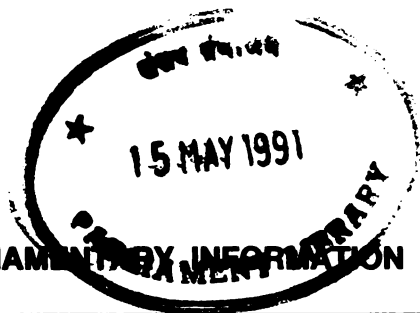


**THE JOURNAL OF  
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**VOLUME XXXVI, NO. 4  
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## EDITORIAL NOTE

In a parliamentary system of government, the executive is responsible to the legislature. The Council of Ministers headed by the Prime Minister holds office so long as it enjoys the support of the majority in the Parliament. Consequent upon the withdrawal of support by the BJP to the National Front Government headed by Shri Vishwanath Pratap Singh, on 23 October 1990, the President advised him to prove his majority in the House. The Lok Sabha was accordingly summoned to meet on 7 November 1990. After a prolonged debate lasting for eleven hours the motion 'that this House expresses its confidence in the Council of Ministers' moved by Shri V.P. Singh that day was negatived, leading to immediate resignation of his Government. Shri Chandra Shekhar, leader of the breakaway Janata Dal (S) group to whom the Congress(I) party extended unconditional support, was invited on 9 November by the President to form the Government and prove his majority on the floor of the House. This he did on 16 November 1990 when the Ninth Lok Sabha was specifically summoned for a one-day Session in pursuance of the President's directive. The feature entitled "Recent Changes in Union Government" narrates the sequence of events connected with these changes in the Union Government. The sessional review of Fourth and Fifth Sessions of the Ninth Lok Sabha is being included in the next issue of the *Journal*.

In our system of Parliamentary democracy, the President has a special role to play as he is an integral part of the Parliament of India. Ever since the coming into force of our Constitution, a controversy has persisted amongst scholars regarding the real position of the President. The well known political Scientist Professor M.V. Pylee, in his article "The Presidential discretion in India" gives a detailed description of the discretionary powers of the President. Being an authority on our Constitution, he has brilliantly expounded how the dignity of the Office of the President is maintained, keeping in view the representative character of our system. He has pointed out how the President can exercise effective discretionary powers under certain circumstances. After analysing every aspect of the subject, the author concludes "it is in the interest of the smooth working of the Constitution, that a harmonious working relationship is established and maintained between the President and the Prime Minister. Conventions of an-obligatory nature alone can facilitate it". This article it is hoped, would be of much relevance in the present context.

In the other article, 'Right to Know: An Overview', the author Shri M.S. Sharma, has rightly observed that in a participatory government, the participation of government can not be full and complete unless there is



free flow of information about the affairs of the government. We live in an age of democratic consciousness. This consciousness of one's rights has aroused the entire world and particularly the third world. The author has discussed the views of different schools of thought on this topic. He has very succinctly examined how and to what extent this right to know conflicts with the right to privacy of a person and why it should be subject to the protection of the national interest. The author concludes "the guiding principle in this field is that no information can be disclosed in the public interest by compromising national interest or public safety".

We felicitate Sarvashri Thakur Sen Negi, Rokomlova and Thenucho on their election as Speakers of the Legislative Assemblies of Himachal Pradesh, Mizoram and Nagaland. We congratulate Shri S.P. Gupta on his election as Chairman of the Uttar Pradesh Legislative Council. We also extend our felicitations to Shri Rikhi Ram Kaundal on his election as Deputy Speaker of Himachal Pradesh Legislative Assembly.

This issue carries the other regular features, viz., parliamentary events and activities, privilege issues, procedural matters, parliamentary and Constitutional developments, documents of constitutional and parliamentary interest, wit and humour in the legislatures, a brief resume of the sessions of the two Houses of the Parliament and State Legislatures and recent literature of parliamentary interest.

We are constantly endeavouring to make this *Journal* more useful and informative, and would always welcome suggestions for further improvement. Also practice and problem oriented non-partisan articles in the field of parliamentary institutions and procedures are welcome from Members, Scholars and others.

## RECENT CHANGES IN UNION GOVERNMENT\*

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Following the General Elections, in the Ninth Lok Sabha constituted on 2 December 1989, no single party commanded absolute majority in the House. Even though the Congress(I) happened to be the single largest party with 194 seats in its tally it did not stake its claim to form the Government. The President therefore invited Shri Vishwanath Pratap Singh, Leader of the National Front in Parliament consisting of the Janata Dal, Congress(S), Telugu Desam, Asom Gana Parishad and DMK, to form the Government. Even though all these parties had together secured only 144 seats, the National Front could form the Government on assurances of support from outside by the Left parties and the Bharatiya Janata Party. The support promised by the latter was, however, not unconditional but 'critical'. Thus we had for the first time in our parliamentary history a 'minority Government' with 'majority support'.

It was not smooth sailing for the National Front Government after it came to power. For, the Government faced two major political crises within a few months, in which the internal differences within the Janata Dal leadership became evident. This left even the supporting parties worrying, since they wanted the Government to complete the full term. Although the initial crises were resolved, by October 1990, political developments took such an unexpected turn that the relation between the Government and one of the supporting parties viz. the BJP turned sour.

Serious political differences between the leadership of the ruling Front and the BJP surfaced producing an atmosphere of distrust and finally leading to the withdrawal of support by BJP and its allies the VHP and the Shiv Sena. The political developments inevitably brought in the inextricable parliamentary developments, some situations with parallels in the past and others completely unprecedented. Right from the time of withdrawal of support by BJP, politics took peculiar twists and turns giving rise to new alignments and loyalties which finally resulted in the fall of the Government led by Shri Vishwanath Pratap Singh and the formation of a new one led by Shri Chandra Shekhar.

In the process a vital parliamentary device came in for application twice in the form of motion of Confidence in the Council of Ministers—the first one having been negatived by the Lok Sabha on 7 November 1990 led to

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\*Contributed by LARRDIS, Lok Sabha Secretariat.

the resignation of V.P. Singh's Government, while the other one was adopted by the House on 16 November 1990 thus conferring legitimacy on the Government formed by Shri Chandra Shekhar with the support of Congress(I).

These motions of Confidence were not something new to Lok Sabha. Earlier, on 13 August 1979, the then Prime Minister Shri Charan Singh had given notice of a one-line motion expressing the confidence of the House in his ministry. Though admitted, it was not moved as the Prime Minister had resigned without facing the House as he could clearly see that he did not enjoy majority support in the House. More recently, in the Ninth Lok Sabha itself, Prime Minister Vishwanath Pratap Singh had brought forward a similar motion in December 1989. This was discussed and adopted by the House on 21 December 1989.

However, the significance of the political crisis witnessed in October-November 1990 lay in the fact that never before in the history of independent India the authority of Parliament came so sharply into focus. For, within ten days two Prime Ministers had to turn to Parliament for testing the legitimacy of their political power. In both cases the verdict was given through confidence motions.

To recapitulate the events in brief, Shri Atal Behari Vajpayee submitted a letter to the President of India on 23 October 1990, on behalf of the BJP in Parliament, that their party had withdrawn its support to the Government led by Shri Vishwanath Pratap Singh. In response to this development, the Rashtrapati Bhavan issued an official communique on 24 October 1990, stating *inter alia*:

...withdrawal of B.J.P. support will deprive the National Front Government of a majority of the membership of the House of the People....

....The President has therefore advised the Prime Minister to prove his majority in the House of the People.

The Prime Minister has agreed to do so on or before 7 November 1990.

Accordingly, the Fourth Session of Ninth Lok Sabha was summoned to meet on 7 November 1990. The Bulletin dated 25 October 1990 circulated by the Lok Sabha Secretariat alongwith the summons, specifically pointed out that the Fourth Session of Ninth Lok Sabha would commence on 7 November 1990 and the sitting of the Lok Sabha shall, subject to exigencies of Government business, conclude on that day itself. Thus as per President's directive to the Government, the one-day Session had to be exclusively devoted to transaction of Government business, *i.e.* the disposal of Government Motion seeking confidence of the House in the Council of Ministers.

In compliance with the President's directive, the Prime Minister (Shri Vishwanath Pratap Singh) gave notice of the following motion:

That this House expresses its Confidence in the Council of Ministers.

The motion was admitted by the Speaker and published in Bulletin Part I, on 29 October 1990 and included in the List of Business of Lok Sabha for 7 November 1990.

Meanwhile, eighteen notices of no-confidence in Council of Ministers had also been received on 26 and 29 October 1990 by the Lok Sabha Secretariat. In a joint letter addressed to the Speaker on 5 November 1990, Professor P.J. Kurien and six other members stated that, as per practice, no-confidence motion ought to have been given preference over Government motion as there was no specific rule for Confidence motion and the same was dealt with under rule 184.\*

However, since the motion expressing confidence in the Council of Ministers was admitted by the Speaker, motion of No-confidence in the Council of Ministers was not brought before the House.

As scheduled, the House assembled at 1100 hours on 7 November 1990. After the disposal of formal business *i.e.* obituary references to the passing away of some former members and laying of papers on the Table, Shri Vishwanath Pratap Singh moved the motion. This was followed by a marathon debate lasting over eleven hours. The House continued to sit till 10-24 p.m. without lunch break. Those who participated in the debate were: Sarvashri Chandra Shekhar, Somnath Chatterjee, Devi Lal, Indrajit Gupta, R. Muthaiah, Sharad Yadav, Rajiv Gandhi, L.K. Advani, George Fernandes, Nani Bhattacharya, Chitta Basu, Arif Mohammed Khan, Ebrahim Sulaiman Sait, Vamanrao Mahadik, Chand Ram, A.K. Roy, Ram Dhan, Dr. Vijay Kumar Malhotra, Professor Madhu Dandavate, Professor Saif-ud-din Soz, Kumari Umabharti and Kumari Mayawati.

At the end of the debate, the motion was negatived by the division. The final voting figures were 'Ayes'-151; and 'Noes'-356. The National Front Government thus lost majority support on the floor of the House.

Following his defeat in Lok Sabha, Shri Vishwanath Pratap Singh tendered the resignation of his Ministry. However, he was asked by the President to continue until alternative arrangements were made. On the political front, moves and countermoves began within hours of Shri Singh submitting the resignation of his Ministry on the night of 7 November. What was observed in the next two days was hectic political activity. In fact the process had already begun on 5 November itself *i.e.* two days before the Government fell, when the Janata Dal split with Shri Chandra Shekhar, another prominent leader of the Dal claiming the support of 68 of the 140 members of the Party. The fall of V.P. Singh's Government intensified the political activity.

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\* Rule 184 which pertains to discussion on matter of public interest provides, "Save in so far as is otherwise provided in the Constitution or in these rules, no discussion of a matter of general public interest shall take place except on a motion made with the consent of the Speaker".

Even as swift political alignment was in full swing in the two Janata Dal camps, Shri Vishwanath Pratap Singh met the President and urged him not to invite any splinter group to form a Government. This was also the line adopted by the Left parties and the BJP as they reacted to reports that Shri Chandra Shekhar's group which he called Janata Dal (Socialist) was planning to form a Government with the support of Congress(I).

The President first invited Shri Rajiv Gandhi, leader of the Congress(I), the single largest party in Parliament, to form the government. The Congress(I) having declined the invitation, the President then invited the leaders of the BJP and Left parties to form the Government. They too declined. The Leader of Congress(I) Party however, suggested that Shri Chandra Shekhar to whom his party extended unconditional support be invited to form the Government.

On 9 November 1990, Shri Chandra Shekhar was invited by the President to form the Government and was asked to prove his majority in Lok Sabha on or before 20 November, 1990. A Rashtrapati Bhavan communique issued on 9 November 1990 said that "the President is satisfied *prima facie* that the group headed by Shri Chandra Shekhar, with the support of other parties, has the strength to form a viable government". The other parties mentioned in the communique were, the Congress(I), All India Anna DMK, Bahujan Samaj Party, Muslim League, National Conference, Kerala Congress(M), Akali Dal (Panthic) and a few independent members. The communique also noted that "the President is of the considered opinion that it will not be in National interest to plunge the country into a general election at this time and that every effort should be made to provide the country with a reasonably stable government". The communique emphasised that the President's considered opinion was also "shared by many political parties and by the public".

Thus, the President's decision brought the curtain down over the drama of political succession which had begun with the fall of the National Front Government on the night of 7 November.

On 10 November 1990, a two-man Government comprising Shri Chandra Shekhar and Shri Devi Lal was sworn in with the former as the Prime Minister and the latter as the Deputy Prime Minister. The centre of focus shifted to Lok Sabha again for the testing of majority support to government headed by Shri Chandra Shekhar.

In pursuance of the Presidential direction, Lok Sabha was summoned to meet for its Fifth Session on 16 November 1990. Prime Minister (Shri Chandra Shekhar) gave notice of the following motion which was admitted by Speaker and included in the List of Business of Lok Sabha for 16 November 1990:

That this House expresses its confidence in the Council of Ministers.

On 16 November 1990, when the House met, after obituary references, several members raised points of order questioning the very existence of

the Council of Ministers and also challenged the Constitutional validity and propriety of the Motion. They contended that the Council of Ministers consisting only of the Prime Minister and Deputy Prime Minister was not valid by Constitution. Some members pointed out that the motion did not include the name of the Prime Minister. Ruling out the point of order, the Speaker observed:

The motion is in order. It is not necessary to name Prime Minister in the motion. It is for the Prime Minister to select his team. There is no provision in the Constitution about the size of the Council of Ministers. This is a matter for the Prime Minister to decide. It is not for the Chair to interpret the Constitution. The points of order are ruled out.

After the ruling of the Speaker, the motion was taken up for discussion which lasted for six hours and 21 minutes, with as many as fifteen members belonging to different sections of the House taking part. The motion was adopted after division. The final voting figures were, 'Ayes'-280; and 'Noes'-214. With this verdict of Lok Sabha the change in government was sanctified, taking the new Prime Minister through the most crucial ordeal. Shri Chandra Shekhar inducted 31 more members to his Council of Ministers on 21 November raising the strength of his Ministry to 33, followed by allotment of portfolios to each of them.

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## THE PRESIDENTIAL DISCRETION IN INDIA

M.V. PYLEE

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The form of government which our Constitution aims to establish is modelled on the British Parliamentary or Cabinet system and not the Presidential type of the United States. Under the British system, the Monarch is only a ceremonial head of the State and does not possess the tremendous powers technically ascribed to him. They belong to a convenient myth called the Crown. Almost all the powers, which theoretically belong to the Crown, are in reality exercised by the Cabinet. The position under the Indian Constitution too, is presumed to be the same, that the President of India is only the constitutional head of the State who is a necessary adjunct of Cabinet government, his position and powers being more or less the same as those of the British Monarch.

This question was discussed at length in the Constituent Assembly at different times and every time the point that was stressed most was the constitutional character of the head of the State. A few of the more important statements which were made during these discussions deserve to be emphasised. Moving the motion regarding the Draft Constitution in the Constituent Assembly on 4 November 1948, Dr. B.R. Ambedkar, Chairman of the Drafting Committee, observed:

In the Draft Constitution there is placed at the head of the Indian Union a functionary who is called the President of the Union. The title of this functionary reminds one of the President of the United States. But beyond identity of names there is nothing in common between the forms of Government prevalent in America and the form of Government proposed under the Draft Constitution. The American form of Government is called the Presidential system of Government. What the Draft Constitution proposes is the Parliamentary system. The two are fundamentally different.

Under the Presidential system of America, the President is the Chief head of the Executive. The administration is vested in him. Under the Draft Constitution, the President occupies the same position as the King under the English Constitution. He is the head of the State but not of the Executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known...<sup>1</sup>

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<sup>1</sup>C.A. Deb., Vol. VII, p. 32

During the general discussion on the Constitution, at the concluding stage, Shri T.T. Krishnamachari said on 25 November 1949:

....It has been mentioned that one of the chief defects of the Constitution is that we have not anywhere mentioned that the President is a constitutional head and the future of the President's powers is, therefore, doubtful.... This is a matter which has been examined by the Drafting Committee to some extent. The position of the President in a responsible Government is not the same as the position of a President under a representative Government like America and that is a mistake that a number of people in the House have been making, when they said that the President will be an autocrat, and no one appears to realise that the President has to act on the advice of the Prime Minister.... So far as the relationship of the President with the Cabinet is concerned, I must say that we have, so to say, completely copied the system of responsible government that is functioning in Britain today; we have no deviation from it and the deviations that we have made are only such as are necessary because our Constitution is federal in structure<sup>2</sup>.

Participating in the same discussion, the President of the Constituent Assembly, Dr. Rajendra Prasad, said:

....We have had to reconcile the position of an elected president with an elected Legislature, and in doing so, we have adopted more or less the position of the British Monarch for the President... His position is that of a constitutional President. Then we come to the Ministers. They are, of course, responsible to the Legislature and tender advice to the President who is bound to act according to that advice. Although there are no specific provisions, so far as I know, in the Constitution itself making it binding on the President to accept the advice of his Ministers, it is hoped that the convention under which in England the king acts always on the advice of his Ministers will be established in the country also and the President, not so much on account of the written word in the Constitution, but as a result of this very healthy convention, will become a constitutional President in all matters.<sup>3</sup>

Against this background, we may examine the constitutional provisions that deal with the relationship of the President with the Council of Ministers in order to see how far these claims are justified. Articles 74, 75 and 78 are important in this connection. They provide:

1. There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President, who shall in the exercise of his functions, act in accordance with such advice. -

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<sup>2</sup>C.A. Deb. Vol. XI, p. 956-57.

<sup>3</sup>Ibid. p. 988.



2. No court of law has power to enquire as to whether any advice was given by the Ministers, and if so, what it was.

3. The Prime Minister shall be appointed by the President and on the advice of the Prime Minister the President shall appoint other Ministers.

4. The Ministers shall hold office during the pleasure of the president.

5. The Council of Ministers shall be collectively responsible to the House of the People.

6. It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the president so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

These provisions, taken as a whole, fairly establish the claim of Dr. Ambedkar and his colleagues that the authors of the Constitution wanted to adopt the British pattern of Cabinet government. At the same time, it is also clear that they did not want to use expressions which would take away the flexibility that is the heart and soul of the British system. The difficulty of the Drafting Committee was to state precisely in a written Constitution certain well established constitutional conventions that regulate the relationship between the Monarch and the Cabinet in Great Britain. That is why, while certain provisions convey their meaning in unmistakable terms, there are others that are not clear. Thus, there must be a Council of Ministers with the Prime Minister at the head to aid and advise the President, for the exercise of his functions. But, does this mean that the President is always bound by the advice of the Cabinet? Dr. Ambedkar had clarified this point in the very beginning while introducing the Draft Constitution. According to him, "...The President of the Indian Union will be generally bound by the advice of his Ministers and he can do nothing contrary to their advice, nor can he do anything without their advice."<sup>4</sup>

Amongst those who strongly supported Dr. Ambedkar was Shri K. Santhanam. While participating in the debate on 30 December 1948, he said "...It is the Prime Minister's business, with the support of the Council of Ministers, to rule the country and the President may be permitted now and then, to aid and advise the Council of Ministers. Therefore, we should look at the substance and not at the mere phraseology which is the result of conventions".<sup>5</sup>

<sup>4</sup>C.A. Deb., Vol. VII, p. 32.

<sup>5</sup>*Ibid.*, p. 55.

Further, the expression 'aid and advise' is only a constitutional euphemism. It has been used in pursuance of past practice, both for the maintenance of the outward dignity of the office of the President and for avoiding some practical difficulties of a constitutional character. Every one in the Constituent Assembly was, however, not satisfied with the language of the provision, and least of all, the President of the Constituent Assembly, Dr. Rajendra Prasad. For example, an exchange<sup>6</sup> that took place between Dr. Rajendra Prasad and Dr. Ambedkar on 23 May 1949 testifies to this fact.

When the President enquired from Dr. Ambedkar whether there was any real difficulty in providing somewhere in the Constitution that the President would be bound by the advice of the Ministers, Dr. Ambedkar replied that the Draft Constitution had incorporated in it a schedule of instructions to the President, one of whose clauses had provided that in the exercise of his functions under the Constitution, he would be generally guided by such instructions. These instructions had *inter alia* provided that he must act on Ministerial advice. Ultimately, however, the instructions as well as the concerned clause were omitted as unnecessary. When some members objected to this and questioned the wisdom of depending on the conventions of the British Constitution, Dr. Ambedkar asserted that even without them the President was bound to act on the advice of the Council of Ministers. According to him, if the President did not do so, it would amount to a violation of the Constitution for which the President could be impeached. On this assurance, the Assembly agreed to omit the schedule and the clause, and the article was left as it originally was, without making a specific provision by which the President was bound to act on the advice of the Ministry.

What then is the present position? Is the President bound by the advice of the Council of Ministers? The answer is, yes, normally.

In a Parliamentary system of Government, the Executive is responsible to the Legislature. As such, The Prime Minister as the head of the Council of Ministers, hold his office not by the grace of the President (or literally during his pleasure) but because of the confidence of Parliament which he enjoys. The Council of Ministers go out of office not because the President has lost confidence in them, but because they have lost the confidence of Parliament (Lok Sabha) to which they are jointly and directly responsible. There can be no conflict between the will of Parliament, the representatives of the electorate, and that of the President. If at all there arises such a conflict, the will of Parliament ought to prevail. That is why the Constitution vests in Parliament the power to impeach the President. Therefore, so long as the Council of Ministers have the confidence of the

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<sup>6</sup>C.A. Deb. Vol. VIII, pp.215-16.

Parliament, the President is literally bound by their advice and, in reality, it is the President who is cast in role of an advisor.

This view about the position of the President *vis-a-vis* the Council of Ministers is shared also by the Supreme Court which expressed its opinion in the following language.

