..	20	
Madhya Pradesh	2	1		3	..	..	2	1	1	1		10	
Madras	3	..		6	2	2	2	1				14	
Madhya Pradesh	..	..		3	..	..	..	..	..	..	..	3	
Orissa	..	..		..	3	..	1	..	1	..	..	8	
Punjab	2	1		6	..	..	2	3	..	1	..	15	
Rajasthan	3	2	..	7	..	..	6	1	1	..	1	21	
Uttar Pradesh	1	1	..	3	1	..	2	2	1	1	..	13	
ALL STATES	25	10	3	66	7	5	30	17	6	1	4	2	170

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