In India, as in England, the Executive has to act subject to the control of the Legislature; but in what way is this control exercised by the Legislature? Under article 53(1) of our Constitution, the Executive power of the Union is vested in the President but under article 75 there is to be a Council of Ministers with the Prime Minister at the head to aid and advice the President in the exercise of his functions. The President has thus been made a formal or constitutional head of the Executive and the real executive powers are vested in the Ministers or the Cabinet. In the Indian Constitution, therefore, we have the same system of Parliamentary Executive as in England, and the Council of Ministers consisting, as it does of the members of the legislature is like the British Cabinet, 'a hyphen which joins, a buckle which fastens the legislative part of the State to the executive part.' The Cabinet enjoying, as it does, a majority in the Legislature concentrates in itself the virtual control of both Legislative and executive functions; and as the Ministers constituting the Cabinet are presumably agreed on fundamentals and act on the principle of collective responsibility, the most important questions of policy are all formulated by them.<sup>7</sup>

The working of the Constitution so far shows that except during the critical period between 15 July 1979 (When Prime Minister Shri Morarji Desai resigned) to 14 January 1980 when Shrimati Indira Gandhi assumed office as Prime Minister immediately after the seventh general elections in January 1980, the President has been in reality only the constitutional head of the State.

On the eve of the first general elections in India, President Dr. Rajendra Prasad sent a message to Parliament explaining his views on the Hindu Code Bill which was then under its consideration. In that message he said that personally he was opposed to the passing of the Bill but if adopted by Parliament, he would give his assent to it, however reluctant that might be.

Between 1950 and 1990 the country has had nine general elections each followed by a reconstitution of the Council of Ministers. During this period there were also major political changes and far-reaching economic development programmes. The States Re-organisation Act, 1956, had brought about a complete redrawing of the political map of India. National Emergency had been proclaimed as many as four times. The country was at war with China (once) and Pakistan (twice). There have been sixty-seven constitutional amendments during the period, some of which were of a far-reaching importance. In all these cases, the decisions were almost entirely of the Cabinet and there was never a question of the "President

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<sup>7</sup>1955 (2) S.C.R. 225; S.C.J. 304

exercising executive powers and the Ministers only advising him." The only exception was the short period of six months from July 1977 to January 1978 when President Shri Sanjiva Reddy appeared to exercise decisive powers in his discretion. He justified those decisions as "dictates of his conscience" when he should have been guided by constitutional principles. In conformity with the oath of office he had taken, the President was obliged to preserve, protect and defend the Constitution.

At least on two occasions during his second term, President Dr. Rajendra Prasad sought the advice of the Attorney-General regarding the President's position in his capacities as Visitor of the Central Universities and as the Supreme Commander of the Armed Forces. What the President wanted to know was whether he was bound by the advice of the Council of Ministers while discharging his functions in either of those capacities. The Attorney-General advised the President that he was so bound in either capacity, and hence the President acted as advised by the Cabinet. Earlier, in 1951 when the President delayed assent to the Bihar Land Reforms Bills and wanted its certain provisions to be reconsidered, the Prime Minister's reaction was his readiness to resign, and the President promptly assented to the Bill.

During the presidency of Dr. Rajendra Prasad (twelve years) there was a stable government, one that always enjoyed the confidence of Parliament. In fact, the characteristic feature of this period was the massive majority of the Congress Party in the Parliament and the comparative insignificance of the Opposition. The Congress Party on its own strength could pass any legislative measure including constitutional amendments which required a special majority. So overwhelming was the position of the party that it appeared as if India had a one party Government which was likely to assume the character of one party dictatorship. Prime Minister Pandit Jawaharlal Nehru was at one time reported to have been unhappy with this situation and was even interested to help the development of a strong Opposition. With so formidable a position enjoyed by the Congress Party and so dominant a position held by its unchallenged leader, no wonder there was little room for the President to play any role of political significance or an occasion to use his discretion.

Yet, on reflection, the manner in which over a long period of twelve years how well they worked together has left a constitutional legacy and a convention of great value, to be emulated by future Presidents and Prime Ministers. Pandit Nehru was keen to show the courtesy and consideration which the President deserved and was always willing to fully inform the President of national and international affairs worthy of his attention. He also made it a point to see the President almost regularly once a week unless he was away from Delhi.

The situation had undergone a gradual but unmistakable change ever since 1962, beginning with the Chinese aggression against the country

late that year. One of the most significant developments in that context was the reconstitution of the Nehru Cabinet after obliging the then Defence Minister, Shri V.K. Krishna Menon, a close associate of Pandit Nehru to tender his resignation. No authoritative information is available to the public at large on the inside story of the Defence Minister's resignation. Informed reports in newspapers of those days, however, indicate that President Dr. Radhakrishnan had played a significant role in the political development of that period leading to Shri Menon's resignation.

Dr. Radhakrishnan was reputed to be outspoken and often critical of the administration's failures. When Sant Fateh Singh, the Akali leader, threatened self-immolation and it appeared that it was imminent, the President conveyed from sick bed to the Home Minister and the Prime Minister his earnest advice that such a calamitous event, certain to cause a deep and long-standing wound on the Sikh mind, must be averted. Prime Minister Pandit Nehru did not show any resentment to such an advice or even criticism of the Government by the President. On the contrary, he appreciated that dimensions of Indian democracy were expanded by having in the office of the President a figure of stature and independence.

The death of Pandit Nehru in 1964 and Shri Lal Bahadur Shastri's assumption of the Prime Minister's office thereafter brought about a substantially different situation. The new Prime Minister had yet to establish his mastery over his party, the Parliament and the country. But before this could be achieved, he left the scene. Shrimati Indira Gandhi succeeded him, after a fight within the party against Shri Morarji Desai who had been an aspirant to the office even earlier. The fight for leadership and the lack of unity within the party, thereafter weakened the position of the Prime Minister considerably. This was reflected in the general elections of 1967 and, for the first time since 1947, the Congress party lost control of the Governments in a majority of States. In Parliament, although the party still commanded a narrow majority, it was somewhat precarious one.

It was this situation that compelled the Congress party to seek the support of some of the Opposition parties as well as independent legislators in 1967 in favour of its nominee, Shri Zakir Husain, for presidentship. Shri Husain's sudden death in office, Vice-President Shri V.V. Giri's temporary assumption of the office of President, his later election as President defeating the official Congress candidate, Shri N. Sanjiva Reddy, and the consequent split in the Congress Party are events of great significance. The impact of all these new developments on the office of the President was unmistakable. The impression that one gets is that if that situation continued, the President, unlike his predecessors, would have been obliged to play a decisive role in the affairs of the nation.

Let us consider some of the possibilities that are pregnant in the situation. Suppose the council of Ministers lose the confidence of Parliament or are torn by internal dissensions and factions impairing that confidence. The President's relations with the Council at once become difficult and delicate. The President will have to carefully assess the position of the Council in relation to Parliament and of the Prime Minister in relation to the Council. If the Council lose Parliament's confidence, the normal course open to the Council is to resign. Instead, if the Council advise the President to dissolve Lok Sabha, should the President accept such an advice and act accordingly? Is he bound by it? Should he not explore the possibilities of an alternate Government? If the defeated Council of Ministers advise the President to dissolve Lok Sabha and at the same time a clear majority of members of the House in writing plead with him to constitute a new Council, what should he do? It is important to remember in this context that the President might have been elected with the support of a sizeable section of the Opposition in Parliament and the State Assemblies as had been in the case of President Shri V.V. Giri.

What the country witnessed at the failure of Shri V.P. Singh Government to win the Confidence Vote on 7 November 1990 was a situation of this type. Let us assume that the defeated V.P. Singh Cabinet had recommended to the President the dissolution of Lok Sabha. Was the President bound to accept that recommendation? In fact, the President's action following the resignation of the Ministry clearly indicates the use of discretionary power by the President in a substantial manner. He made it abundantly clear that he was not in favour of immediate elections even though some of the parties pleaded with the President for such a course of action.

Similarly, in case of acute differences within the Council of Ministers, should the President dismiss individual Ministers on the advice of the Prime Minister? Or, in the alternative, if a majority of the Council headed by one of the Ministers is opposed to the Prime Minister, should the President call for the resignation of the Council with a view to reconstituting it with a new Prime Minister? One might say that the answers to these questions are to be provided by the party in power and by Parliament. But, if the party itself is divided and it is unable to provide a solution who should take the initiative? A particular action on the part of the President at this crucial moment may swing the pendulum to either side and hence he can, if he cares to do so, decisively influence the situation. If the President happens to be a man of political ambition, he could with impunity take advantage of a crucial situation and indulge in the game of political patronage in the formation and dissolution of Ministries.

India has a federal system under which the totality of Government power is divided between the Union and the States, which have their own

separate governments and these governments, as has already been demonstrated by the general elections of 1967, may belong to different political parties. In such circumstances, the party in power at the Union could misuse or abuse its position either to assist its own supporters or to spite the party or parties in power in the States. For example, a legislative enactment affecting property rights under certain circumstances passed by a State Legislature requires Presidential assent. The Union Cabinet could advise the President not to give his assent to the new measure. Is the President bound by that advice even when he is convinced that such an advice is politically motivated?

Similarly, if a particular decision of the Council of Ministers is likely to undermine the Constitution or go against any of its provisions or, in the President's considered view, against the interest and welfare of the people of India as a whole, should he accept that decision? If he does so, is he not violating the oath taken by him when he assumed his office?

The President has a special role as an integral part of the Parliament of India. Without his assent no Bill can become law. He is empowered, under article 111 of the Constitution, to send back to Parliament any Bill (except a Money Bill) if he is of the view that it should be reconsidered. Here again, it is unlikely that he will act on Ministerial advice. Although the Parliament had passed the Indian Post Office (Amendment) Bill, 1986 concerning mail censorship, neither President Shri Zail Singh nor President Shri R. Venkataraman gave assent to the Bill. Instead, the latter asked the Prime Minister to seek the legal opinion of the Attorney-General on the issues raised in and outside Parliament on various aspects of the proposed legislation.

President Shri R. Venkataraman has shown his initiatives in other matters also. For example, in October 1987 he sent a communication to all the Governors directing them not to leave their States without his prior approval.

This was meant to stop the unhealthy practice of some Governors spending far too much time outside their States on some pretext or the other. This was, however, the first time any President acted in this extraordinary manner using his powers of discretion.

Is the President justified in accepting every advice of the Ministry in power in making the highest appointments which are specified under the Constitution to be made by warrant under his hand and seal? If he is convinced that an appointment is politically motivated, the person appointed unfit or ill-qualified for the job, or allegedly corrupt, is he obliged to act according to the Ministry's advice?

Since the Constitution specifically makes the President the Supreme Commander of the Armed Forces, has he not got a special duty to keep the armed forces immune from political partisanship? If the Union Government of the day, motivated by partisan politics makes use of the

armed forces to destroy self-government in any State or effect undeserving or unjust promotions within the armed forces, is the President bound to support them because the Ministry has advised him to do so?

To cite an example, during the Indo-Pakistan conflict in 1965, it was alleged that our armed forces were handicapped due to non-supply of vital intelligence. President Shri S. Radhakrishnan, on hearing this, wanted to know the facts and asked for a detailed report on the matter. The report was submitted to the President after a full investigation. Similar, situations are possible to occur in the future. The crucial point is: Is the President always bound by the advice of the Council of Ministers? The answer is quite obvious; not always and in all circumstances. The President in such circumstances by virtue of the position that he holds, can act independently using his discretion.

If the President does not act in accordance with the advice of the Cabinet, what is the remedy? Impeachment! But, no impeachment can succeed unless those who move for impeachment can get the support of a two-thirds majority in each House of Parliament. Where such a two-thirds majority is not commanded by the ruling party or combination of parties or groups, the President is his own master and may act as he likes in conformity with the terms of oath of his office.

Thus, it seems possible to fix two limits, an inner one within which the President is always acting on the advice of the Council of Ministers, and an outer one beyond which he finds it impossible to form an alternative Government to carry on the administration, and in not accepting the advice of the Cabinet he even runs the risk of facing an impeachment. Between these two limits, there is an area, however narrow, where he is his own master and is neither bound by the advice of the Council of Ministers nor runs the risk of successful impeachment against him. Within this area, he may act in his own discretion and may disregard the advice of the Cabinet and act in a manner which, according to his judgment, is in conformity with the oath that he had taken before entering upon his office, 'to faithfully execute the office of the President and to preserve, protect and defend the Constitution and the law and devote (himself) to the service and well being of the people of India.' Such discretion would have been taken away if the framers had made the provision which would bind the President to act under all circumstances in accordance with the advice of the Ministry.

It is possible that the framers had been influenced also by another consideration. What judicial remedy is there if the President does not act in accordance with the advice of the Council of Ministers, assuming that the Constitution expressly provided for his accepting their advice? There is none in view of article 74(2) which enacts that the question whether any, and if so what, advice was tendered by the Council of Ministers to the President shall not be inquired into in any court of law. Hence, it does not appear to be sound to give more importance to what is legally permissible



than to what is politically wise, in view of the fact that the remedy is political. The Cabinet may precipitate a political crisis in which the President cannot find an alternative Ministry that enjoys Parliament's confidence, or they may start proceedings for his impeachment. Both these alternatives are available even in the absence of a specific provision which expressly ties the President down to the Cabinet's advice. The present wording provides the necessary elasticity that suits any political situation and avoids all rigidity. The President, after taking stock of the situation, may use his discretion and act constitutionally in the interest of the country.

What is the scope of Presidential discretion? According to Dr. Ambedkar, the President has no discretionary functions at all. All that he will have are certain prerogatives, but not functions. He said:

Under a parliamentary system of Government, there are only two prerogatives which the King or the Head of the State may exercise. One is the appointment of the Prime Minister and the other is the dissolution of Parliament. With regard to the Prime Minister, it is not possible to avoid vesting the discretion in the President. The only other way... is to require that it is the House which shall in the first instance choose its leader and then, on the choice being made by a motion or a resolution, the President should proceed to appoint the Prime Minister.<sup>8</sup>

In either case the purpose is to test the confidence of Parliament in the new Prime Minister. That confidence could be reflected, before assuming office, through a resolution as pointed out above or after assuming office through a no-confidence motion. Dr. Ambedkar in this regard thus stated:

One way is as good as the other and it is, therefore felt desirable to leave this matter in the discretion of the President... With regard to the dissolution of the House, again there is no definite opinion so far as the British constitutional lawyers are concerned. There is a view held that the President or the King must accept the advice of the Prime Minister for a dissolution if he finds that the House has become recalcitrant or that the House does not represent the wishes of the people. There is also the other view that notwithstanding the advice of the Prime Minister and his Cabinet, the President, if he thinks that the House has ceased to represent the wishes of the people, can *suo moto* and of his own accord dissolve the House... These are purely prerogatives and they do not come within the administration of the country...<sup>9</sup>

Nevertheless, these are discretionary powers which can vitally affect the proper functioning of parliamentary democracy in this country. This was clearly and even dramatically demonstrated in 1979 when President Shri Sanjiva Reddy invited Shri Charan Singh to form a new Government to replace the Janta Government headed by Shri Morarji Desai and later dissolving the Lok Sabha when Shri Charan Singh failed

<sup>8</sup>C.A. Deb., Vol. VII, p. 1158

<sup>9</sup>*Ibid.*, pp. 1158-59

to secure a vote of confidence of the House. President Reddy's actions in appointing Shri Charan Singh as Prime Minister and later dissolving the Lok Sabha were severely criticized and resulted in a widespread controversy. That was the first time when a President in office became subject to such criticism, a direct result of using his discretionary power.<sup>10</sup> The manner in which conventions develop for regulating the use of these discretionary powers by the President, will determine in the long run, the success or failure of the working of a Cabinet system of Government in India. The President will have to be cautious and judicious in exercising his discretion to reject the advice of the ministry. Before taking his final decision, he should exercise all his influence and persuade the Cabinet to accept, his point of view. In making up his mind, one way or another, he may in his discretion seek the advice of the parties in Opposition. The President's personality and the esteem and prestige that he enjoys in the country will weigh very much on such occasions. In the actual working of the Constitution, personal factors will have great scope and in course of time, suitable conventions will have been established to smoothen the sharp edges of the Constitution. But, conventions can be built up only by precedents drawn from constitutional practice and their growth is often a slow and even a painful process.

Apart from the two discretionary powers discussed above and which depend upon conventions yet to develop (in India) for determining the manner in which they would be exercised, these are a few others, though comparatively less important, for which provision is made under the Constitution. These are:

1. The President's power to call for information relating to the administration of the affairs of the Union and proposals for legislation; and
2. His Power to ask the Prime Minister to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

Under the first of these provisions, the President needs no advice of the Ministry to ask the Prime Minister for information about the Council's decision. It is his prerogative to be informed, again a well-established convention of the English Constitution. Under the second provision, the President can ensure collective action within the Cabinet in those matters which, in his discretion, he thinks as deserving of such action but has not had it. The first question came up sharply during 1986 when President Giani Zail Singh sought full information from Prime Minister Shri Rajiv Gandhi about the Bofors gun deal through a letter

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<sup>10</sup>See Pylee, M.V.: *Crisis, Conscience and the Constitution*. Bombay, Asia Publishing House, 1982, Chapter 1.

addressed to him. The Prime Minister in his reply to the President explained at some length the scope of articles 76 and 78 of the Constitution and expressed the Government's inability to give him more information on the matter than what was already furnished. He pointed out that the Government did not hold the view that the President had an absolute right to know every thing including classified information which was not known even to the Prime Minister or the Defence Minister. A year earlier when the President sought a copy of the report of Thakkar Commission (which enquired into the disturbances in Delhi following Prime Minister Shrimati Indira Gandhi's assassination), the President was told that "he had no absolute right to know under article 78". Although this had been the unanimous stand of the Government, it is difficult to agree with it.

The President's right to call for information is central to his function under the Constitution, to persuade the Council of Ministers and state all his objections to any proposed course of action and to reconsider the matter. The demand for information is a feed back needed to fulfil the obligations of his office. How can the President encourage, caution or warn the Cabinet or require it to review or reconsider their decision without full knowledge of the facts of the case? The British model on which we have adopted the constitutional provisions regulating the relationship between the President and the Prime Minister is very clear in this respect. There, as A.B. Keith says, the one clear rule is that the sovereign is entitled to the fullest information in any sphere in which he has indicated desire to be kept informed and it must be given on any issue which comes before him. Walter Bagehot described the function of a constitutional Monarch as one which gives him the right to be consulted, the right to warn and the right to encourage.

Our President like the British Monarch, by virtue of his constitutional position, has a pervasive and persuasive role. And, this onerous role cannot be fulfilled unless and until he gets full information.

Article 103 requires that if any question arises whether any member of Parliament has become subject to any of the disqualifications mentioned in article 102, the President must obtain the opinion of the Election Commission and decide the question accordingly; and that decision is final. There is hardly any room for Ministerial advice here.

Article 111 authorises the President to declare that either he assents to a Bill passed by the two Houses of Parliament or he withholds assent therefrom and return it to Parliament for reconsideration. It is clear that there is no scope for Ministerial advice here also. Both President Giani Zail Singh and President Shri R. Venkataraman had withheld assent to the Post Office Bill, although the Government were keen to see it on the Statute Book. Here is another clear case of Presidential discretion.

Those who place their reliance on British constitutional conventions to

guide the President *in all his actions* will do well to take due note of certain features of our Constitution which make the position of the Head of the State different from that of Britain.<sup>11</sup> These are:

1. India has a written Constitution.
2. India has an elected President who is eligible for re-election as against a hereditary Monarch in Britain. He is, therefore, answerable to his constituents for his acts, which implies that he should have freedom to act what he thinks right.
3. India has a federal Constitution which divides the powers of the Government between the Union Government and the State Governments. The President cannot be either a partisan or a silent partner if the Union Cabinet tries to subvert the federal structure of the Constitution.
4. The Constitution has a list of guaranteed fundamental rights. It is through the enforcement of these rights that the Constitution seeks to inspire confidence in the minorities—cultural, linguistic and religious. The President cannot be a party to the activities of the Government which seek to undermine these rights through a legislative majority which they may command at any time.
5. Similarly, the Constitution has a chapter on Directive Principles of State Policy. These are expressly stated to be fundamental in the governance of the country and 'it shall be the duty of the State to apply these principles in making laws'. If a Bill is passed, which in the opinion of the President, violates any of these principles, is he bound to act according to Ministerial advice and give assent to it? If he does so, he may be accused of having violated the Constitution which he is bound, under oath, to uphold and defend.
6. The Constitution provides for three different types of emergency. One of these authorises the President to dismiss a Government in a State on account of the failure of the constitutional machinery in the State. If Cabinet advice to dismiss a State Ministry is based on narrow political and party considerations (the parties in power at the Union and the State levels being rivals), is the President bound to act in accordance with that advice?

All these will show that there are clear constitutional provisions which make a distinction between the President as a mere titular head of the Union and an arbiter or an umpire between competing claims and contesting parties.

Such thoughts must have been upper-most in his mind when in November 1960, on the occasion of laying the foundation-stone of the Indian Law Institute in New Delhi, President Dr. Rajendra Prasad

<sup>11</sup>See Pylee M.V.. *Constitutional Government in India*. New Delhi, S. Chand & Company, 1984.

suggested the Institute to take up for study the powers and functions of the President under the Constitution. The occasion, the personality of Dr. Rajendra Prasad, the office he held, his experience in that office and the part he played in drafting the Constitution, were all more than adequate assurance that he would not have lightly raised an issue of such vital import. The President's statement unleashed the floodgates of a controversy that raged for a while among constitutional lawyers all over the country. There was, however, more thunder and less light although reams were written to prove that the President was a mere figurehead and an equal assertion to prove that he was a power to reckon with. To remove all doubts, a member of Parliament, Shri Bhupesh Gupta, proposed two amendments to the Constitution to make Cabinet advice binding on the President. The member could not, however, enlist adequate support for his move and hence the proposal was negated.

The President of India, can function under the Constitution as an effective, influential and sobering force without being too dominant or dictatorial. This is why the President of India need not be a mere rubber-stamp or figurehead as the French President happened to be under the Fourth Republic of France. At the same time, it is not too helpful to observe that under the present provisions of the Constitution 'he is an ambiguous figure, three quarters a British Monarch and one quarter an American President!'

The office of the President is indeed one of great dignity as well as authority. The framers of the Constitution had a very difficult task in designing it. For, unlike the British Monarch's, it was to be an elective office, but like him, his office was to be of great dignity. Further, they had to keep in view the special features of India's Constitution, e.g. its written character, the federal system, the guaranteed fundamental rights of the citizen and the Directive Principles of State Policy, which are in contrast to that of Britain. There is enough evidence in the Constitution to show that they did not want to make the position of the President so rigid as to rule out the possibility of any flexibility under differing conditions and circumstances in the country.

This discussion may be concluded by detailing the circumstances under which the President would have occasion to make use of his discretionary powers in a decisive manner. First, when no party in Parliament (Lok Sabha, to be more precise) has a clear majority, the President's choice of a particular person as Prime Minister may decisively swing the pendulum one way or the other. If, unfortunately, India follows the old French pattern of political uncertainty, which is the result of a multitude of small parties in Parliament, none capable of forming a stable Government, an ambitious President would be able to dictate terms to any Prime Minister or prospective Prime Minister. Secondly, when the majority party which holds the reins of power is torn asunder by internal disputes and dissensions, the President's inclination to support or denounce a particular leader is

bound to have far-reaching consequences. When discipline in the ruling party degenerates, groups and factions undermine party cohesion, adventurous and unscrupulous group bosses try to capture office through questionable means and, finally, corrupt practices tarnish the reputation and goodwill of the ruling party, there will be an opportunity for the President to play a decisive role in the machinery of the Government and the politics of the country. In the ultimate analysis, it is the political climate that will dictate the use of his authority as the head of the nation.

What is envisaged under the Constitution is a cooperative and harmonious relationship between the President who is the head of the nation and the Prime Minister who is the head of the Government. It envisages no clash between them. For, it is not in the interest of the country. The Prime Minister has to respect not only the office of the President, but also the views of the person who for the time being holds the office. Similarly, the President has not only to respect the office of the Prime Minister but also the policies, programmes and directions pursued by him and his Government so long as he has the confidence of Parliament which reflects the will of the people. In order to facilitate this, article 78(b) provides that it shall be the duty of the Prime Minister "to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for".

When such communication is regular, systematic and on a face-to-face basis, the chances of any conflict between them shall be practically nil. Being two individuals who have their own backgrounds, experiences, preferences, likes and dislikes, and even ideologies, it is only natural that they do not see eye to eye on certain issues. But when they have regular contact and frank discussions between them, the chances are that they resolve their differences and come to understanding of each other's points of view in the interest of the nation's well-being.

Pandit Nehru's stress on regular periodical meetings with President Dr. Rajendra Prasad emphasises this aspect. There is nothing in the Constitution that the Prime Minister should meet the President every week, every fortnight or every month. But, the practice of regular meetings enabled the President and the Prime Minister in providing a meeting of minds and establish better understanding of the Government's policies and programmes. In fact, Pandit Nehru had established this procedure even before the inauguration of the Constitution in 1950 when he was Prime Minister of the Dominion of India under Governor-General, Lord Mountbatten and later under Shri C. Rajagopalachari. He continued the practice after the inauguration of the Constitution when Dr. Rajendra Prasad became President.

It is well known that there were differences between Dr. Rajendra Prasad and Pandit Nehru on certain important issues such as the Hindu Code Bill and President's position as Visitor in Central

Universities. But they were able to iron them out. Dr. Radhakrishnan who succeeded Dr. Rajendra Prasad was a person of great distinction and was respected by Pandit Nehru. They were supposed to be very close to each other. And yet, there developed serious differences between them in the wake of the Sino-Indian War of 1962. But, that did not lead to a constitutional crisis comparable to the one that the country experienced in the eighties (1986-87).

It is in the interest of the smooth working of the Constitution that a harmonious working relationship is established and maintained between the President and the Prime Minister. Conventions of an abiding nature alone can facilitate it.

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## RIGHT TO KNOW : AN OVERVIEW\*

M.S. SHARMA

The age-old adage—"knowledge is power", is more true today than it was at any other point of time because in a modern popular Government an 'informed' public opinion is a big asset to the Government itself. Certain recent defence deals have very well emphasised the importance of the freedom of information in India. Besides, with the increase of literacy in the country, the right to know has naturally assumed added importance. An informed public opinion and independent decision-making are the touchstones of democratic processes. Therefore, the right to information has become a *sine qua non* for the health of a democratic polity and is definitely helpful to a clean and efficient Government.

The oft-quoted official jargons, like "in public interest", "in the interest of public order", "in the interest of national security"—with which the Government have often banged their doors on the face of the inquisitive media or intelligentsia, are no longer taken for granted, particularly by the key-hole mediemen and the investigative journalists.

In fact, Government secrecy has a short "shelf-life". Secrecy of almost every proposal, project or decision has relevance only for a limited period of time and after the proposal or decision has been executed or work completed, secrecy on that particular issue may not be relevant any more. The importance of right to know or the freedom to information can, therefore, hardly be emphasised because "free people are of necessity informed; uninformed people can never be free", thus spake an oracle.

### *Right to Know in India*

In article 19 of the Indian Constitution which enshrines the freedom of speech and expression, the right to know was implicitly ingrained by our founding fathers. But, this right is equally conspicuous by its absence explicitly. Nonetheless, what the Constitution could not make explicit, the Judiciary has established and declared that the right to know is a constitutional right under article 19(1)(a). Two important decisions of the Supreme Court brought the issue into focus. In 1975, in the *State of Uttar Pradesh vs. Raj Narain*<sup>1</sup> case, the Supreme Court considered the

\*The views expressed in the article are author's personal views and these have nothing to do with the official position he holds.

<sup>1</sup> A.I.R. 1975 SC 865.



Government's plea of privilege against revealing certain documents. Disallowing Government's claim made under sections 123 and 162 of the Indian Evidence Act, which permitted non-disclosure of such documents on grounds of public injury, Justice K.K. Mathew pointed out, "The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries..... The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one way when secrecy is claimed for transactions which can, at any rate, have no repercussions on public security".

Seven Years later, a similar question arose in the *S.P. Gupta vs. Union of India*<sup>2</sup> case. The Supreme Court again negated the Government's claim of privilege against disclosure of certain documents besides the correspondence between the Chief Justice of India and the Chief Justice of the Delhi High Court regarding confirmation in service of an Additional Judge of the Delhi High Court. In his judgement, Justice P.N. Bhagwati observed, ".....the concept of an open Government is the direct emanation from the right to know which seems to be implicit in the right to free speech and expression guaranteed under article 19(1)(a). Therefore, disclosure of information in regard to the functioning of the government must be the rule, and secrecy an exception, justified only where the strictest requirement of public interest so demands".

This is a substantial and significant advance but a careful perusal of the judgements reveal that while the Supreme Court had observed that the article 19(1)(a) included the right to know, it did not elaborate the principle or clarified its relevance and meaning *vis-a-vis* Government's viewpoint, particularly in view of the fact that the official Secrets Act, 1923, the Commission of Inquiry Act, 1952, the Contempt of Courts Act, 1971, etc. are in force and effective. These statutes, along with other similar ones, are the weapons with which the government can deny the public as well as the Press from obtaining and disseminating information.

In spite of the Supreme Court's above cited decisions, an analysis of some subsequent judgements, e.g. *Olaqa Tellis vs. Bombay Municipal Corporation*<sup>3</sup> (*Pavement Dwellers case*); *Prem Chand vs. State of Haryana*<sup>4</sup> (*Suman Rani's rape case*) *Bombay Hawker's Union vs. Bombay Municipal Corooration*<sup>5</sup> and a few other cases on equal pay for equal work show that ground broached by earlier court decisions was being steadily narrowed down. That is why Justice Krishna Iyer,

<sup>2</sup>A.I.R. 1982 SC 149.

<sup>3</sup>(1985) 3 SC 545.

<sup>4</sup>(1990) *Judgement Today* 159.

<sup>5</sup>A.I.R. 1985 SC 1206.

therefore, proposed, "To ensure that there is no misinterpretation, there may be no harm in inserting freedom of information as a specific corollary to article 19 of the Constitution".

#### *Necessity of Legislation*

There are two schools of thought in the matter. One pleads for amending the Constitution for this purpose. They feel there is nothing sacrosanct in amending the Constitution which has already been amended so many times. However, there is a difference between a Constitution and an ordinary statute. While the Constitution states or ought to state the law not only for the current phase but also for an expanding future, an ordinary statute is designed to meet exigencies of the hour and this can be amended when an exigency arises.

The second school of thought pleads for enacting a new legislation or making statutory changes in the existing laws to eliminate and overcome the irritants in the access to and availability of information. For this purpose, first of all, it may be necessary to amend the Official Secrets Act, 1923 which is modelled on the British Official Secrets Act, 1911. The British Act has since been amended in 1989 introducing major changes. Section 2 of the Act has been repealed and replaced by new provisions. Side by side, a few more similar Acts have also been amended. Consequently, only the following categories of official information have been exempted from unauthorised disclosure, namely (a) security and intelligence; (b) defence; (c) international relations; (d) information obtained in confidence from other states or from international organisations; (e) information likely to result in an offence or other related consequences; and (f) special investigations under statutory warrant.

Democracy is a participatory form of Government. The participation of the people in the Government cannot be full and complete unless there is free flow of information about their affairs. In this connection, James Madison has warned, "a popular government without popular information, or the means of obtaining it, is but a prologue to a farce or tragedy or perhaps both".

Freedom of information ends where national interest starts and, therefore, the concept of an 'Open Government' cannot be extended to mean that the entire administrative business of the government should be conducted in an open market.<sup>6</sup> But the objection is to the official habit of branding every slightly important matter as *TOP SECRET*. It can be understandable, if it is a temporary measure, but often it has been found that once the *SECRET* label is put, it is rarely reviewed or revised because nothing lasts longer than the 'temporary'. That is why the existing Official Secrets Acts, 1923 has been described as an anachronism. Its real culprit is section 5 which is a "catch-all provision" because it throws a black

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<sup>6</sup>Soli J. Sorabjee; *The Right to know and Official Secrecy*, *The Indian Express*, 6 May, 1990.

blanket on official documents, information and decisions and that too without any distinction and classification. The Second Press Commission recommended its repeal or suitable modification so as to suitably safeguard the freedom of the Press. A joint study conducted by the Indian Law Institute<sup>7</sup> and Press Council has also suggested a suitable amendment to protect any defence on the ground of public interest. In Great Britain also the Franks Committee criticised the all pervading power of section 2 of the British Official Secrets Act of 1911.

*Precedents in other countries*

This problem has two distinct aspects. One aspect of the matter relates to opening the doors of Government Departments to the media for getting information from official records on matters of public importance—of course, without attracting any civil or criminal liability. According to Justice H.R. Khanna, "This can be done by making suitable amendments in the Official Secrets Act, 1923, keeping in view certain reasonable restrictions for protection of national interest and changes made by the British Official Secrets Act, 1989 provide a good model, with modifications suited to our requirements".<sup>8</sup>

The other aspect relates to making a special statutory provision for giving particular information from official records asked for by members of the public. This will entail the enactment of a special law like the Freedom of Information Act, 1966 of the United States of America. Under this law, any individual can apply for seeking information and documents from the Government or their agencies. The law provides for a detailed procedure and guidelines regarding the period within which the request is to be granted, and if refused, provision for appeal to Courts is there. The important highlights of the U.S. Act are<sup>9</sup>—

- (a) Any individual can apply for any information without having to show any specific reason;
- (b) Courts are precluded from questioning the purpose of the information. They are mainly concerned to see only whether the required information falls within the exemptions and exceptions, specifically enumerated in the law; and
- (c) The burden of justifying why the Government seeks privilege to withhold it, is on the Government and its agencies.

The United States being a mature democracy, the said law is an embodiment of the political principle of "information for information

<sup>7</sup>S.N. Jain (ed.) *Official Secrecy and the Press*. New Delhi, Indian Law Institute, 1982.

<sup>8</sup>Justice H.R. Khanna: Freedom of Information—How far? *The Hindustan Times*, 2 May 1990.

<sup>9</sup>V. Suresh and D. Nagsaila; The Fundamental Right to know, *The Hindu*, 3 June 1990.

sake". But, in the Indian context, this idea needs to be restricted to the point that the disclosure or dissemination of the official information subserves some public purpose or public good.

But, as is well said by Justice Holmes: "The life of law has not been logic; it has been experience". That is why in practical functioning of the United States law, many serious difficulties have arisen. So much so that the Director of Federal Bureau of Investigation, the Drug Enforcement Administration and even the New York Bar Association have raised objections to the utility of the law and complained that its provisions are being used (rather misused by Criminals and rival business parties) as a *carte blanche* for unrestricted access to otherwise classified information. That is why the Freedom of Information-Act, 1966 was suitably amended in 1974, despite President Ford's veto.

The Australian Government had, in 1982 passed a similar law in response to political demand and some judicial pronouncements. Analogous statute also exists in Sweden in the shape of the Freedom of Press Act which accords the right to information a due constitutional status.

Before enacting a suitable law in India we must examine in detail the working of such enactments in other democracies. Since the political and cultural milieu in India is different from that of Western countries, we have to make suitable modifications according to our political, cultural and social set up.

### *Right to Privacy*

An Individual's right to privacy comes into direct conflict with another's right to know as the latter right ends where the former right begins. Privacy has been defined as the "the claim of individuals, groups or institutions, to determine for themselves, as to when, how and to what extent information about them is communicated to others"<sup>10</sup>. With the advancement in science and technology, gadgets and devices have been produced which can 'pry into the private lives of individuals'. Electronic surveillance by close-circuit cameras is being increasingly used as a 'Private eye'. Information satellites—the 'Big Brother' — is used for eavesdropping on the activities of hostile countries. Thus, the life and activities of modern men and women are all laid bare to the prying eyes. Therefore, there is a greater need to properly harmonise the need for freedom of information and the right to individual's privacy, by keeping in mind the warning of Mr. Pierre Trudeau, former Prime Minister of Canada that the "State has no place in the bedroom of the nation or of its citizens."

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<sup>10</sup>Justice H.R. Khanna, *Supra*.

*Case for a New Statute*

As pointed out earlier, there is a view that the Constitution should be amended to make room for a fundamental right to know. According to an Eminent Jurist, Mr. F.S. Nariman, "The right to privacy and freedom of information are not provided or guaranteed by the Constitution or laws....In the end both the right and the freedom being unwritten are in the ultimate care and at the mercy of the Supreme Court" So, instead of leaving it to the vagaries of judicial discretion and pronouncements, it is better to make it a constitutional right, which is always considered better and stronger than any statutory right.

There may be other weighty reasons to make it a fundamental right. Firstly, a constitutional recognition shall raise this right from the status of the ideals of the thinkers and philosophers to that of a practical right of the common man.

Secondly, India is a signatory to the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966, article 19 of which envisages the "right of freedom of expression" which includes "the freedom to seek, receive and impart information and ideas of all kinds". It would, therefore, be in the fitness of things if India also honours its ratification by incorporating the same in its Constitution.

On the other hand, there are authorities like Justice H.R. Khanna and Attorney General Soli Sorabjee, who favour statutory amendments and a fresh enactment for this purpose, Justice Khanna favours omnibus amendments of the Official Secrets Act, 1923 the Contempt of Courts Act, 1971 and the Commission of Enquiry Act, 1952. Attorney General, Soli Sorabjee is of the view that "Since the right to information has been accorded a constitutional status by the judgements of the Supreme Court, an amendment of the Constitution....is unnecessary. Besides, a constitutional amendment can do no more than expressly declare it a Fundamental Right. It is not the function of the Constitution to spell out the details, modalities and procedures for working out and implementing this right in its various facets. For that purpose legislation providing for Freedom of Information is necessary".<sup>11</sup>

*Conclusion*

It is a matter of common knowledge that every country has its national secrets, which are to be protected at all costs. But, a clear distinction is necessary to be made between protection of secrets relating to national interests and security and protection of an individual's interests, lapses or misconducts—however high position he may be holding. Unfortunately, of late, in our country, an impression has been gathered by the Press and the public that the official Secrets Act and Similar enactments have been

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<sup>11</sup>Soli Sorabjee, *supra*.

used for protection against disclosure of lapses, misdemeanures and misadventures of some individuals or the ruling party sometimes. Thus, any such law for the freedom of information should be a measure of maintaining a balancing feat "between secrecy and disclosure, between official control of information and public need for it". Such a law on information should cover "classification of information, access to materials, exemptions and exceptions, procedure for requests for information, remedies in respect of adverse orders or other related matter."<sup>12</sup>

Shri Sorabjee further suggests that such a legislation should provide for an effective machinery for determining the requests for information. A prompt remedy before a judicial tribunal should be provided for because an 'appeal' from the decision of one official to another, in most cases, would be an appeal from 'Caesar to Caesar'.<sup>13</sup>

Another important point should be the protection of the rights of individuals by giving them right of access to information about themselves held in government records. The access to information should be within 'easy reach and at affordable cost'.

Since there can be no absolute right to have information, just as there is no absolute right of speech and expression, Government's privilege to withhold vital security interests should be protected through usual exemptions and exceptions, which generally relate to information:

- (i) the disclosure of which is prohibited by statutory provisions preceding the legislation providing for the right of access;
- (ii) which has come into possession of the Government before a certain date;
- (iii) concerning international relations and national security;
- (iv) concerning law enforcement and prevention of crime;
- (v) concerning discussions, advice given or opinions expressed within the Government organisation;
- (vi) which has been obtained in confidence from a source outside the Government organisation;
- (vii) which if disclosed, would violate the privacy of an individual;
- (viii) which would, if disclosed, or disclosed prematurely confer an unfair advantage on some person or inflict an unfair disadvantage or injury on either the Government or some other person; and
- (ix) which is covered by parliamentary, legal and medical professional privilege.

• Section 162 of the Evidence Act already plays an important role in this regard which empowers the courts to inspect any document to decide

<sup>12</sup>Justice H.R. Khanna, *supra*.

<sup>13</sup>Soli Sorabjee, *supra*.

Government's claim of privilege. Such an omnibus law should meet the demand of the Press and the Public.

However the guiding principle in this field is that no information can be disclosed in the Public interest by compromising national interests or public safety.

One is apt to agree with Shri Sorabjee when he points out that in the ultimate analysis, public interest ought to be the overriding and decisive consideration and therefore, a defence on that ground should be made available in prosecution for disclosure of official secrets because disclosure of information in regard to the functioning of Government must be the rule and secrecy and exception, justified only where genuine requirements of public interest so demand.

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## WIT AND HUMOUR IN LEGISLATURES

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The Houses of the Parliament and the State legislatures sometimes witness heated discussions. But it is not all just heat; discussions shed light as well and there are also lighter interludes. Continuing this feature, we have endeavoured to capture some moments of wit and humour in Lok Sabha and Rajasthan Legislative Assembly, recently.

— Editor

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### LOK SABHA.

*Shri Nirmal Kanti Chatterjee:* Mr. Chairman, Sir, I know that time is the only constraint. So, I want to enter into a contract with you. Whenever you ring bell, I will stop speaking, but when I continue to speak, kindly do not ring the bell.

(L.S. Deb., 17 May 1990)

### STATE LEGISLATURES

#### RAJASTHAN LEGISLATIVE ASSEMBLY

*Shri Mahir Azad:* अबके (गर्धों के) मेले का उद्घाटन किसके द्वारा कराओगे?

(By whom the ensuing (donkey) fair will be inaugurated?)

*Shri Kanhiya Lal Meena:* गर्धों के मेले का जब भी कोई उद्घाटन करता है तो उसका प्रमोशन होता है। पूर्व में..... जिस/जिस कांग्रेसी एम०एल०ए० ने उद्घाटन किया। वह 15-20 दिन में मंत्री बन गया।

(Whenever any person inaugurates the donkey-fair, he gets promotion. Earlier whenever any Congress M.L.A., inaugurated the fair, he became Minister within 15-20 days.)

(R.L.A. Procs., 3 July 1990)

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**Shri Bhaïron Singh Shekhawat:** अध्यक्ष महोदय, यहां प्रश्न किया गया कि मौसम विभाग की सूचना मिलने पर सरकार ने क्या कार्यवाही की। यह बात बिल्कुल सही है कि मौसम विभाग की सूचना निरन्तर दो बार रेडियो पर आयी। लोग रेडियो पर सुनते हैं, लेकिन दुर्भाग्य है, मैं नहीं कह सकता कि वह स्थिति क्यों बनी। मौसम विभाग यदि यह सूचना देता है कि बरसात होगी तो लोग यह मानकर बैठ जाते हैं कि आज बरसात नहीं होगी..... लोगों की मानसिक स्थिति क्या है, मैं केवल उसका ही उल्लेख कर रहा हूँ।

(Mr. Speaker, it has been enquired from the Government whether they have taken any action after receiving forecast from the Department of Meteorology. No doubt, the forecast of the Department of Meteorology was broadcast twice on radio. The people hear the forecast but unfortunately, I cannot say why this situation has arisen. If the Department of Meteorology forecasts for raining, the people take it in the sense that there are no chances for a drizzle on that day.... I am only mentioning the general belief of the people).

(R.L.A. Procs. 10 July 1990)

(Mr. Deputy Speaker says the bell indicating end of the allotted time to a member)

**Shri Chandanmal (Another Member):** अच्छा बोल रहे हैं, बोलने दीजिए, साहब।

(He is delivering a good speech, please let him speak further)

**Mr. Deputy Speaker:** मैं इशारा ही कर रहा हूँ अभी।

(I am just waving for him to conclude)

**Mr. Sampat Singh:** आपकी वैसे इशारा करने की उम्र भी नहीं है।

(You have, in any case crossed the age to make passes)

(R.L.A. Procs., 12 July 1990)

**Mr. Speaker:** दो मिनट बचे हैं आपके।

(Only two minutes are left for you)

**Shrimati Ujla Arora:** हां, मुझे मालूम है। अपना अन्तिम क्षण याद आता है।

(Yes, I know. It reminds me of my last moment.)

(R.L.A. Procs., 12 July 1990)

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**Shri Ram Kishan:** सुन्दरता के बारे में मुझे एक बात कहनी है। यह सुन्दरता का कंसेप्ट हमने यूरोप से लिया है। यह कंसेप्ट इतना रद्दी बन चुका है कि काजल लगाना तो अच्छा लगता है, लेकिन जब (लिपिस्टिक) होंठों को लाल कर देती है तो मुझे बड़ा अजीब लगता है...

(I want to say one thing about beauty. We have taken this concept of beauty from Europe. This concept does not fit in our country. As far as applying Kajal is concerned, it is good, but the lips with red lipstick really look strange...)

**Shri Bhairon Singh Shekhawat:** लेकिन आप लिपिस्टिक जयपुर से खरीद कर घर क्यों ले जाते हैं?

(But why do you purchase lipstick from Jaipur and carry it home?)

**Shri Nathi Singh:** वह तो डर के मारे ले जाते हैं।

(He has to carry it home because of fear.)

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(R.L.A. Procs., 19 July 1990)

**Shri Shivcharan Mathur:** आपने सौगंध खायी है एक रहने की, भले ही अन्दर से मन नहीं मिलते हों। यह वैसा ही हिसाब हो गया कि दो की शादी तो हो गयी लेकिन 69 अंक की तरह आपस में रहने लगे।

(You have taken an oath to live together, though you have internal differences. It is like a man and a woman who have got married, but are placed against each other like the 69 number.)

*Shri Sampat Singh:* माधुर साहब, कन्याकृत मैरिज ज्यादा सफल है या लव मैरिज ज्यादा सफल है।

(Will you please tell me, Mathur Sahib, it is the contract-marriage which is more successful or the love-marriage?)

*Shri Shivcharan Mathur:* मुझे तो अनुभव नहीं है।

(I do not have any experience in this line.)

*An hon'ble Member:* मैरिज जो कंवीनियेण्ट आपको है, यह सबसे सफल है।

(A marriage which suits your convenience is most successful.)

*Shri Chandanmal Baidya:* यह सवाल वह पूछ रहे हैं जिन्होंने मैरिज करने का सौभाग्य प्राप्त नहीं हुआ है।

(A man, who is not fortunate enough to have been married, is asking this question.)

(R.L.A. Procs. 20 July 1990)

*Shri Surendra Vyas:* मैं यह निश्चित रूप से कहता हूँ कि कांग्रेस के लोग गलती भी करते थे तो अक्ल से करते थे। यह तो अक्ल के खाली लोग हैं। यह सब अक्ल से खाली पार्लियामेण्टेरियन हैं, अप्यहा महोदय।

(I want to say that whenever Congressmen committed any mistake, they did it diligently. But these people are devoid of wisdom. Mr. Speaker, these are the parliamentarians, who have no intelligence.)

*Mr. Speaker:* अक्ल से की जाने वाली बेईमानी जायज है?

(Is it proper to indulge in corruption with intelligence?)

*Shri Bhairon Singh Shekhawat:* बेईमानी करनी होगी तो अक्ल लगायेंगे।  
(We will certainly use our intellect if we intend to indulge in corruption.)

(*R.L.A. Procs.*, 23 July, 1990)

## PARLIAMENTARY EVENTS AND ACTIVITIES

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### CONFERENCES AND SYMPOSIA

*36th Commonwealth Parliamentary Conference:* The 36th Commonwealth Parliamentary Conference was held at Harare (Zimbabwe) from 14 to 22 September, 1990. The Indian Delegation to the Conference was led by Shri Rabi Ray, Speaker, Lok Sabha. Besides the leader, the Delegation, *inter alia* consisted of Dr. (Shrimati) Najma Heptulla, Deputy Chairman, Rajya Sabha, Dr. Laxminarayan Pandey, Sarvashri Samarendra Kundu and Satya Prakash Malaviya, all members of Parliament. Shri K.C. Rastogi, Secretary-General, Lok Sabha was Secretary to the Delegation.

The Delegation included the following delegates from the State Branches of Commonwealth Parliamentary Association (CPA) in India: Shri P. Ramachandra Reddy, Speaker, Andhra Pradesh Legislative Assembly; Shri Lijum Ronya, Speaker, Arunachal Pradesh Legislative Assembly; Shri Pulakesh Barua, Speaker, Assam Legislative Assembly; Shri Ghulam Sarwar, Speaker, Bihar Legislative Assembly; Professor Surendra Vasant Sirsat, Speaker, Goa Legislative Assembly; Shri Shashikant Lakhani, Speaker, Gujarat Legislative Assembly; Shri Harmohinder Singh Chatha, Speaker, Haryana Vidhan Sabha; Shri Radha Raman Shastri, Minister of Education, Himachal Pradesh; Shri Varkala Radhakrishnan, Speaker, Kerala Legislative Assembly; Professor Brij Mohan Mishra, Speaker, Madhya Pradesh Legislative Assembly; Shri Madhukarrao Chaudhari, Speaker, Maharashtra Legislative Assembly; Dr. H. Borobabu Singh, Speaker, Manipur Legislative Assembly; Shri P.R. Kyndiah, Speaker, Meghalaya Legislative Assembly; Shri Rokamlova, Speaker, Mizoram Legislative Assembly, Shri S.C. Jamir, Member, Nagaland Legislative Assembly; Shri Yudhisthar Das, Speaker, Orissa Legislative Assembly; Shri Hari Shanker Bhabhra, Speaker, Rajasthan Legislative Assembly; Shri O.T. Bhutia, Speaker, Sikkim Legislative Assembly; Shri V.P. Duraisamy, Deputy Speaker, Tamil Nadu Legislative Assembly; Shri Jyotirmoy Nath, Speaker, Tripura Legislative Assembly; Shri Hari Kishan, Speaker, Uttar Pradesh Legislative Assembly; Shri Hashim Abdul Halim, Speaker, West Bengal Legislative Assembly and

Regional Representative for Asia Region; Shri Anil Mukherjee, Deputy Speaker, West Bengal Legislative Assembly. Shri D. Manjunath, Chairman, Karnataka Legislative Council, attended the Conference as official Branch Observers.

Shri M.M. Naik, Secretary, Goa Legislative Assembly, Shri Rajendra Babu, Secretary, Kerala Legislative Assembly and Shri S.N. Deka, Secretary, Assam Legislative Assembly were the Secretaries from State Branches.

The following subjects were discussed at the Conference:

- 1 The Commonwealth—Future Directions.
- 2 The role of Commonwealth Parliaments in helping to accelerate concrete changes towards democracy in South Africa.
- 3 Changes in Eastern Europe and consequences for developing Commonwealth countries in respect of debt burdens, bilateral and multi-lateral aid.
- 4 That Commonwealth countries take a world lead in removing domestic food production subsidies and internal Commonwealth trade barriers on food and fibre products.
- 5 Multiculturalism — Australian and Commonwealth experiences and their implications for other Commonwealth countries.
- 6 The role of Parliamentary Committees in accounting, investigating and assessing the Executive and the Bureaucracy.
- 7 The role of the Commonwealth in safeguarding Human Rights with special reference to refugees.
- 8 Contribution of Commonwealth Parliaments individually and collectively in protecting developing countries from being turned into toxic waste dumping grounds.
- 9 What Commonwealth Parliaments can do to enhance the socio-economic status of women?
- 10 How best can Commonwealth countries cooperate to tackle environmental and natural resource conservation problems?

*CPA Executive Committee Meetings:* The meetings of the Executive Committee of the CPA were held at Harare (Zimbabwe) earlier from 12 to 14 September, 1990. Shri Rabi Ray, Speaker, Lok Sabha and Shri Hashim Abdul Halim, Speaker, West Bengal Legislative Assembly attended these meetings as Vice-President of CPA and as Regional Representative for Asia Region, respectively.

*CPA General Assembly Meeting:* The meeting of General Assembly of CPA was held at Harare (Zimbabwe) on 20 September, 1990. Shri Rabi Ray, Speaker, Lok Sabha represented India Branch of CPA at the meeting.

*Birth Anniversary of Dr. Syama Prasad Mookerjee:* To mark the birth anniversary of Dr. Syama Prasad Mookerjee, a meeting was held under

the auspices of Indian Parliamentary Group (IPG) on 6 July, 1990 in the Parliament House Annexe, New Delhi. Dr. (Smt.) Najma Heptulla, Deputy Chairman, Rajya Sabha presided and addressed the gathering. Sarvashri Vasant Sathe, K.L. Sharma, Members of Parliament; Dr. Bhai Mahavir, Professor Balraj Madhok, former members of Parliament and Shri Kidar Nath Sahani, former Chief Executive Councillor, Delhi, also spoke on the occasion.

Monographs on Dr. Syama Prasad Mookerjee and Dr. Lanka Sundaram, brought out by the Lok Sabha Secretariat in the "Eminent Parliamentarians Monograph Series", were released on the occasion by the Deputy Chairman, Rajya Sabha.

*Birth Anniversary of Sardar Baldev Singh:* On the birth anniversary of Sardar Baldev Singh, a meeting was held under the auspices of the IPG on 11 July, 1990 in the Parliament House Annexe, New Delhi. Shri M.S. Gurupadaswamy, Minister of Petroleum and Chemicals presided. Dr. Raja Ramanna, Minister of State in the Ministry of Defence addressed the gathering. Shri Satya Prakash Malaviya, Member of Parliament, Chaudhary Ranbir Singh and Sardar Santokh Singh, former members of Parliament also spoke on the occasion.

*Birth Anniversary of Dr. S. Radhakrishnan:* On the birth anniversary of Dr. S. Radhakrishnan, a meeting was held under the auspices of the IPG on 5 September, 1990 in the Parliament House Annexe, New Delhi. Shri Rabi Ray, Speaker, Lok Sabha presided and addressed the gathering. Shri M.S. Gurupadaswamy, Minister of Petroleum and Chemicals; Dr. (Smt.) Najma Heptulla, Deputy Chairman, Rajya Sabha; Professor C.P. Thakur, Member of Parliament and Sardar Santokh Singh, former member of Parliament also spoke on the occasion.

*Birth Anniversary of Pandit Govind Ballabh Pant:* To mark the birth anniversary of Pandit Govind Ballabh Pant, a meeting was held under the auspices of IPG on 10 September, 1990 in the Parliament House Annexe, New Delhi. Shri Shivraj V. Patil, Deputy Speaker, Lok Sabha presided and addressed the gathering. Shri Piyarelal Handoo, Member of Parliament; Shri Ram Chandra Vikal, Chaudhary Ranbir Singh and Major-General R.S. Sparrow, former members of Parliament, also spoke on the occasion.

#### PARLIAMENTARY DELEGATION VISITING INDIA

*Zambia:* In response to an invitation from India, a six-member Parliamentary Delegation led by H.E. Mr. F.M. Mulikita, Speaker of the National Assembly of Zambia visited India from 13 to 19 August, 1990. On 16 August, 1990 the Delegation called on Shri Rabi Ray, Speaker, Lok Sabha who later hosted a banquet in their honour. A meeting was also held on the same day between the delegates and members of our Parliament. The Delegation also called on Dr. Shanker Dayal Sharma, Vice-President of India and Chairman, Rajya Sabha on 17 August, 1990. Besides Delhi, the Delegation visited Agra and Mumbai.

**INDIAN PARLIAMENTARY DELEGATION GOING ABROAD**

*European Parliament:* On the invitation of the European Parliament, an Indian Parliamentary Delegation led by Shri Rabi Ray, Speaker, Lok Sabha visited the European Parliament from 6 to 12 July, 1990. Other members of the Delegation were Sarvashri Jagdeep Dhankar, Deputy Minister in the Ministry of Parliamentary Affairs; Ram Sajiwan, Atal Bihari Vajpayee, Yadendra Dutt, Shrimati Margaret Alva and Shrimati Sheila Kaul, all members of Parliament. Shri Sudarshan Agarwal, Secretary-General, Rajya Sabha was Secretary to the Delegation.

**BUREAU OF PARLIAMENTARY STUDIES AND TRAINING**

During the period 1 July to 30 September, 1990, the following Programmes/Courses were organised by the Bureau of Parliamentary Studies and Training:

*Orientation Programme for New Members of Rajya Sabha:* An Orientation Programme for new members of Rajya Sabha, who have been nominated/elected for the first time to the House in the bye-elections or biennial elections held in 1990, was organised at Suraj Kund, Haryana from 23 to 27 July, 1990. Dr. (Smt.) Najma Heptulla, Deputy Chairman Rajya Sabha, inaugurated the Programme. In all, 28 new members attended the Programme, which was designed to assist them to face with greater confidence and ease the onerous tasks, responsibilities and challenges of their job and to become more effective Parliamentarians.

Discussions on various subjects such as 'Role of the Second Chamber in the Indian Constitution'; 'Relation of Parliament with the Executive'; 'Parliamentary Questions'; 'The Legislative Business'; 'Role of the Minister of Parliamentary Affairs and Whips'; 'The Non-Legislative Business'; 'Parliamentary Privileges'; 'Committee Structure in Rajya Sabha'; 'Parliamentary Customs, Conventions and Etiquettes'; and 'Duties of Members vis-a-vis the Chair'; 'Information Management for Members'; and 'How to be an effective Legislator'? were held during the currency of the Programme.

On the concluding day i.e. 27 July, 1990, a Question-Answer Session was held. Sarvashri Sudarshan Agarwal, Secretary-General, Rajya Sabha and C.K. Jain, Additional Secretary, Lok Sabha Secretariat answered the questions raised by the participating members. The Programme ended with a Valedictory Address by Shri Rabi Ray, Speaker, Lok Sabha.

*Parliamentary Internship Programme for Foreign Parliamentary Officials:* A Parliamentary Internship Programme for foreign parliamentary officials which commenced on 20 September, 1990 would continue till 9 November, 1990. The Programme, being attended by 11 foreign parliamentary officials, is designed to meet the special needs of officers of foreign Parliaments who are sponsored by their respective Parliaments/



Governments to study the processes and procedures and working of parliamentary institutions in India. The aim of the Programme is to provide to the foreign parliamentary officials an opportunity to exchange ideas in the context of their own experiences in their Legislatures and to acquaint themselves with the environment, culture, traditions and working of parliamentary institutions in India. The participants in this programme are drawn from countries covered under the Colombo Plan and Special Commonwealth African Assistance Plan.

*Appreciation Courses for Probationers/Officers of All India Central Services and Professors/Lecturers of Universities, etc:* The following Appreciation Courses on Parliamentary processes and procedures were organised by the Bureau for Probationers of Indian Railways Traffic Service and Indian Railways Stores Service—16 to 20 July 1990; Professors/Lecturers of Universities/Colleges and Indian information Service Probationers—23 to 26 July 1990; Indian Foreign Service Probationers—6 to 10 August 1990; Probationers of Indian Railways Service of Signal Engineers and Audit Officers from the Office of the Comptroller and Auditor General of India—27 to 31 August, 1990; and Indian Railways Personnel Service and Indian Railways Service of Mechanical Engineers—10 to 14 September, 1990.

*Attachment Programme for Officers of Sikkim and Bihar Legislative Assemblies:* An Attachment Programme was organised from 24 to 26 July, 1990, for Shri B.P.S. Busnett, Additional Secretary, Sikkim Legislative Assembly, to enable him to study the staffing pattern and procedure followed for appointments in the Lok Sabha Secretariat. Another Attachment Programme was organised for Shri Sideswar Narayan, Secretary, Bihar Legislative Assembly from 27 to 31 August, 1990 to enable him to study the administrative, Legislative and non-legislative procedures in Lok Sabha and Rajya Sabha Secretariats as well as the working of the Library and Reference, Research, Documentation and Information Service in the Lok Sabha Secretariat.

*Study Visits:* At the request of various training and educational institutions in the Capital and outside, the Bureau organised eight study visits of a day's durations each, among others, for Sessions Judges, Additional District and Sessions Judges, Defence Personnel, Senior Superintendents of Police etc., attending a Training Programme at the Institute of Criminology and Forensic Sciences, New Delhi; and Teachers of Universities/Colleges attending Fourteenth Orientation Programme at Jamia Millia Islamia Academic Staff College, New Delhi.

## PRIVILEGE ISSUES

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### LOK SABHA

*Making of an alleged policy statement by Prime Minister outside the House while the Parliament was in Session:* On 27 August, 1990, Professor K.V. Thomas, a member, in his notice of question of privilege against the Prime Minister (Shri Vishwanth Pratap Singh) alleged that the statement made by the Prime Minister after the Question Hour on that day regarding 'decision' of the Government to reserve 5 to 10 per cent of jobs in Government services for people belonging to economically weaker sections and for providing more job opportunities for the youth, was made public through the All India Radio, Doordarshan and the Press by the Government prior to its announcement in the House. Professor Thomas contended that this was a contempt of the House, as any policy statement or policy proposal should have been first made in the House before announcing it to the public, when the House was in session.

On the same day, when Shri Vasant Sathe, another member, sought to raise the matter in the House, the Prime Minister clarified that the said announcement was merely a proposal and not a policy decision.

On 28 August, 1990, Sarvashri Vasant Sathe, P.C. Thomas and Era Anbarasu, members, also gave notices of question of privilege against the Prime Minister on the same subject. Later, on the same day, Shri Vasant Sathe again sought to raise the matter in the House with the permission of Speaker and *inter alia* stated that it had been held repeatedly, right from the beginning of Indian Parliament, that any such statement made outside the House, was an act of impropriety and the Government or the Ministers should refrain from doing so. He added that the Prime Minister had given a statement on the previous day, which appeared in the newspapers nearly verbatim. He further stated that the decision was taken by the Political Affairs Committee, presided over by the Prime Minister and it was announced on the television, a medium under the Government, in those very terms which were later on absolutely quoted in the Press. Shri Sathe then pleaded with the Speaker to give a ruling to the effect that it was a breach of healthy precedent, well-established conventions and ask the Government not to do this.

The Speaker (Shri Rabi Ray) observed that it was well-established that no privilege of the House was involved if statements on matters of public interest were not first made in the House and were made outside. In the instant case, the Prime Minister had taken the first opportunity to inform the House about Government's proposal to reserve 5 to 10 per cent of jobs in Government services for people belonging to economically weaker sections and for providing more job opportunities for the Youth. He ruled that no question of privilege was involved and the notices given under rule 222 of the Rules of Procedure and Conduct of Business in Lok Sabha by Sarvashri Vasant Sathe, P.C. Thomas, Era Anbarasu and Professor K.V. Thomas were out of order.

*Alleged misleading of the House by a Minister:* On 7 September, 1990, the Speaker (Shri Rabi Ray) informed the House that Sarvashri P.R. Kumaramangalam, Harish Rawat and Dinesh Singh, members, had given separate notices of question of privilege on 20 August, 1990 against the Minister of Information and Broadcasting (Shri P. Upendra) for having misled the House on 17 August, 1990 and thereby committing a breach of privilege and contempt of the House. According to the members, in spite of an assurance given in the House on 17 August, 1990 by the Minister of Information and Broadcasting that the Doordarshan Programme, *Khula Manch* scheduled for being telecast on 19 August, 1990 featuring the Minister of Railways (Shri George Fernandes) would not be censored, the programme telecast was censored. The Speaker further informed that Shri Dinesh Singh had also sought to raise the matter in the House on 20 August, 1990 and stated that the programme was censored inasmuch as certain questions asked by a journalist-participant of the programme were deleted and kept out of the programme.

The Speaker observed that the Minister of Information and Broadcasting, while clarifying the position on 20 August, 1990, had, *inter alia* stated that he stood by his statement made in the House on 17 August, 1990 but there was a difference between censoring and editing. According to Shri Upendra, when this programme was started, certain parameters were discussed and it was decided that this would be a programme in which the Ministers would discuss the functioning of their Ministries and reply to the questions of the selected audience, which they had forwarded. But, the Minister added, at times it so happened that questions which did not relate to that particular Ministry were also put. So, all the portions relating to that particular Ministry were retained and those not concerned with that Ministry were edited out. In the instant case also, every word relating to Railways was retained and not a single word, including all provocative statements, was removed. Even insulting remarks had been kept. The Minister recalled that the viewers and the questioners were reminded again that the questions should relate to that particular Ministry and all other things would be edited. That was the policy and that would continue to be followed.

The Speaker noted that Shri P. Chidambaram, member, in his notice of question of privilege given to him on 21 August 1990, referred to a news-report published in the *Times of India* that day itself, wherein it was reported that two questions were removed from the recorded version of the programme prior to its telecast. As those questions reportedly related to Railways, Shri Chidambaram alleged that the Minister had misled the House on 20 August 1990 that only questions not relevant to the subject of Railways were edited out.

The Speaker further noted that on 22 August 1990, Shri M.J. Akbar, who had given notice of a question of privilege alleging that the opening and closing remarks of one of the two presenters of the programme were censored out and the voice of an announcer was used with a different script, also sought to raise the matter in the House on that day.

The Speaker added that on 23 August 1990, Sarvashri Janardhana Poojary and Dinesh Singh, members, had also given notices of question of privilege against Shri P. Upendra with reference to a news-report appearing in the *Indian Express* on that day wherein the Minister of Railways (Shri George Fernandes) was reported to have stated in an interview that he had told the Minister of Information and Broadcasting that the programme should be shown without cuts and the people could come to their own conclusions about it. The Minister of Railways was also reported to have said that the 'the editing of the programme was not necessary' and that he did not make any distinction between 'editing' and 'censoring'. Sarvashri Dinesh Singh, Janardhana Poojary and some other members also sought to raise the matter in the House, the Speaker observed.

The Speaker informed the House that copies of all the notices of question of privilege were forwarded under his direction to the Minister of Information and Broadcasting for furnishing his comments. In the meantime Shri Dinesh Singh gave another notice on 29 August 1990 alleging that the stand taken by the Minister that the questions not relevant to the portfolio of the Minister of Railways were edited out of the programme, had been belied by a letter (a copy of which Shri Dinesh Singh enclosed with his notice) written by one of the participants—a journalist—to the Minister. According to the letter, the producer of the programme in a meeting with the presenters of the programme and some of the participants decided that the format of the programme should include questions other than those relating to the Railways to make the programme interesting.

The Speaker further observed that he had since received the comments of the Minister of Information and Broadcasting, who had admitted that the Minister of Railways had spoken to him and had requested that the programme should be telecast in its entirety. The Minister of information and Broadcasting, however, maintained that *Khula Manch* was a

programme produced by Doordarshan, who were to decide what portions of a programme ought to be edited on grounds of relevance as well as on other grounds. The final version in which a programme was telecast depended, according to the Minister, not on the person who figured in the programme but on the programme requirements. Irrespective of the view of the participating Minister regarding the retention of portions not relating to his portfolio, Doordarshan were entirely within their right in editing such portions on grounds of lack of relevance.

As regards the allegations that several questions - some of them pertaining to Railways - had been 'censored', the Speaker observed that the Minister had stated that some journalists, who were present in the audience, not only raised questions on matters not relating to the portfolio of the Railway Minister but continued to persist in putting supplementary questions on those subjects. This had the effect of diverting attention from the problems relating to the Railways which should have been the field for questions. The two presenters also did not seem to make any attempt to bring the discussion back to Railways. According to the Minister if that programme had been telecast without its being edited, the entire focus would have been lost and the viewing public deprived of an appropriately presented programme on the Indian Railways. In order to ensure that the programme did not lose focus, Doordarshan edited those portions not relating to the Railways. The Minister then referred to Shri Chidambaram's notice seeking permission to move a motion of privilege, placing on record a news report in the *Times of India* dated 21 August 1990, according to which he (the Minister) had told in both the Houses of Parliament that everything pertaining to the Railways had been kept in the programme. However, he added, according to the report relied on by Shri Chidambaram, two questions relating to the Railways had been removed. In response to the first question whether Shri Fernandes would allow Pepsi to be served in the Railways, according to the report Shri Fernandes had stated that if it was upto him, he would not have allowed Pepsi to be served on the Railways. It was a fact that such a question was asked and was also answered by Shri Fernandes. This question, however, was among a series of questions relating to the entry of Pepsi Cola into the Indian market. This question, which had more to do with the sale of Pepsi than with the Indian Railways, could not have been retained in the edited version since it would have made no sense in isolation in the absence of the other questions solely relating to Pepsi. It would have been extremely disjointed if this question in isolation had remained at the beginning of the programme since the entire portion relating to Pepsi was at the beginning of the discussion which was meant to be on the Indian Railways.

With regard to the allegation that the voice of an announcer was used in place of the voice of one of the presenters, the Speaker observed that it had been denied by the Minister and it had been stated that since a large

number of irrelevant questions were put during the *Khula Manch* featuring the Minister of Railways, it was decided to make it abundantly clear to the viewers that for future programme only the questions relating to the portfolio of the concerned Minister would be entertained. This announcement was made at the end of the programme by an announcer and it could not have been made by the presenters as the programme was recorded a few days prior to the telecast.

The Speaker further observed that the limited point for decision before him was whether the Minister of Information and Broadcasting had misled the House and committed a breach of privilege by stating that the programme *Khula Manch* telecast on 19 August 1990 was edited and not 'censored'. He felt that a lot of confusion had been created by the use of the words 'edited' and 'censored' and referred to the chambers 20th Century Dictionary, which defined them as follows:

'Censor' means an official who examines books, papers, telegrams, letters, films, etc. with powers to delete material or to forbid publication, delivery or showing.

'edit' means to prepare for publication, broadcasting etc., to revise, to censor, to make up the final version ....

The Speaker noted that editing, therefore, included censoring. However, the word 'censor' had come to acquire an odium because the job of a censor was more often than not, to shut out expression of an opinion which was considered distasteful by the authorities that be. Editing too required expurgating or censoring of material not germane to the subject. The instant case, had, therefore, to be viewed in that context.

The Speaker felt that Doordarshan being a Government-owned medium, he could not but agree with the Minister of Information and Broadcasting that it was for the Government to lay down policies and guidelines regarding quality and contents of the programmes telecast on Doordarshan and to edit the programmes in pursuance of those policies or guidelines.

The Speaker added that in the instant case, the Minister had categorically stated that nothing relating to Railways was edited out. He felt that for anyone to expect, much less insist, that matters other than Railways on which questions were asked and replied to by the Minister of Railways should have been telecast, would have 'derailed' the programme itself. The Minister's contention that Doordarshan were well within their rights to exclude such questions and answers from the programme, could not, therefore, be faulted.

The Speaker then referred to the well-established practice that if any statement was made on the floor of the House by a member or Minister which another member believed to be untrue, incomplete or incorrect, it did not constitute a breach of privilege. In order to constitute a breach of privilege or contempt of the House, it had to be proved that the statement

was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege could arise only when the member or Minister made a false statement or an incorrect statement wilfully, deliberately and knowingly.

Keeping in view the facts stated above, the Speaker was of the view that the Minister could not be said to have misled the House, much less deliberately, about the editing/censoring of the programme *Khula Manch* telecast on 19 August 1990. Accordingly, he disallowed the notices of question of privilege given by Sarvashri P.R. Kumaramangalam, Harish Rawat, M.J. Akbar, Janardhana Poojary and Dinesh Singh and did not give his consent to the raising of the matter in the House as a question of privilege.

The Speaker also referred to another notice of question of privilege received by him from Shri M.J. Akbar against the Minister of Information and Broadcasting alleging that the Minister had misled the House on 10 August 1990 by stating that a participant of the *Khula Manch* telecast on 5 August 1990 was not an actor but was a farmer and that to give credibility to the programme, Doordarshan had associated an independent producer, the Hindustan Times T.V., and all the names selected for the said independent producer. Shri Akbar had contended that inquiries made by him revealed that the participants of the programme were 'handpicked by the Doordarshan authorities' and all the questions had been cleared by Doordarshan, the Speaker added. He observed that the Minister, in his comments furnished to him, had stated that in the initial stages, when the idea of the programme was conceived, it was decided to entrust the production to an outside agency. Thereafter, it was decided that Doordarshan, in view of the facilities being readily available with them, would produce the programme themselves and would involve the Hindustan Times TV to assist them in some aspects relating to the production of the programme, as consultants. When this matter was discussed with the representatives of Doordarshan and Hindustan Times TV, instructions were given to the effect that the selection of participants for the programme might be finalised by Hindustan Times TV. Thereafter, the programme details had been worked out by Doordarshan and HTV and, in the process, Doordarshan finalised the list of participants. However, according to the Minister, this matter did not come to his notice and, therefore, on the basis of his understanding of the responsibilities assigned to the Hindustan times TV and Doordarshan he had mentioned in the House that the selection of participants was made by Hindustan Times TV. There was no attempt, much less a deliberate one, on his part to mislead the House.

The Minister had also stated that he had verified the position regarding the allegation that an actor was attempted to be presented as a farmer on the programme and it was found that the person selected was a farmer who was also a part-time actor.

In view of the foregoing, the Speaker ruled that the Minister could not be said to have misled the House. No question of privilege was, therefore, involved in the matter. He therefore, did not give his consent to Shri M.J. Akbar to raise the matter on the floor of the House as a question of privilege.

### RAJYA SABHA

*Alleged casting of reflections on the Chairman by a former MP:* On 23 May 1990, Shri K.K. Tewary, a former member of Parliament issued a Press statement in which he allegedly cast reflections on the Chairman. The impugned Press statement as reported in several newspapers of 24 May 1990, reads as follows:

Dr. Shanker Dayal Sharma's utterly outrageous and totally impermissible outbursts against the members of the officially recognised Opposition in the Parliament are unprecedented and grossly violative of the rules, norms and dignity of the House and also the high standards of conduct set by his very distinguished predecessors.

Dr. Sharma's hysterical rantings have not served the cause of democracy as his simulated dramatics were clearly aimed at gagging the only Opposition party and its members who were discharging their constitutional and patriotic obligation to expose the rulers of the day who are perfecting the final blueprint of India's second partition in Kashmir and unabashedly patronising murderers and bandits as their Chief Ministers and Ministers to subvert the very foundation of our democratic polity.

Dr. Sharma's concern for the dignity of the House in retrospect seems to be less than genuine if one recalls his meek and solicitous responses when the present rulers used to hold the House to ransom for weeks together on most flimsy grounds when they were in the Opposition.

The country is passing through most perilous times and the likes of Dr. Sharma who are holding constitutional positions should not allow their offices to be manipulated for political propaganda in favour of the present rulers who have brought the country to the brink of complete dismemberment.

The fact that Dr. Sharma chose to launch his most vitriolic and undignified denunciation against the Congress(I) members and allowed his outbursts to stay on records renders him unfit to preside over the House.

On the same day, several members raised the matter in the House. After some discussion, the following resolution moved by the Minister of Information and Broadcasting and Parliamentary Affairs (Shri P. Upendra) and seconded by Shri P. Shiv Shanker, leader of the Congress(I) in the House, was unanimously adopted by the House:

This House resolves that Shri K.K. Tewary be issued notice regarding his statement published in the newspapers today which has brought the office of the Chairman of Rajya Sabha to indignity and constitutes contempt of this House. If it is confirmed that Shri K.K. Tewary has issued



that statement, the House further resolves that Shri Tewary be summoned to the Bar of this House before the end of the current session and be reprimanded.

On 30 May 1990, the Deputy Chairman informed the House that in pursuance of the resolution, the Secretary-General, Rajya Sabha, had sent a letter to Shri Tewary on 24 May 1990, asking him to confirm whether he had issued the said statement.

The Deputy Chairman observed that in his letter dated 27 May 1990, Shri Tewary did not clearly confirm whether he had issued the said statement. Therefore, another letter was sent to him on 29 May 1990, asking him to state whether he had issued the said statement. He was asked to send his reply by 1030 hours on 30 May 1990. The Deputy Chairman further informed that at about 1145 hours on 30 May 1990, a letter was received from Shri Tewary, wherein he *inter alia* stated that he had publicly withdrawn the statement. She noted that Shri Tewary who had admitted having made the statement, would be called to the Bar of the House to receive the reprimand at 1100 hours on 31 May 1990.

On 31 May 1990, at about 1105 hours, the Deputy Chairman informed the House that the Secretary-General Rajya Sabha, had received a letter that morning from Shri K.K. Tewary, stating that in so far as the summons was founded on a mere confirmation of the Press statement and without any consideration of his defence contained in his reply of 30 May 1990, he was entitled to the writ petition of the Supreme Court against the said summons and/or any other or further action in pursuance thereof. Shri Tewary added that he proposed to avail of that constitutional remedy under article 32 of the Constitution of India, in terms of order dated 30 May 1990 of Special three-judge Bench of the Supreme Court, passed in his writ petition No. 656 of 1990, by which the Supreme Court while dismissing the writ petition was to grant him the liberty to move the Supreme Court again in case there was no consideration of the comments or no opportunity for defence. The Deputy Chairman further observed that in view of the foregoing, Shri Tewary had requested for extension of time by twenty-four hours for receiving the sentence of reprimand, so that he could exhaust the judicial remedy on 31 May 1990 and present himself before the Bar of the House only on 1 June 1990 for the needful in terms of such orders as might be passed by the Supreme Court on the fresh writ petition filed by him.

The Deputy Chairman then echoed the feelings of the House that Shri K.K. Tewary having been a member of Parliament for quite some time and having been a Minister should not have approached the Court in a matter of contempt of this House which was too serious. She, however, hoped on behalf of the House that the Supreme Court would restrain itself from interfering in this matter, respecting the authority of Rajya Sabha and its Chair. He added that since the contemner had sought for time and lest the

house be understood as being vindictive, she felt that Shri Tewary might be granted time till 1600 hours on 31 May 1990 to appear and receive the reprimand.

At about 1135 hours, on the same day, the Deputy Chairman moved the motion, "That Mr. K.K. Tewary be given time till 4 O'clock today", which was adopted by the House.

Again at about 1640 hours, the Deputy Chairman apprised the House that she had been informed by the Secretary-General who got confirmation from the Registrar of the Supreme Court about the dismissal of Shri K.K. Tewary's petition. Then, quoting the letter which Shri Tewary had written, the Deputy Chairman felt that since he himself had offered to be present before the Bar of the House, he had committed himself to it. She then called upon the House to fix up time for the purpose, which decided that Shri Tewary might be called at 1100 hours on 1 June 1990.

On 1 June 1990, at about 11 hours, the Deputy Chairman observed that the House would administer reprimand for the act of contempt committed by Shri Tewary. She also urged upon all the members to observe silence while the contemner was being reprimanded so that the authority of the House and the significance of the occasion were realized.

Immediately thereafter, Shri Tewary who was in attendance, was brought to the Bar of the House. The Deputy Chairman then (seated in her Chair) reprimanded Shri Tewary as follows:

K.K. Tewary, this House has deplored the grave act of misdemeanour for which you bear responsibility in committing contempt of this House. The House is pained that a citizen of India should ever have been so at fault and apparently be unrepentant thereafter.

This House, therefore, reprimands you and a more severe penalty is not administered only in the hope that through introspection you would realize the seriousness of your misdemeanour towards this House and to the sacred system of parliamentary democracy.

Shri Tewary then withdrew, on being directed by the Chair.

## STATE LEGISLATURES

### ANDHRA PRADESH LEGISLATIVE ASSEMBLY

*Alleged refusal by a Government official to furnish a public document to a member:* On 8 November 1986, Shri G. Madhusudhan Reddy, a member gave notice of a question of privilege against Shri G.R. Vittal Rao, Mandal Revenue Officer (MRO), Armoor for allegedly refusing to furnish a copy of a public document to him. Shri Reddy alleged in his notice that Shri G.R. Vittal Rao refused to furnish an upto date list of beneficiaries of House sites of Perkit Village to him when contacted, but on the contrary stated in his letter dated 25 October 1986 that the Collector

had informed that instructions had already been issued to affix the final list of beneficiaries on the notice board of MRO's office with a copy to the member concerned.

On 16 June 1988, the Speaker referred the matter to the Committee of Privileges for examination, investigation and report.

The Committee of Privileges after examining in person Shri G.R. Vittal Rao, MRO, Shri G. Madhusudhan Reddy, member and Shrimati Asha Moorthy, the then Collector of Nizamabad, in their Twelfth Report presented to the House on 13 September 1989, *inter alia* observed that the civil servants were required to show due courtesy and respect to the elected representatives of the people in the discharge of their functions and in this case the officer had miserably failed in his dealings with the member of the Assembly.

The Committee reported that they had at a meeting held on 18 July 1989 reviewed the evidence collected in the case and felt that Shri Rao ought to have furnished the list of beneficiaries to the member as the latter had a right to obtain from Government office any document which was not of confidential nature. The Committee added that his refusal to furnish a copy of it clearly showed that he was lacking basic knowledge of discharging his legitimate duties as a Government officer. The Committee, therefore, came to the conclusion that by showing scant respect to the member and by refusing to furnish the public document to the member, the MRO had committed contempt.

The Committee further observed that the power of the House to punish for contempt or breach of privilege had been aptly described as the keystone of parliamentary privileges and was considered necessary to enable the House to discharge its functions and safeguard its authority and privileges. The Committee added that it was well established that the House had certain well defined rights and privileges, honoured and sanctified by traditions and customs and one of the most important of them was the right to commit a person for contempt of its high authority and for breach of its privileges.

In view of Shri Vittal Rao's offence, the Committee recommended that he might be awarded with punishment of detention for one day within the precincts of the Assembly under the control of the Chief Marshal of the Assembly.

The Report of the Committee was adopted by the House on 14 September 1989 and Shri Rao was awarded the punishment on 15 September 1989.

## MIZORAM LEGISLATIVE ASSEMBLY

*Alleged misreporting of a member's speech in the House and casting reflections on him by a periodical:* On 2 April 1990, Shri Liansuama, a member, gave notice of a question of privilege against the Editor-in-Chief and Editor of the *Sakeibaknei*, a bi-weekly newsmagazine, for allegedly misreporting the speech of Shri P.C. Zoramsangliana, another member and casting reflections on him in a news item captioned, "*Mizo Arsi House Ah Sawi A Ni*". Raising the matter in the House on the same day, Shri Liansuama alleged that the impugned news wrongly reported the speech made by Shri Zoramsangliana in the House on 16 March 1990 in connection with a Starred Question relating to double voting in the election and alleged that it was a wilful misreporting of the proceedings of the House casting reflections on Shri Liansuama in the discharge of his duty. After some discussion, the House referred the matter to the Committee of Privileges for examination, investigation and report.

The Committee of Privileges, after considering the joint written explanation of the Editor-in-Chief and Editor of *Sakeibaknei*, and hearing them in person, in their First Report presented to the House on 4 April 1990, *inter alia* reported that the Editor-in-Chief had submitted that he was the sole responsible person in this connection and requested the Committee to exonerate Shri Lalthanzama, Editor from the charges.

The Committee observed that the speech made by Shri Zoramsangliana on the floor of the House on 16 March 1990, was wrongly reported by the *Sakeibaknei* magazine on 30 March 1990, that corruption and other evils cropped up after the ex-serviceman entered into politics, which was never said by him. He had rather stated that double voting by a person became known since an ex-serviceman entered into politics.

The committee further observed that in his written explanation, the Editor-in-Chief stood by what he had published as the speech of Shri Zoramsangliana and stated that he had nothing to say except to offer his apology both in writing and orally.

The Committee observed that they were aware of the well established parliamentary practice that where a regret was expressed or clarification given by the alleged offender, they might recommend that no further action be taken by the House in the matter. But, in the instant case, the Editor-in-Chief in his written explanation, still held that he had written the speech of Shri Zoramsangliana for the information of his readers. Though he had tendered apology, his words and expressions used both in the *Sakeibaknei* magazine and in his written explanation submitted to the Committee amounted to a breach of privilege.

The Committee, therefore, recommended that the Editor Shri Lalthanzama be exonerated of the charge and no further action be taken

by the House. In the case of the Editor-in-Chief they, however, recommended that the House might take such action as it might deem fit.

On 4 April 1990, the Editor-in-Chief was summoned to the Bar of the House, where he tendered apology and also promised to publish his apology in three consecutive issues of his magazine. The matter was, thereafter, treated as closed.

#### ORISSA LEGISLATIVE ASSEMBLY

*Alleged disorderly conduct and showing disrespect to the Chair by a member in the House:* On 26 June 1990, Shri Habibulla Khan, a member, sought permission of the Speaker to speak on the adjournment motion regarding Naxalite activities in Koraput and Malkanagiri areas. The Speaker, however, did not allow him to speak on the motion. Shri Khan then suddenly stood up and rushed to the well of the House and demanded that he might be allowed to speak. The Speaker, thereupon, directed him to go his seat. He observed that he would give chance for the same to five members and it was his discretion.

Shri Khan, however, refused to go back to his seat and continued to remain in the well of the House. Shri Braja Kishore Tripathy, another member, thereupon stated that Shri Habibulla Khan was casting aspersions on the Chair since it was clearly stated in the rules that the Speaker shall have the discretion to select five signatories. Shri Tripathy also requested the Speaker to expunge from the proceedings, the slang word used by Shri Khan for the Speaker, which was unparliamentary. The Speaker ordered expunction of that word.

When Shri Khan still did not return to his seat and continued to disturb the proceedings of the House, the Speaker pointed out to him that his conduct in the House was not proper.

As Leader of the House, the Chief Minister (Shri Biju Patnaik) then suggested that Shri Khan should beg apology to the House and then he should be allowed to speak.

Thereupon, the Speaker asked him to beg apology for his conduct in the House that day. Shri Khan, however, refused to do so. The Chief Minister also requested Shri Khan to beg apology for his conduct in the House. Shri Khan again refused to beg apology for his conduct. Then, Shri Braja Kishore Tripathy, moved the following motion, which was seconded by Shri Arun Dey, another member:

*That this House condemns the discourteous manner exhibited by the member from Nawarangpur to the chair.*

The motion was put to vote and adopted by the House.

## WEST BENGAL LEGISLATIVE ASSEMBLY

*Alleged casting of reflections on a member by a newspaper:* On 17 June 1987, Dr. Manas Bhunia, a member, gave notice of a question of privilege against the Editor, Printer and Publisher and the Reporter of the *Statesman* for allegedly casting reflections on him in a news report captioned, "Crew liquor case to the fore again" published in its issue of 17 June 1987.

The relevant passage of the impugned news report read as follows:

The accused have found champions in the West Bengal Legislative Assembly: Dr. Manas Bhunia of the Congress (I) risked suspension on Monday in order to defend the Excise Officers.

On 19 June 1987, the House referred the matter to the Committee of Privileges for examination, investigation and report.

The Committee of Privileges, after considering the written statement of Shri S. Basak, News Editor on behalf of the Editor, Printer and Publisher and Reporter of the *Statesman* and after hearing in person Dr. Manas Bhunia, member and the Editor, *Statesman*, in their Fourth Report presented to the House on 25 January 1990, *inter alia* reported that the act of publication of the news in question by the *Statesman* in such a manner was certainly a breach of privilege as it tended to cast reflection upon the proceedings of the House and also sought to impose indirectly a restriction upon the freedom of Speech enjoyed by a member in the House while discharging his parliamentary functions. The Committee, however, hoped that such unhappy incidents would not recur in future. In view of the unqualified regret and apology tendered by the Editor of the *Statesman*, the Committee recommended that no further action be taken in the matter and it may be dropped.

The Report of the Committee was adopted by the House.

*Alleged attempt by an outsider to influence a member in his parliamentary work:* On 29 April 1988, Shri S. Chakraborty, Principal, Ashutosh College, Calcutta, sent a letter to Shri Saugata Roy, a member, to enlighten him (the Principal) whether his speech in the House on certain matter as reported in the daily newspaper, *Bartaman* Dated 29 April 1988 was correct or not. Shri Saugata Roy considered it to be a breach of privilege as the said letter was an attempt to restrict his freedom of speech in the House and gave notice of a question of privilege against the Principal.

The impugned letter of 29 April 1988 read as follows:

I have come to know from a Bengali daily, 'Bartaman' dated 29.4.88 that you have raised on the floor of the Assembly that Superintendent of Kalighat Hostel has collected a sum of Rs. 14,730 from the Boarders or that Hostel against Electric Bill, but he has deposited only Rs. 8,409. The balance of Rs. 6,321 has been misappropriated by the Superintendent.

Please enlighten me by 6.5.1988 whether that news published in 'Bartaman' is correct or not.

As because you are my colleague and member of the Governing Body, Ashutosh College I want your valued opinion in this regard.

On 10 May 1988, the Speaker referred the matter to the Committee of Privileges for examination, investigation and report.

The Committee of Privileges after considering the relevant documents and examining in person Shri Saugata Roy, member and Shri S. Chakraborty, Principal, Ashutosh College, Calcutta, in their Fifth Report presented to the House on 25 January 1990, *inter alia* reported that after careful consideration of the letter written to Shri Roy by Shri Chakraborty, and also of the evidence tendered by Shri Roy and the Principal before the Committee, they were of the opinion that the Principal had committed a breach of privilege of the member, Shri Roy by writing the impugned letter as it interfered indirectly with the independent functioning of the member in the House. The Committee, however, recommended that no further action be taken in the matter and the matter may be dropped as the Principal of the aforesaid college had already expressed regrets for what he had done.

The Report of the Committee was adopted by the House.

*Alleged disregarding authority of the Chair and abusing rules of the House by a member:* On 16 October 1987, Shri Amalendra Roy, a member, gave notice of a question of privilege against Shri Sadhan Pande, another member, for allegedly committing contempt of the House by disregarding the authority of the Chair and abusing rules of the House. Shri Roy *inter alia* alleged in his notice that Shri Sadhan Pande was directed by the Chair to withdraw from the House on the evening of 15 October 1987 for his gross disorderly conduct in the House. Though Shri Pande reluctantly withdrew from the House, yet he re-entered the House to throw challenges to the Treasury Benches and the Speaker. By doing so, he blatantly disregarded the authority of the Chair and abused the rules of the House.

On 27 October 1987, the matter was referred to the Committee of Privileges by the House for examination, investigation and report.

The Committee of Privileges, after considering the relevant documents and examining in person Sarvashri Amalendra Roy and Sadhan Pande, members, in their Sixth Report presented to the House on 25 January 1990, *inter alia* found that the charge of the contempt of the House as raised by Shri Amalendra Roy against Shri Sadhan Pande was correct though the Committee could not be sure for want of sufficient evidence about the latter's re-entry in the House and his open demonstration against the Chair. The Committee were, however, of the opinion that even the opening of the door of the Chamber of the House by a member after his

withdrawal as per the direction of the Speaker, was a clear violation of the authority of the Chair and hence it constituted contempt of the whole House. The Committee, however, hoped that such unhappy incidents would not recur in future. In view of regrets already expressed by Shri Sadhan Pande for his conduct, the Committee recommended that no further action be taken in the matter and it may be dropped.

The Report of the Committee was adopted by the House.



**PROCEDURAL MATTERS**

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**LOK SABHA**

*Postponement of formal items to pass a Bill:* On 30 August, 1990, further discussion on the motion for consideration of Prasar Bharati (Broadcasting Corporation of India) Bill, 1990 was listed as first item after formal items of business. However, after the Question Hour, the Deputy Speaker, who was in the Chair, with the consent of the House, informed that the formal items of business would be taken up after passing of the Bill on that day. Accordingly, the Bill was taken up for consideration and passed. Thereafter, the formal items were disposed of before the House was adjourned for the day.

*Instance of the House being presided over by a member other than a Member of the Panel of Chairmen:* On 31 August, 1990, at 1533 hours, during discussion on a Private Member's Resolution regarding measures to protect the interests of farmers, the Deputy Speaker who was in the Chair suggested that Shri Kalka Das might take the Chair as neither the Speaker nor any member from the Panel of Chairmen was available to preside. The House agreed and Shri Kalka Das presided from 1533 hours till 1659 hours when the Deputy Speaker relieved him.

*Reference to Chief Minister of a State by name:* On 4 September, 1990, after the Question Hour, a member (Shri Era Anbarasu), while making submission on 'nefarious activities of LTTE in Tamil Nadu' referred to the Chief Minister of Tamil Nadu by name. The Speaker thereupon observed that the name of the Chief Minister of Tamil Nadu would not go on record.

*Decision of Chair is final and cannot be challenged:* On 7 September, 1990, after the Question Hour, a member (Shri Vasant Sathe) questioned the propriety of passage of the Prasar Bharati (Broadcasting Corporation of India) Bill on 6 September, 1990 which was returned by Rajya Sabha with some amendments. The member alleged that members who had given notices of amendments were not called to move the same. The Speaker, observed that the decision of the Deputy Speaker, who was then in the Chair, was final and could not be challenged.

*Permission to a member to move adjournment motion despite securing last position in ballot:* On 1 October, 1990, the Speaker gave his consent to Shri B. Shankaranand who had secured last position in the ballot, with the consent of five other members who had tabled notices on the same subject, to ask for leave of the House to move the adjournment motion.

*Adjournment motion not moved by the mover after consent given by Speaker:* On 1 October, 1990, the Speaker gave his consent to Shri B. Shankaranand to ask for leave of the House to move the adjournment motion regarding failure of the Government to deal with students' agitation and resort to self-immolation in different parts of the country in protest against the decision of the Government on Mandal Commission Report. As leave was not opposed, the Speaker announced that leave had been granted by the House and directed that the motion would be taken up at 1430 hours after disposal of the Constitution (Seventy-fifth Amendment) Bill, 1990 regarding amendment of article 356 of the Constitution listed in the agenda on that day. However, at the stipulated hour discussion on the Bill had not concluded. When at 1735 hours, Shri B. Shankaranand was called by the Chair to move the adjournment motion, he did not move the same. An adjournment motion on a similar subject was admitted and discussed on the next sitting, *i.e.* 4 October, 1990.

## PARLIAMENTARY AND CONSTITUTIONAL DEVELOPMENTS

(1 July to 30 September, 1990)

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### INDIA

#### DEVELOPMENTS AT THE UNION

*New Army Chief:* General Sunith Francis Rodriguez took over as the new Chief of Army staff on 1 July by succeeding General V.N. Sharma on his superannuation.<sup>1</sup>

*Resignation of Planning Commission Deputy Chairman:* Shri Ramakrishna Hegde resigned as Deputy Chairman of Planning Commission on 4 July. Finance Minister Shri Madhu Dandavate was assigned additional charge of the post till a new appointment was made.<sup>2</sup>

*Bye-elections/Nominations to Rajya Sabha:* Speaker of Mizoram Legislative Assembly and Congress(I) nominee, Shri Hiphei was declared elected to Rajya Sabha in a bye-election on 5 July, following the vacancy caused by the election of sitting member Shri C. Silvera to Lok Sabha. Dr. Sanjay Singh of Janata Dal was declared elected to Rajya Sabha in a bye-election from Uttar Pradesh on 12 July, following the vacancy caused by the appointment of Shri Virendra Verma as Governor of Punjab. Janata Dal nominee, Shri Ranjit Singh was declared elected to Rajya Sabha from Haryana on 11 September, following the vacancy caused by the resignation of Shri K.K. Deepak.

Sarvashri Prakash Yashwant Ambedkar and Bhupender Singh Mann were nominated to Rajya Sabha by the President on 18 September.<sup>3</sup>

*Death of Rajya Sabha Member:* Congress(I) Member, Shri Mohammad Amin Ansari passed away on 14 July.<sup>4</sup>

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<sup>1</sup> *National Herald*, 2 July, 1990.

<sup>2</sup> *Statesman*, 5 July, 1990.

<sup>3</sup> *Telegraph*, 6 July, 1990; *Hindustan Times*, 13 July, 1990; *Times of India*, 12 September, 1990; and *Telegraph*, 19 September, 1990.

<sup>4</sup> *Times of India*, 15 July 1990.

**Vacation of Office by Deputy Prime Minister:** Deputy Prime Minister and Minister for Agriculture, Shri Devi Lal was dropped from the Union Cabinet on 1 August by the President on the advice of the Prime Minister, Shri Vishwanath Pratap Singh.<sup>5</sup>

**Resignation of Rajya Sabha members:** Rajya Sabha Chairman, Dr. Shanker Dayal Sharma informed the House on 7 August, that he had accepted the resignations of two Janata Dal members, Sarvashri Virendra Verma and K.K. Deepak earlier on 14 June and 13 July respectively.<sup>6</sup>

**Bye-elections to Lok Sabha:** Major D.D. Khanoria of BJP was elected from Kangra constituency in Himachal Pradesh while Shri Lal Baboo Rai of Janata Dal was elected from Chapra constituency in Bihar. Both of them took oath on 7 August.<sup>7</sup>

**Resignation of Lok Sabha Member:** Shri Rabi Roy, Speaker, Lok Sabha accepted the resignation of Janata Dal member, Shri Vishwendra Singh on 6 September, who had resigned from membership of Lok Sabha in protest against implementation of Mandal Commission recommendations.<sup>8</sup>

**Death of Lok Sabha members:** Congress(I) member, Shri Shashi Kantbhai Jamod from Bhavnagar constituency passed away on 19 September and Shri Multan Singh of Janata Dal from Jalesar constituency passed away on 23 September, following a heart attack.<sup>9</sup>

**Death of Supreme Court Chief Justice:** Chief Justice of India, Justice Sabyasachi Mukharji passed away in London on 25 September.<sup>10</sup>

## AROUND THE STATES

### ANDHRA PRADESH

**Suspension of MLAs:** 54 of the Telugu Desam MLAs who were present in the Legislative Assembly on 25 September were suspended for the rest of the session as they had disrupted the proceedings of the House on that day.<sup>11</sup>

<sup>5</sup> Since appointed again as Deputy Prime Minister and Minister for Agriculture and Tourism in the New Government. Full details will be given in the next issue.

<sup>5</sup> *Indian Express, Hindustani Times, and Times of India*, 2 August, 1990.

<sup>6</sup> *National Herald*, 8 August, 1990.

<sup>7</sup> *Tribune*, 8 August, 1990.

<sup>8</sup> *Hindustan Times*, 7 September, 1990.

<sup>9</sup> *Hindustan Times*, 20 September, 1990; and *Times of India*, 24 September, 1990.

<sup>10</sup> *Hindu*, 26 September, 1990.

<sup>11</sup> *Hindu*, 26 September, 1990.

**Expansion of Cabinet:** Eight new Ministers were inducted into Dr. Channa Reddy's Ministry on 2 September. The new Ministers and their portfolios were as follows:

**Cabinet Ministers:** Shrimati Uma Venkataram Reddy: *Housing, Minor Irrigation, Mines, and Geology*; Shri K. Bapiraju: *Endowment and Legislative Affairs*; Shri C.H. Hariramma Jogaiah: *Information and Public Relations*; Shri M. Narasimha Reddy: *Forest*; Shri Alluri Subhash Chandra Bose: *Handlooms and Textiles and Small Scale Industries*.

**Ministers of State:** Sarvashri G.V. Seshu: *Dairy Development and Lidcap, Sports and Youth Affairs*; Shri Ahmed Ali Shabbir: *Works, Wakf, Board and Urdu Academy*; and Shri D. Srinivas: *Backward Classes Welfare and Excise*.<sup>12</sup>

**Resignation of Ministers:** Shri G.V. Sudhakar Rao, Minister of Transport and Shri Venkata Reddy, Minister of Animal Husbandry tendered their resignations on 2 September, following the request of Chief Minister, Dr. Channa Reddy.<sup>13</sup>

#### ASSAM

**Resignation of Minister:** Shri Prabin Gogoi, Minister for Food and Civil Supplies, resigned on 25 July, following charges of misbehaviour at a Cabinet meeting held on 14 July.<sup>14</sup>

**Removal of Minister:** Minister of Char Areas Development, Wakf Properties, Pension and Public Grievances, Mr. Habibur Rahman ceased to be a Minister with effect from 27 July, following his failure to become a member of the State Legislature within six-month period since his induction in the Ministry.<sup>15</sup>

**New Minister:** Shri Umesh Chandra Das, Minister of State for Fisheries, who was elevated to Cabinet rank was sworn in on 5 September.<sup>16</sup>

<sup>12</sup>Free Press Journal, 3 September, 1990; and information collected from AP information Centre.

<sup>13</sup>Free Press Journal, 3 September, 1990.

<sup>14</sup>Hindustan Times, 26 July, 1990.

<sup>15</sup>Times of India, 28 July, 1990.

<sup>16</sup>Telegraph, 6 September, 1990.

## BIHAR

**Disqualification of MLA:** On 18 July, Speaker Shri Ghulam Sarwar announced the disqualification of CPI member, Shri Ram Sharan Yadav from Goh Assembly constituency, with effect from 30 October, 1984 for six years, since he was held guilty of electoral malpractices in accordance with the Representation of the People Act.<sup>17</sup>

**Death of MLA:** Shri Raja Ram Pandey, Congress(I) MLA and President of West Champaran District passed away in Patna on 29 August.<sup>18</sup>

## HARYANA

**Expulsion of MLAs:** Three MLAs, Sarvashri Verender Singh, Raghubir Singh Kodia and Ran Singh Mann, were expelled from the party for six years on 11 July by Haryana Janata Dal President Shri Om Prakash Chautala for "anti-party activities."<sup>19</sup>

**Swearing-in of Chief Minister and other Ministers:** Shri Om Prakash Chautala was sworn in as Chief Minister on 12 July, following the resignation of Shri Banarasi Das Gupta. The following four Cabinet Ministers were also sworn in: Sarvashri Sampat Singh, Hukum Singh, Jagan Nath and Dhir Pal.<sup>20</sup>

**Resignation of Chief Minister:** Chief Minister, Shri Om Prakash Chautala resigned from the office on 16 July, following the request of Janata Dal President, Shri S.R. Bommai.<sup>21</sup>

**New Chief Minister:** Shri Hukum Singh who was elected leader of the Janata Dal Legislature Party was sworn in as new Chief Minister of Haryana on 17 July by Governor Shri Dhanik Lal Mandal at Haryana Bhawan in New Delhi. The Cabinet Ministers also sworn in on the same day and their portfolios were as follows:

The Chief Minister retained with him 35 Departments: General Administration, CID, Vigilance, Medical Education, Personnel, Administrative Reforms and Training, Industry, Mines and Geology, Tourism, Administration of Justice, Legislative and others; Shri Sampat Singh: Home, Irrigation and Power and Parliamentary Affairs; Shri Jagan Nath: Public Works (B&R), Architecture; Shri Hira Nand Arya: Finance,

<sup>17</sup>Times of India, 19 July, 1990.

<sup>18</sup>Telegraph, 30 August, 1990.

<sup>19</sup>Indian Express, 12 July, 1990.

<sup>20</sup>Times of India, 13 July, 1990.

<sup>21</sup>Hindustan Times, and Indian Express, 17 July, 1990.

*Planning, Institutional Finance and Credit Control*; Shri Tayyab Hussain: *Revenue Rehabilitation and Consolidation*; Shri Dhir Pal: *Cooperation*; Shri O.P. Bhardwaj: *Health and Ayurveda*; Shri Rao Laxmi Narain: *Industrial Training, Vocational Education and Fisheries*; Shri Subhash Katyral: *Local Government and Science and Technology*; Shri Maha Singh: *Public Health*; Shri Kishan Singh Sangwan: *Education, Languages, Archives, and Archaeology and Museums*.<sup>22</sup>

*Expansion of Ministry:* The Ministry headed by Shri Hukum Singh was expanded on 20 July with the induction of two more Cabinet Ministers and 13 Ministers of State. The Ministers and their portfolios were:

*Cabinet Ministers:* Shri Narasingh Dhandra: *Food and Civil Supplies*; and Shri Balbir Singh: *Labour and Employment*.

*Ministers of State:* Shri Manphool Singh: *Printing and Stationery* (attached with Shri Jagan Nath in PWD); Shri Hasan Mohammed: *Wakf* (attached with Home Minister and Public Health Minister); Shri Narbir Singh Malik: *Sports & Youth Affairs*; Shri Des Raj: *Jails* (attached with the Minister for Irrigation and Power Department); Shri Bhagi Ram: *Social Welfare*; Shri Kanti Prakash Bhalla: *Technical Education and Housing*; Shri Shiv Lal: *Welfare of Scheduled Castes and Backward Classes*; Shri Hazar Chand: *Dairy Development*; Shri Surinder Singh Barwala: *Forest and Wildlife Protection*; Shri Srikrishan Hooda: *Tourism*; Shri Lachman Singh Kamboj: *Animal Husbandry*; Shri Ved Singh Malik: *Transport*; and Kumari Maydhavi Qirti: *Medical Education & Ayurveda* (attached to the Health Minister).<sup>23</sup>

*Removal of Ministers:* While four Cabinet Ministers, Sarvashri Hiranand Arya, Balbir Saini, O.P. Bhardwaj, and Maha Singh were removed from the Cabinet on 10 August, Shri Lachman Singh Kamboj was removed from the Council of Ministers on 5 September by Governor, Shri Dhanik Lal Mandal on the advice of Chief Minister, Shri Hukum Singh.<sup>24</sup>

*Reshuffle of portfolios:* In a reshuffle of portfolios on 23 August, Revenue Minister Shri Tayyab Hussain was given additional charge of Finance, Planning, Institutional Finance and Credit Control, while Cooperation Minister, Shri Dhir Pal was given additional charge of Excise and Taxation. Local Government Minister, Shri Subhash Katyral was also given additional charge of Employment.<sup>25</sup>

#### HIMACHAL PRADESH

*New Speaker:* Shri Thakur Sen Negi was elected Speaker of the State Assembly for the third time on 20 August, following the resignation of Shri Radha Raman Shastri on 17 August.<sup>26</sup>

<sup>22</sup>*Hindustan Times, Indian Express*, 18 July, 1990; and *Data India*, 16-22 July, 1990.

<sup>23</sup>*Hindu*, 21 July, 1990.

<sup>24</sup>*Times of India*, 11 August, 1990; and *Hindustan Times*, 6 September, 1990.

<sup>25</sup>*Indian Express*, and *Times of India*, 24 August, 1990.

<sup>26</sup>*Statesman*, 18 August, 1990; and *Times of India*, 21 August, 1990.

**New Deputy Speaker:** Shri Rikhi Ram Kaundal was elected Deputy Speaker of the State Assembly on 17 August.<sup>27</sup>

**Expansion of Cabinet:** Chief Minister Shri Shanta Kumar expanded his Ministry on 27 August with the induction of two Cabinet Ministers. The new Ministers and their portfolios were as follows: Shri Radha Raman Shastri: *Education, Art, Language, Culture, Science and Technology, Technical Education, Youth Services, Sports and Public Relations;* and Shri Thakur Kunj: *Horticulture, Food and Supplies, Cooperation and Antodaya.*<sup>28</sup>

#### JAMMU AND KASHMIR

**President's rule:** On 18 July, 1990, a Presidential Proclamation was issued under article 356 of the Constitution, to bring the State under President's rule on the expiry of Governor's rule on that day itself.<sup>29</sup>

#### MADHYA PRADESH

**Cabinet reshuffle:** Chief Minister Shri Sunder Lal Patwa, reshuffled his Cabinet on 30 September by relinquishing nine Departments held by him. After the reshuffle, Chief Minister retained charge of General Administration, Personnel, and Administrative Reforms and Training, Public Relations, Home and Aviation. Education Minister, Shri Vikram Verma was given Culture (except State Urdu Academy) in addition to his existing portfolio. Shri Kailash Challa was given Energy in addition to his earlier portfolios of Commerce and Industry. Finance Minister, Shri Ramhit Gupta was given Department of Public Enterprises and Law Minister, Shri Babulal Gaur, Urban Welfare and Local Government, in addition to his earlier portfolio.

Among the Ministers of State, Minister for Department of General Administration was given independent charge of Transport, Minister for Home, Shri G.S. Shejwar was given Department of General Administration, Shri Jayant Malayya was given independent charge of Housing and Environment, Shri B.S. Porte was assigned independent charge of Animal Husbandry, Dairy Development, Agriculture, Biogas Development, Tourism and Technology. While Shri Sujan Singh Patel was given portfolios of Local Government and Urban Welfare, Shri Vrijendra Pathak was given Energy in addition to his earlier portfolio of Mineral Resources.<sup>30</sup>

#### MAHARASHTRA

**Swearing in of acting Governor:** Shri Khursheed Alam Khan, Governor of Goa was sworn in as acting Governor of Maharashtra on 25 August in

<sup>27</sup>Statesman, 18 August, 1990.

<sup>28</sup>Tribune, 28 August, 1990.

<sup>29</sup>Rajya Sabha Debate (Part-II), 3 September, 1990.

<sup>30</sup>Statesman, 1 October, 1990.



the absence of Shri C. Subramaniam who had gone to U.S.A. for medical treatment.<sup>31</sup>

#### MANIPUR

*Derecognition of Opposition Leader:* Opposition leader, Shri R.K. Dorendra Singh lost his support as the Leader of Opposition in the Assembly as he lost the support of one-fourth of the members of the House.<sup>32</sup>

*Disqualification of MLAs:* On 28 August, Speaker, Shri H. Borobabu Singh announced the disqualification with effect from 24 July, of seven Congress(I) MLAs, namely Sarvashri Gaikhangam, N.G. Luikang, K.S. Benjamin Bane, Morung Mokunga, Phsungzathang, E. Biramani Singh, and M. Manihar Singh. The members were disqualified under Anti-Defection Law as they had left the Congress(I) Party and formed a new party—Manipur Congress.<sup>33</sup>

*Suspension of Minister:* Speaker, Shri H. Borobabu Singh, suspended the former Home Minister, Shri Irengbam Tompok Singh for four years from the House on 29 August on the charge of alleged breach of privilege of the House.<sup>34</sup>

#### MEGHALAYA

*Bye-election result:* Independent candidate, Shri Bull N. Lyngdoh was declared elected to the Legislative Assembly from Malki Nonthymmai constituency on 8 September, in a bye-election held, following the death of Congress(I) member, Shri Upstar Kharbuli.<sup>35</sup>

#### MIZORAM

*Death of MNF Leader:* Mizo National Front leader and former Chief Minister, Shri Laldenga passed away on 7 July.<sup>36</sup>

*New Speaker:* Shri Rokomlova of Congress(I) was elected Speaker of the State Legislative Assembly on 17 July defeating his nearest MNF rival Shri Rammawi.<sup>37</sup>

*New Minister:* Shri Lalhuthanga was inducted into the Ministry as a Minister of State on 11 August 1990.<sup>38</sup>

*Cabinet reshuffle:* Chief Minister, Shri Lalthanwala reshuffled his Ministry on 21 August. In the reshuffle, Home Minister Shri C.L. Ruala was stripped of his Forest and Environment and Public Health Engineering

<sup>31</sup>Hindustan Times, 26 August, 1990.

<sup>32</sup>Telegraph, 3 August, 1990.

<sup>33</sup>Hindustan Times, 29 August, 1990.

<sup>34</sup>Telegraph, 30 August, 1990.

<sup>35</sup>Hindu, 9 September, 1990.

<sup>36</sup>Indian Express, 8 July, 1990.

<sup>37</sup>Times of India, 18 July, 1990.

<sup>38</sup>Hindustan Times, 12 August 1990.

portfolios. Among the Cabinet Ministers, Revenue Minister, Shri Zalawma lost his portfolio of Local Administration but was given Environment and Forests. Shri J. Sangzuala was given charge of General Administration and the Secretariat Administration portfolios alongwith Co-operation in addition to his existing portfolios of Finance, Excise and Taxation and Planning and Programme Implementation.<sup>39</sup>

#### NAGALAND

*New Speaker:* Shri Thenucho was elected Speaker of the State Assembly on 19 July.<sup>40</sup>

*Revocation of Disqualification Order:* On 9 August 1990, Speaker Shri Thenucho revoked the disqualification order of ten legislators, who broke away from the Congress(I) on 13 May which ultimately led to the fall of the Ministry, headed by Shri S.C. Jamir of Congress(I).<sup>41</sup>

#### ORISSA

*Expansion of Ministry:* Chief Minister, Shri Biju Patnaik inducted ten more Ministers into his Ministry on 24 July, thus raising its strength to 26. The Ministers and their portfolios were as follows:

*Chief Minister:* *General Administration, Home, Planning and Coordination, Finance, Industries, Energy, Science and Technology, Environment, Steel and Mines, Harijan and Tribal Welfare, Fisheries and Animal Husbandry, Labour and Employment and Public Grievances.*

*Cabinet Ministers:* Shri Adwati Prasad Singh: *Forest and Environment*; Shri Bhagabat Behera: *Commerce and Transport*; Shri Bijoy Mohapatra: *Irrigation and Parliamentary Affairs*; Shri Biswabhusan Harichandan: *Food and Civil Supplies*; Shri Chaitanya Prasad Majhi: *Education and Youth Services*; Shri Damodar Rout: *Panchayati Raj*; Shri Ghasiram Majhi: *Health and Family Welfare*; Shri Jagannath Mallik: *Agriculture and Co-operation*; Shri Nalinikanta Mohanty: *Works and Housing and Urban Development*; Shri Narasingha Mishra: *Law*; Shri Ramakrishna Patnaik: *Rural Development*; Shri Sarat Kar: *Tourism, Sports and Culture and Information and Public Relations*; Shri Surendranath Nayak: *Revenue and Excise.*

*Ministers of State:* Shri Chhotrai Majhi: *Harijan and Tribal Welfare*; Shri Dilip Ray: *Industries (except Textile and Handloom)*; Shri Jadav Majhi: *Planning and Coordination*; Shri Jayaram Pangi: *Agriculture and Cooperation*; Smt. Kamala Das: *Education and Youth Services*; Shri Mangala Kishan: *Forest and Environment*; Shri Syed Mustafiz Ahmed: *Health and Family Welfare*; Shri Prafulla Samal: *Labour and Employment*; Shri Prasanna Acharya: *Industries, Textile and Handloom*; Shri Saharai

<sup>39</sup>Hindustan Times, 22 August, 1990.

<sup>40</sup>Hindustan Times, 20 July, 1990.

<sup>41</sup>Telegraph, 10 August, 1990.

Oram: *Rural Development*, Shri Suryanarayan Patra: *Fisheries and Animal Husbandry*.

*Deputy Ministers*: Shri Padmanabh Behera: *Tourism, Sports and Culture*.<sup>42</sup>

#### TAMIL NADU

*Expulsion of MLA*: AIADMK General Secretary, Kumari Jayalalitha expelled Shri S.D. Vgam Chand, MLA from the party for anti-party activities on 18 July.<sup>43</sup>

*Election of MLA held void*: The election of ruling DMK MLA, Shri Udaysurian from Chinnasalem constituency held in January 1989 was declared null and void by the Madras High Court on 22 August.<sup>44</sup>

#### UTTAR PRADESH

*Election of Legislative Council Chairman*: Shri S.P. Gupta was declared elected as the Chairman of the Legislative Council on 5 July.<sup>45</sup>

*Resignation of MLA*: Shri Dharmvir Singh Baliyan, Janata Dal MLA from Khatauli constituency, resigned from the State Assembly on 28 September in protest against the implementation of Mandal Commission Report.<sup>46</sup>

#### DEVELOPMENTS ABROAD

##### BULGARIA

*Resignation of President*: President, Mr. Mladenov resigned on 6 July, following charges of crushing an anti-Government protest in December 1989.<sup>47</sup>

*New President*: Mr. Zhelyu Zhelev, was elected President of Bulgaria on 1 August.<sup>48</sup>

*Resignation of Prime Minister*: Prime Minister, Mr. Andrei Lukanov, resigned alongwith his Cabinet on 8 August so that the new President, Mr. Zhelyu Zhelev could appoint a new Cabinet.<sup>49</sup>

##### CZECHOSLOVAKIA

*New President*: Mr. Vaclav Havel was re-elected as President of Czechoslovakia for a two-year term on 5 July.<sup>50</sup>

<sup>42</sup>*Hindustan Times*, 25 July, 1990; and Information Collected from Orissa Information Centre.

<sup>43</sup>*Statesman*, 19 July, 1990.

<sup>44</sup>*Hindustan Times*, 23 August, 1990.

<sup>45</sup>*Times of India*, 6 July, 1990.

<sup>46</sup>*Hindustan Times*, 29 September, 1990.

<sup>47</sup>*Hindu*, 7 July, 1990.

<sup>48</sup>*Times of India*, 2 August, 1990.

<sup>49</sup>*National Herald*, 9 August 1990.

<sup>50</sup>*Tribune*, 6 July, 1990.

## EGYPT

*Resignation of Secretary-General:* Mr. Chedliklibi, Secretary-General of Arab League resigned on 4 September.<sup>51</sup>

*Suspension of Parliament:* President Mr. Hosni Mubarak suspended the Parliament on 27 September.<sup>52</sup>

## FUJI

*New Constitution:* President, Mr. Ratu Sir Penaia Ganilau promulgated a new Constitution on 25 July, which would guarantee political dominance for ethnic *Malenasian* Fijians, by providing them 37 seats in the House of Representatives as against 27 for Fiji Indians and five for general electors. It would also guarantee 24 seats to the Malenasian Fijians and ten for Fiji Indians and other races in the Upper House.<sup>53</sup>

## GERMAN DEMOCRATIC REPUBLIC

*Resignation of Minister:* Mr. Markus Meckal, Foreign Minister submitted his resignation on 20 August to Prime Minister, Mr. Lothar de Maiziere and Parliament Speaker, Mr. Sabine Bergmann Pohl in order to conform to his Social Democratic Party's decision to leave the coalition Government.<sup>54</sup>

*Ratification of Unification Treaty:* The German Unification Treaty was approved by the Parliament on 20 September, which called for the two Germanys to be unified officially on 3 October.<sup>55</sup>

## HUNGARY

*New President:* Mr. Arpad Gonyai was elected President of Hungary on 3 August.<sup>56</sup>

## IRAQ

*Proclamation of Emergency:* A State of emergency was imposed in Baghdad on 16 August after an assassination attempt was made on President, Mr. Saddam Hussein.<sup>57</sup>

## ITALY

*Resignation of Ministers:* Four Ministers belonging to Christian Democratic Party resigned from the Government on 26 July, following a dispute over the proposed television law, which would clash with European Community regulations on T.V. advertising.<sup>58</sup>

<sup>51</sup> *Telegraph*, 5 September, 1990.

<sup>52</sup> *Hindustan Times*, 28 September, 1990.

<sup>53</sup> *Indian Express*, 26 July, 1990.

<sup>54</sup> *Hindu*, 21 August, 1990.

<sup>55</sup> *Statesman*, 26 September, 1990.

<sup>56</sup> *Hindustan Times*, 4 August, 1990.

<sup>57</sup> *Times of India*, 17 August, 1990.

<sup>58</sup> *Times of India*, 28 July, 1990.

## IVORY COAST

*Abolition of One-party System:* President, Mr. Felix Houphouet Boigny announced on 29 September to hold general elections on 28 October in order to put an end to 30-year old one-party system.<sup>59</sup>

## LIBERIA

*New Acting President:* Mr. Amos Sawyer was named as acting President of war-torn Liberia at a conference of Church organised by the Economic Community of West African States, held on 31 August in the Gambian Capital, Banjul.<sup>60</sup>

*New Government:* At a national conference, held at Banjul, an interim government of national unity, was formed on 2 September for the West African country.<sup>61</sup>

*Assassination of President:* President, Mr. Samuel Doe was killed on 10 September, following a shoot out with rebel forces.<sup>62</sup>

## MAURITIUS

*Dismissal of Minister:* Prime Minister, Shri Aneerood Jugnauth dismissed three Cabinet Ministers on 19 August. They were: Mr. Satcam Boollell, Deputy Prime Minister and Leader of the Labour Party; Mr. Seetanah Lutchmeenaraido, Finance Minister; and Mr. Dineshwar Ramjuttun, Social Security Minister.<sup>63</sup>

## MONGOLIA

*Election Results:* The Communist Party won a majority in the Country's first parliamentary elections. Communists got more than 70 percent of seats in the Great People's Hural (Upper House of Parliament) and more than 50 per cent of seats in the New Small Hural (Lower House of Parliament).<sup>64</sup>

*New Prime Minister:* Mr. Dashiyn Byambasuran was appointed the Prime Minister of Mongolia on 10 September.<sup>65</sup>

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<sup>59</sup>*Statesman*, 30 September, 1990.

<sup>60</sup>*National Herald*, 2 September, 1990.

<sup>61</sup>*Telegraph*, 4 September, 1990.

<sup>62</sup>*Hindu*, 11 September, 1990.

<sup>63</sup>*Hindustan Times*, 20 August, 1990.

<sup>64</sup>*Hindustan Times*, 1 August, 1990.

<sup>65</sup>*Hindu*, 11 September, 1990.

## MOZAMBIQUE

*Abolition of one-party system:* President, Mr. Joaquim Chissano announced the introduction of multi-party system in Mozambique on 1 August by abolishing the existing one-party system.<sup>66</sup>

## NEPAL

*Major Amendments in the Constitution:* On 11 July, King Birendra suspended 41 articles alongwith some sub-articles of the Constitution, related to the erstwhile Panchyat System and the functioning of the dissolved Rashtriya Panchayat.

King Birendra proclaimed a new Constitution on 9 November 1990, according to which the State would be a constitutional Monarchy in which executive powers would be vested in the King and the Council of Ministers.

The Major highlights of the amendments were: introduction of multiparty system, Sovereignty to be vested in people, guarantee of Fundamental Rights and Independence of Judiciary ensured.<sup>67</sup>

## NEW ZEALAND

*New Prime Minister:* Mr. Michael Moore, Foreign Relations and Trade Minister was named Prime Minister on 4 September.<sup>68</sup>

## PAKISTAN

*Dismissal of Government:* President, Mr. Ghulam Ishaq Khan dismissed Prime Minister, Mrs. Benazir Bhutto on charges of corruption, nepotism and violation of the Constitution on 6 August. The President also appointed Mr. Ghulam Mustafa Jatoi, the Opposition Leader, as the Caretaker Prime Minister besides the following four new Cabinet Ministers. Mr. Ghulam Mustafa Khar, Mr. Ellahi Bukhs Soomro, Mr. Rafi Raja and Mr. Sartaj Aziz.<sup>69</sup>

*New Government:* Caretaker Prime Minister, Mr. Ghulam Mustafa Jatoi took the charge of the interim Government on 7 August.

*New Ministers:* Mr. Sahebzad Yakub Khan was reappointed as Foreign Minister in the interim Government. Caretaker Chief Ministers of Punjab, Baluchistan and North-West Frontier Province were also sworn in on

<sup>66</sup>*Times of India*, 2 August, 1990.

<sup>67</sup>*Statesman*, 12 July, 1990; and information Collected from Nepal Embassy.

<sup>68</sup>*Statesman*, 5 September, 1990.

<sup>69</sup>*Indian Express and Hindustan Times* 7 August, 1990.

7 August. They were: Mr. G.H. Wynn, Mr. Humayun Marri and Mr. Afzal Khan respectively.<sup>70</sup>

*Expansion of Cabinet:* Caretaker Prime Minister, Mr. Ghulam Mustafa Jatoi expanded his Cabinet on 11 August by inducting in it the following six Ministers: Mr. Hazar Khan Bijrani, Ms. Sayeda Abida Hussain, Mr. Mian Zahid Sarfarz, Mr. Abdul Majid Malik, Mr. Malik Mohammad Naeem and Mr. Reodad Khan.<sup>71</sup>

*Expansion of Ministry:* The following seven ministers were inducted into the Caretaker Government of Prime Minister Mr. Ghulam Mustafa Jatoi on 27 August thus raising the Cabinets strength to 19. Mr. Makhdoom Shaiquzzaman, Mr. Raji Abdul Majid Abid, Ms. Noor Jehan Panizai, Mr. Amir Hussain, Mr. Aftab Hussain Gilani, Mr. Islam Nabi and Mr. Mohammad Nasir Mengal.<sup>72</sup>

*New President:* Mr. Sardar Abdul Khan of Muslim League became the new President of Pakistan occupied Kashmir on 27 August by defeating Mr. Barrister Sultani Mohammad of Pakistan People's Party.<sup>73</sup>

#### PERU

*New President:* Mr. Alberto Fujimori was sworn in as President of Peru on 29 July succeeding Mr. Alan Garcia.<sup>74</sup>

#### SOMALIA

*Dismissal of Government:* President, Mr. Mohammed Siad Barre dismissed the six-month old Government of Prime Minister, Mr. Mohamed Ali Samantar on 3 September and asked former Cabinet Minister, Mr. Mohamed Hawdle Madar to form a new Government. No reason was given by the President for the dismissal of the Government.<sup>75</sup>

#### SOUTH KOREA

*Resignation of Members:* On 23 July, 79 Opposition members out of the 299-member National Assembly, submitted their resignations to Speaker, Mr. Park Chunkyu, demanding conduct of general elections.<sup>76</sup>

#### SRI LANKA

*Amendment of the Provincial Council Act:* The Parliament amended the Provincial Council Act on 6 July which empowered the President to dissolve the North-East Provincial Council.<sup>77</sup>

<sup>70</sup>Tribune and Times of India, 8 August, 1990.

<sup>71</sup>Telegraph, 12 August, 1990.

<sup>72</sup>Tribune, 28 August, 1990.

<sup>73</sup>Times of India, 28 August, 1990.

<sup>74</sup>Hindu, 30 July, 1990.

<sup>75</sup>Hindu, 4 September, 1990.

<sup>76</sup>Hindu, 24 July, 1990.

<sup>77</sup>Hindu and Times of India, 7 July, 1990.

## THAILAND

*Cabinet reshuffle:* In a major reshuffle of the Council of Ministers, 12 Ministers were dropped by Prime Minister General Chatichai Choonhavan from his Cabinet on 27 August. In the new Cabinet, Mr. Subin Pinkayan was made the Foreign Minister and Mr. Vira Bhongse Ramangkura, the Finance Minister.<sup>78</sup>

*Reconstitution of Cabinet:* In a major Cabinet reshuffle Prime Minister, General Chatichai Choonhavan strengthened his hand by adding one more party to his coalition Government on 3 September.<sup>79</sup>

## UNITED KINGDOM

*Resignation of Minister:* Trade and Industry Secretary, Mr. Nicholas Ridley resigned on 15 July, following the dispute over his criticism of the German domination of Europe.<sup>80</sup>

*Cabinet reshuffle:* Prime Minister, Mrs. Margaret Thatcher reshuffled her Cabinet by changing the portfolios of some of the Ministers. Among the new changes made, Mr. Francis Maude, Minister of State at the Foreign Office with special responsibility for Hong Kong, was appointed the new Financial Secretary at the Treasury. Mr. Peter Lilley former Financial Secretary at the Treasury, was made the new Trade and Industry Secretary. Mr. Tristan Garel-Jones was inducted as a Minister of State in the Foreign Office.<sup>81</sup>

*Death of Member:* Conservative Party M.P., Mr. Ian Gow was Killed on 30 July in a car bomb explosion.<sup>82</sup>

## U.S.S.R.

*Re-election of General Secretary:* President Mr. Mikhail Gorbachev was re-elected General-Secretary of the CPSU on 10 July defeating his opponent, Mr. Teimumaz Aviliani.<sup>83</sup>

*Election of Deputy General Secretary:* Mr. Vladimir Ivashko was elected Deputy General Secretary of CPSU on 12 July by defeating his rival Mr. Yegor Ligachev. Mr. Vladimir Ivashko won 3,109 votes while his rival got only 776.<sup>84</sup>

*Special Powers to President:* President, Mr. Mikhail Gorbachev was granted special powers by the Soviet Parliament on 24 September to

<sup>78</sup>Hindustan Times, 28 August, 1990.

<sup>79</sup>Hindu, 4 September, 1990.

<sup>80</sup>Indian, Express, 16 July, 1990.

<sup>81</sup>Statesman and Hindustan Times, 25 July, 1990.

<sup>82</sup>Statesman 31 July, 1990.

<sup>83</sup>Hindu, 11 July, 1990.

<sup>84</sup>Statesman and Times of India, 13 July, 1990.



handle the economic situation of the country and maintain public order.<sup>85</sup>

#### VENEZUELA

*Resignation of Cabinet:* The Venezuelan Cabinet resigned on 26 July in order to give President, Mr. Carlos Andres Perez a chance to reshuffle his Ministers.<sup>86</sup>

#### ZAMBIA

*Dismissal of Army Commander:* President Mr. Kenneth Kaunda of Zambia, dismissed his Army Commander, Lt. Gen. Garry Kalenga on 1 July and replaced him with his deputy, Maj. Gen. Mr. Francis Sibanda.<sup>87</sup>

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<sup>85</sup>*Hindustan Times*, 25 September, 1990.

<sup>86</sup>*Times of India*, 28 July, 1990.

<sup>87</sup>*Statesman*, 2 July, 1990.

## DOCUMENTS OF CONSTITUTIONAL AND PARLIAMENTARY INTEREST

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The Constitution (Sixty-Seventh Amendment) Bill, 1990, originally introduced and passed as the Constitution Seventy-Sixth Amendment Bill, 1990 but later renumbered which seeks to amend clause (4) of article 356 of the Constitution, so as to facilitate the extension of the Presidential Proclamation in the State of Punjab for a further period of six months, taking the duration to a total period of four years, was passed by Lok Sabha and Rajya Sabha on 4 October, 1990 and received President's assent on the same day.

The National Commission for Women Bill, 1990 which provides for the setting up of a Commission for women which would study and monitor all matters relating to constitutional and legal safeguards provided for women, to review the existing legislations and suggest amendments wherever necessary, thereby enabling women to achieve equality in all spheres of life, was passed by Lok Sabha and Rajya Sabha on 9 and 23 August, 1990, respectively and received President's assent on 30 August, 1990.

The Prasar Bharati (Broadcasting Corporation of India) Bill, 1990 which provides for the establishment of an autonomous corporation to be known as "Prasar Bharati" (Broadcasting Corporation of India), with a view to confer autonomy on Akashvani and Doordarshan thereby ensuring that they function in a fair, objective and creative manner, was passed by Lok Sabha and Rajya Sabha on 30 August, 1990 and 5 September, 1990 respectively. Amendments made by Rajya Sabha were agreed to by Lok Sabha on 6 September, 1990. The Bill received President's assent on 12 September, 1990.

We reproduce here the texts of the above Acts.

— Editor

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### THE CONSTITUTION (SIXTY-SEVENTH AMENDMENT) ACT, 1990

*An Act further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first year of the Republic of India as follows:—

1. *Short title:* This Act may be called the Constitution (Sixty-seventh Amendment) Act, 1990.

2. *Amendment of article 356:* In article 356 of the Constitution, in clause

(4), in the third proviso, for the words "three years and six months" the words "four years" shall be substituted.

## THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

*An Act to provide for the establishment of a Broadcasting Corporation of India, to be known as Prasar Bharati, to define its composition, functions and powers and to provide for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1 (1) *Short title, extent and commencement:* This Act may be called the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint.

2. *Definitions:* In this Act, unless the context otherwise requires—

(a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day formed part of or were under the Director-General, All India Radio of the Union Ministry of Information and Broadcasting;

(b) "appointed day" means the date appointed under section 3;

(c) "broadcasting" means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;

(d) "Board" means the Prasar Bharati Board;

(e) "Broadcasting Council" means the Council established under section 14;

(f) "Chairman" means the Chairman of the Corporation appointed under section 4;

(g) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;

(h) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which, immediately before the

appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;

- (i) "elected Member" means a Member elected under section 3;
- (j) "Executive Member" means the Executive member appointed under section 4;
- (k) "Kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;
- (l) "Member" means a Member of the Board;
- (m) "Member (Finance)" means the Member (Finance) appointed under section 4;
- (n) "Member (Personnel)" means the Member (Personnel) appointed under section 4;
- (o) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;
- (p) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;
- (q) "notification" means a notification published in the Official Gazette;
- (r) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an ex officio member, the Nominated Member or an elected Member;
- (s) "prescribed" means prescribed by rules made under this Act;
- (t) "Recruitment Board" means a board established under sub-section (1) of section 10;
- (u) "regulations" means regulations made by the Corporation under this Act;
- (v) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;
- (w) "Whole-time Member" means the Executive Member, Member (Finance) or Member (Personnel);
- (x) "year" means the financial year.

## CHAPTER II

### PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA)

3. *Establishment and composition of Corporation:* (1) With effect from such date as the Central Government may by notification appoint in this behalf, there shall be established for the purposes of this Act a Corporation, to be known as the Prasar Bharati (Broadcasting Corporation of India).

(2) The Corporation shall be a body corporate by the name aforesaid,

having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The headquarters of the Corporation shall be at New Delhi and the Corporation may establish offices, kendras or stations at other places in India and, with the previous approval of the Central Government, outside India.

(4) The general superintendence, direction and management of the affairs of the Corporation shall vest in the Prasar Bharati Board which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

(5) The Board shall consist of—

(a) a Chairman;

(b) one Executive Member;

(c) one Member (Finance);

(d) one Member (Personnel);

(e) six Part-time Members;

(f) Director-General (Akashvani) *ex officio*;

(g) Director-General (Doordarshan), *ex officio*;

(h) One representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and

(i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties:

Provided that all or a majority of the members of each committee shall be members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote.

(7) The Corporation may associate with itself, in such manner and for such purposes as may be provided by regulations, any person whose assistance or advice it may need in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated, but shall not have the right to vote.

(8) No act or proceeding of the Board or of any committee appointed by it under sub-section (6) shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board or such committee; or

(b) any defect in the appointment of a person acting as a Member or a member of such committee; or

(c) any irregularity in the procedure of the Board or such committee not affecting the merits of the case.

4. (1) *Appointment of Chairman and other Members:* The Chairman and the other Members except the *ex officio* Members, the Nominated member and the elected Members shall be appointed by the President of India on the recommendation of a committee consisting of—

(a) the Chairman of the Council of States, who shall be the Chairman of the Committee;

(b) the Chairman of the Press Council of India established under section 4 of the Press Council Act, 1978; and

(c) one nominee of the President of India.

(2) No appointment, of a Member shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the committee appointed under sub-section (1).

(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism; the Member (Finance) shall be a person having special knowledge or practical experience in respect of financial matters and the Member (Personnel) shall be a person having special knowledge or practical experience in respect of personnel management and administration.

(4) The recommendations made by the committee constituted under sub-section (1) shall be binding for the purposes of appointments under this section.

(5) *Powers and functions of Executive Member:* The Executive Member shall be the Chief Executive of the Corporation and shall, subject to the control and supervision of the board, exercise such powers and discharge such functions of the Board as it may delegate to him.

(6) *Term of office, conditions of service, etc., of Chairman and other members:* The Chairman shall be Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member, the Member (Finance) and the Member (Personnel) shall be whole-time members and every such Member shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(3) The term of office of Part-time Members shall be six years, but one-third of such Members shall retire on the expiration of every second year.

(4) The term of office of an elected Member shall be two years or till he ceases to be an employee of the Corporation, whichever is earlier.

(5) As soon as may be after the establishment of the Corporation, the President of India may, by order, make such provision as he thinks fit for curtailing the term of office of some of the Part-time Members then appointed in order that one-third of the Members holding office as such Part-time Members shall retire in every second year thereafter.

(6) Where before the expiry of the term of the office of a person holding the office of Chairman, or any other Member, a vacancy arises, for any reason whatsoever, such vacancy shall be deemed to be a casual vacancy and the person appointed or elected to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(7) The Whole-time Members shall be the employees of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salaries and allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

(8) The Chairman and Part-time Members shall be entitled to such allowances as may be prescribed.

7. *Removal and suspension of Chairman and Members:* (1) Subject to the Provisions of sub-section (3), the Chairman or any other Members, except an *ex Officio* Member, the Nominated Member, and an elected Member, shall only be removed from his office by order of the President of India on the ground of misbehaviour after the Supreme Court, on a reference being made to it by the President has, on inquiry held in accordance with such procedure as the Supreme Court may by rules provide, reported that the Chairman or such other Member, as the case may be, ought, on such ground, be removed.

(2) The President may suspend from office the chairman or other Member, except an *ex officio* Member, the Nominated Member or an elected Member, in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman or any Whole-time Member from his office if such Chairman or such Whole-time Member—

- (a) ceases to be a citizen of India; or
- (b) is adjudged an insolvent; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is convicted of any offence involving moral turpitude; or

(e) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind:

Provided that the President may, by order, remove any Part-time Member from his office if he is adjudged an insolvent or is convicted of any offence involving moral turpitude or where he is in the opinion of the President unfit to continue in office by reason of infirmity of body or mind.

(4) If the Chairman or any Whole-time member except any *ex officio* Member the Nominated Member, or any elected Member is, or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Corporation or the Government of India or the Government of a State or, participates in any way in the profit thereof, or in any benefit or emolument arising therefrom than as a member, and in common with other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

(5) If a Part-time Member is, or becomes in any way concerned, or interested in any contract or agreement made by or on behalf of the Corporation, he shall for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

(6) The Chairman or any other Member may resign his office by giving notice thereof in writing to the President of India and on such resignation being accepted, the Chairman or other Member shall be deemed to have vacated his office.

8. *Meetings of Board:* (1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meeting (including the quorum at meetings) as may be provided by regulations:

Provided that there shall not be less than six meetings every year but three months shall not intervene between one meeting and the next meeting.

(2) A Member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Board without the leave of the Chairman.

(3) The Chairman shall preside at the meetings of the Board and if for any reason he is unable to attend any meeting, the Executive Member and in the absence of both, any other Member elected by the Members present at such meeting, shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the Members present and voting



and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding shall have and exercise a second or casting vote.

9. *Officers and other employees of Corporation:* (1) Subject to such control, restrictions and conditions as may be prescribed, the Corporation may appoint, after consultation with the Recruitment Board, the Director-General (Akashvani), The Director General (Doordarshan) and such other officers and other employees as may be necessary.

(2) The method of recruitment of such officers and employees and all others matters connected therewith and the conditions of service of such officers and other employees shall be such as may be provided by regulations.

10. *Establishment of Recruitment Board:* (1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards consisting wholly of persons other than the Members, officers and other employees of the Corporation:

Provided that for the purposes of appointment to the posts carrying scales of pay which are not less than that of a Joint Secretary to the Central Government, the Recruitment Board shall consist of the Chairman, other Members, the *ex Officio* Members, the Nominated Member and the elected Members.

(2) The qualifications and other conditions of service of the members constituting the Recruitment Board and the period for which such members shall hold office, shall be such as may be prescribed.

11. *Transfer of service of existing employees to Corporation:* (1) Where the Central Government has ceased to perform any functions which under section 12 are the functions of the Corporation, it shall be lawful for the Central Government to transfer, by order and with effect from such date or dates as may be specified in the order, to the Corporation any of the officers or other employees serving in the Akashvani or Doordarshan and engaged in the performance of those functions:

Provided that no order under this sub-section shall be made in relation to any officer or other employee in the Akashvani or Doordarshan who has, in respect of the proposal of the Central Government to transfer such officer or other employee to the Corporation, intimated within such time as may be specified in this behalf by the Central Government, his intention of not becoming an employee of the Corporation.

(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on cadres outside Akashvani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimates, within the time specified in sub-section (1) his intention of not becoming an employee of the Corporation but to continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.

(3) In making an order under sub-section (1), the Central Government shall, as far as may be, take into consideration the functions which the Akashvani or as the case may be, Doordarshan has ceased or ceases to perform and the area in which such functions have been or are performed.

(4) An officer or other employee transferred by an order under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the Corporation may determine and shall, subject to the provisions of sub-sections (5) and (6) be governed by such regulations as may be made as respects remuneration and other conditions of service including pension leave and provident fund and shall continue to be an officer or other employee of the Corporation unless and until his employment is terminated by the Corporation.

(5) Every officer or other employee transferred by an order made under sub-section (1) shall, within, six months from the date of transfer, exercise his option, in writing, to be governed—

(a) by the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations, and such option once exercised under this Act shall be final:

Provided that the option exercised under clause (a) by an officer or other employee shall be applicable only in respect of the post under the Corporation to which such officer or other employee is transferred and on appointment to a higher post under the Corporation he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which

he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt.

(6) No officer or other employee transferred by an order made under sub-section (1) or sub-section (2),—

(a) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Corporation as may be specified in the regulations;

(b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry to impose upon him any such penalty, such penalty may be imposed on the basis of evidence adduced during such inquiry and it shall not be necessary to give such person an opportunity of making representation on the proposed penalty:

Provided further that clause (b) shall not apply where an officer or other employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.

12. *Function and powers of Corporation:* (1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

*Explanation.*—For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to, and not in derogation of, the provisions of the Indian Telegraph Act, 1885.

(2) The Corporation shall, in the discharge of its functions, be guided by the following objectives, namely:—

(a) upholding the unity and integrity of the country and the values enshrined in the Constitution;

(b) safeguarding the citizen's right to be informed freely, truthfully and objectively on all matters of public interest, national or international, and

presenting a fair and balanced flow of information including contrasting views without advocating any opinion or ideology of its own;

(c) paying special attention to the fields of education and spread of literacy, agriculture, rural development, environment, health and family welfare and science and technology;

(d) providing adequate coverage to the diverse cultures and languages of the various regions of the country by broadcasting appropriate programmes;

(e) providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship;

(f) providing appropriate programmes keeping in view the special needs of the youth;

(g) informing and stimulating the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women;

(h) promoting social justice and combating exploitation, inequality and such evils as untouchability and advancing the welfare of the weaker sections of the society;

(i) safeguarding the rights of the working classes and advancing their welfare;

(j) serving the rural and weaker sections of the people and those residing in border regions, backward or remote areas;

(k) providing suitable programmes keeping in view the special needs of the minorities and tribal communities;

(l) taking special steps to protect the interests of children, the blind, the aged, the handicapped and other vulnerable sections of the people;

(m) promoting national integration by broadcasting in a manner that facilitates communication in the languages in India; and facilitating the distribution of regional broadcasting services in every State in the languages of that State;

(n) providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilisation of the broadcast frequencies available and ensuring high quality reception;

(o) promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated; and

(p) expanding broadcasting facilities by establishing additional channels of transmission at various levels.

(3) In particular, and without prejudice to the generality of the foregoing provisions, the Corporation may take such steps as it thinks fit—

(a) to ensure that broadcasting is conducted as a public service to provide and produce programmes;

(b) to establish a system for the gathering of news for radio and television;

(c) to negotiate for purchase of, or otherwise acquire, programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedures for the allocation of such programmes, rights or privileges to the services;

(d) to establish and maintain a library or libraries of radio, television and other materials;

(e) to conduct or commission from time to time, programmes, audience research, market or technical service, which may be released to such persons and in such manner and subject to such terms and conditions as the Corporation may think fit;

(f) to provide such other services as may be specified by regulations.

(4) Nothing in sub-sections (2) and (3) shall prevent the Corporation from managing on behalf of the Central Government and in accordance with such terms and conditions as may be specified by that Government the broadcasting of External Services and monitoring of broadcasts made by organisations outside India on the basis of arrangements made for reimbursement of expenses by the Central Government.

(5) For the purposes of ensuring that adequate time is made available for the promotion of the objectives set out in this section, the Central Government shall have the power to determine the maximum limit of broadcast time in respect of the advertisement.

(6) The Corporation shall be subject to no civil liability on the ground merely that it failed to comply with any of the provisions of this section.

(7) The Corporation shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulations:

Provided that the fees and other service charges levied and collected under this sub-section shall not exceed such limits as may be determined by the Central Government, from time to time.

13. *Parliamentary Committee:* (1) There shall be constituted a Committee consisting of twenty-two Members of Parliament, of whom fifteen from the House of the People to be elected by the Members thereof and seven from the Council of States to be elected by the Members thereof in accordance with the system of proportional representation by means of the single transferable vote, to oversee that the Corporation discharges its functions in accordance with the provisions of this Act and,

in particular, the objectives set out in section 12 and submit a report thereon to Parliament.

(2) The Committee shall function in accordance with such rules as may be made by the Speaker of the House of the People.

14. *Establishment of Broadcasting Council, term of office and removal etc., of members thereof:* (1) There shall be established, by notification, as soon as may be after the appointed day, a Council, to be known as the Broadcasting Council, to receive and consider complaints referred to in section 15 and to advise the Corporation in the discharge of its functions in accordance with the objectives set out in section 12.

(2) The Broadcasting Council shall consist of—

(i) a President and ten other members to be appointed by the President of India from amongst persons of eminence in public life;

(ii) four Members of Parliament, of whom two from the House of the People to be nominated by the Speaker thereof and two from the Council of States to be nominated by the Chairman thereof.

(3) The President of the Broadcasting Council shall be a whole-time member and every other member shall be a part-time member and the President or the part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The Broadcasting Council may constitute such number of Regional Councils as it may deem necessary to aid and assist the Council in the discharge of its functions.

(5) The President of the Broadcasting Council shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salary and allowances and the conditions of service shall not be varied to the disadvantage of the President of the Broadcasting Council after his appointment.

(6) The other members of the Broadcasting Council and the members of the Regional Councils constituted under sub-section (4) shall be entitled to such allowances as may be prescribed.

15. *Jurisdiction of and the procedure to be followed by, Broadcasting Council:* (1) The Broadcasting Council shall receive and consider complaints from—

(i) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objectives for which the Corporation is established;

(ii) any person (other than an officer or employee of the Corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the Corporation.

(2) A complaint under sub-section (1) shall be made in such manner and within such period as may be specified by regulations.

(3) The Broadcasting Council shall follow such procedure as it thinks fit for the disposal of complaints received by it.

(4) If the complaint is found to be justified either wholly or in part, the Broadcasting Council shall advise the Executive Member to take appropriate action.

(5) If the Executive Member is unable to accept the recommendation of the Broadcasting Council, he shall place such recommendation before the Board for its decision thereon.

(6) If the Board is also unable to accept the recommendation of the Broadcasting Council, it shall record its reasons therefore and inform the Broadcasting Council accordingly.

(7) Notwithstanding anything contained in sub-sections (5) and (6), where the Broadcasting Council deems it appropriate, it may, for reasons to be recorded in writing, require the Corporation to broadcast its recommendations with respect to a complaint in such manner as the Council may deem fit.

### CHAPTER III

#### ASSETS, FINANCES AND ACCOUNTS

16. *Transfer of certain assets, liabilities, etc., of Central Government to Corporation: As from the appointed day—*

(a) all property and assets (including the Non-lapsable Fund) which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on such terms and conditions as may be determined by the Central Government and the book value of all such property and assets shall be treated as the capital provided by the Central Government to the Corporation;

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Central Government immediately before such day for or in connection with the purposes of Akashvani or Doordarshan or both shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Corporation;

(c) all sums of money due to the Central Government in relation to the

Akashvani or Doordarshan or both immediately before such day shall be deemed to be due to the Corporation;

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Central Government immediately before such day for any matter in relation to the Akashvani or Doordarshan or both may be continued or instituted by or against the Corporation.

17. *Grants, etc., by Central Government:* For the purposes of enabling the Corporation to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Corporation in each financial year—

(i) the proceeds of the broadcast receiver licence fees, if any, as reduced by the collection charges; and

(ii) such other sums of money as that Government considers necessary, by way of equity, grant-in-aid or loan.

18. *Fund of Corporation:* (1) The Corporation shall have its own Fund and all the receipts of the Corporation (including the amounts which stand transferred to the Corporation under section 16) shall be credited to the Fund and all payments by the Corporation shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in one or more nationalised banks in such manner as the Corporation may decide.

(3) The Corporation may spend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund of the Corporation.

*Explanation—* For the purposes of this section, “nationalised bank” means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

19. *Investment of moneys:* The Corporation may invest its moneys in the securities of the Central Government or any State Government or in such other manner as may be prescribed.

20. *Annual Financial Statement of the Corporation:* (1) The Corporation shall prepare, in each financial year, an Annual Financial Statement for the next financial year showing separately—

(a) the expenditure which is proposed to be met from the internal resources of the Corporation; and

(b) the sums required from the Central Government to meet other expenses and distinguishing—

(i) revenue expenditure from other expenditure; and

(ii) non-plan expenditure from plan expenditure.

(2) The Annual Financial Statement shall be prepared in such form and



forwarded at such time to the Central Government for its approval as may be agreed to by that Government and the Corporation.

21. *Accounts and audit of Corporation:* (1) The Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

(2) The accounts of the Corporation shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Corporation to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Corporation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Corporation.

(4) The accounts of the Corporation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

22. *Corporation not liable to be taxed:* Notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Corporation shall not be liable to pay any income-tax or any other tax in respect of—

(a) any income, profits or gains, accruing or arising out of the Funds of the Corporation or any amount received in that Fund; and

(b) any income, profits or gains, derived or any amount received, by the Corporation.

#### CHAPTER IV MISCELLANEOUS

23. *Power of Central Government to give directions:* (1) The Central Government may, from time to time as and when occasion arises, issue to the Corporation such directions as it may think necessary in the interests of the sovereignty, unity and integrity of India or the security of the State or preservation of public order requiring it not to make a broadcast on a matter specified in the direction or to make a broadcast on any matter of public importance specified in the direction.

(2) Where the Corporation makes a broadcast in pursuance of the direction issued under sub-section (1), the fact that such broadcast has been made in pursuance of such direction may also be announced along with such broadcast, if the Corporation so desires.

(3) A copy of every direction issued under sub-section (1) shall be laid before each House of Parliament.

24. *Power of Central Government to obtain information:* The Central Government may require the Corporation to furnish such information as that Government may consider necessary.

25. *Report to Parliament in certain matters and re-commendations as to action against the Board:* (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government may prepare a report thereof and lay it before each House of Parliament for any recommendation thereof as to any action (including supersession of the Board) which may be taken against the Board.

(2) On the recommendation of the Parliament, the President may by notification supersede the Board for such period not exceeding six months as may be specified in the notification:

Provided that before issuing the notification under this sub-section the President shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(3) Upon the publication of the notification under sub-section (2)—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act be exercised or discharged by or on behalf of the Board, shall, until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(4) On the expiration of the period of supersession specified in the notification issued under sub-section (2), the President may reconstitute the Board by fresh appointments, and in such a case any person who had vacated his office under clause (a) of sub-section (3) shall not be disqualified for appointment:

Provided that the President may, at any time before the expiration of the period of supersession, take action under this sub-section.

(5) The Central Government shall cause the notification issued under sub-section (2) and a full report of the action taken under this section to be laid before each House of Parliament.

26. *Office of member not to disqualify a Member of Parliament:* It is

hereby declared that the office of the member of the Broadcasting Council or of the Committee constituted under section 13 shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

*27. Chairman, Members, etc., to be public servants:* The Chairman and every other Member, every officer or other employee of the Corporation and every member of a Committee thereof, the President and every member of the Broadcasting Council or every member of a Regional Council or a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

*28. Protection of action taken in good faith:* No suit or other legal proceeding shall lie against the Corporation, the Chairman or any Member or officer or other employee thereof or the President or a member of the Broadcasting Council or a member of a Regional Council or a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

*29. Authentication of orders and other instruments of Corporation:* All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or any other Member authorised by the Corporation in this behalf and all other instruments executed by the Corporation shall be authenticated by the signature of the Executive Member or by any officer of the Corporation authorised by him in this behalf.

*30. Delegation of powers:* The Corporation may, by general or special order, delegate to the Chairman or any other Member or to any officer of the Corporation, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

*31. Annual report:* (1) The Corporation shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities (including the recommendations and suggestions made by the Broadcasting Council and the action taken thereon) during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

(2) The Broadcasting Council shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

*32. Power to make rules:* (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power; such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the Whole-time Members under sub-section (7) of section 6;

(b) the allowances payable to the Chairman and Part-time Members under sub-section (8) of section 6;

(c) the control restrictions and conditions subject to which the Corporation may appoint officers and other employees under sub section (1) of section 9;

(d) the manner in which and the conditions and restrictions subject to which a Recruitment Board may be established under sub-section (1) of section 10;

(e) the qualifications and other conditions of service of the members of a Recruitment Board and their period of office under sub-section (2) of section 10;

(f) the term and conditions in accordance with which the deputation may be regulated under sub-section (2) of section 11;

(g) the salary and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the President of the Broadcasting Council under sub section (5) of section 14;

(h) the allowances payable to other members of the Broadcasting Council and the members of the Regional Councils, under sub-section (6) of section 14;

(i) the manner in which the Corporation may invest its moneys under section 19;

(j) the form and the manner in which the annual statement of accounts shall be prepared under sub-section (1) of section 21;

(k) the form in which, and the time within which, the Corporation and the Broadcasting Council shall prepare their annual report under section 31;

(l) any other matter which is required to be, or may be, prescribed.

**33. Power to make regulations:** (1) The Corporation may, by notification, make regulations not inconsistent with this Act and the rules made thereunder for enabling it to perform its functions under this Act.

(2) Without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

(a) the manner in which and the purposes for which the Corporation may associate with itself any person under sub-section (7) of section 3;

(b) the times and places at which meetings of the Board shall be held and, the procedure to be followed thereat, and the quorum necessary for

the transaction of the business at a meeting of the Board under sub-section (1) of section 8;

(c) the methods of recruitment and conditions of service of officers and other employees of the Corporation under sub-section (2) of section 9;

(d) the remuneration and other conditions of service, including pension, leave and provident fund in relation to an officer or other employee of the Corporation under sub-section (4) of section 11;

(e) the authority competent to make certain appointments referred to in clause (a) of sub-section (6) of section 11;

(f) the services which may be provided by the Corporation under clause (f) of sub-section (3) of section 12;

(g) the determination and levy of fees and other service charges in respect of advertisements and other programmes under sub-section (7) of section 12;

(h) the manner in which and the period within which complaints may be made under sub-section (2) of section 15;

(i) any other matter in respect of which provision is, in the opinion of the Corporation, necessary for the performance of its functions under this Act:

Provided that the regulations under clause (c) or clause (d) shall be made only with the prior approval of the Central Government.

34. *Rules and regulations to be laid before Parliament:* Every rule or every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

35. *Power to remove difficulties:* If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary, for the removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

## THE NATIONAL COMMISSION FOR WOMEN ACT, 1990

*An Act to constitute a National Commission for Women and to provide for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

1. *Short title, extent and commencement:* (1) This Act may be called the National Commission for Women Act, 1990.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions:* In this Act, unless the context otherwise requires,—

(a) “Commission” means the National Commission for Women constituted under section 3;

(b) “Member” means a Member of the Commission and includes the Member-Secretary;

(c) “prescribed” means prescribed by rules made under this Act.

### CHAPTER II

#### THE NATIONAL COMMISSION FOR WOMEN

3. *Constitution of the National Commission for Women:* (1) The Central Government shall constitute a body to be known as the National Commission for Women to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of—

(a) a Chairperson, committed to the cause of women, to be nominated by the Central Government;

(b) five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women’s voluntary organisations (including women activists), administration, economic development, health, education or social welfare:

Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively;

(c) one Member-Secretary to be nominated by the Central Government who shall be—

(i) an expert in the field of management, organisational structure or sociological movement, or

(ii) an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

4. *Term of office and conditions of service of Chairperson and Members:* (1) The Chairperson and every Member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.

(2) The Chairperson or a Member (other than the Member-Secretary who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union) may, by writing and addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.

(3) The Central Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person—

- (a) becomes an undischarged insolvent;
- (b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
- (f) in the opinion of the Central Government has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. *Officers and other employees of the Commission:* (1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. *Salaries and allowances to be paid out of grants:* The salaries and

allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 11.

7. *Vacancies, etc., not to invalidate proceedings of the Commission:* No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

8. *Committees of the Commission:* (1) The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.

(2) The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.

9. *Procedure to be regulated by the Commission:* (1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure and the procedure of the committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

### CHAPTER III

#### FUNCTIONS OF THE COMMISSION

10 *Functions of the Commission:* (1) The Commission shall perform all or any of the following functions, namely:—

(a) investigate and examine all matters relating to the 'safeguards provided for women under the Constitution and other laws;

(b) present to the Central Government, annually and at such other times as the Commission may deem fit reports upon the working of those safeguards;

(c) make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;

(d) review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so



as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;

(e) take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;

(f) look into complaints and take *suo moto* notice of matters relating to—

(i) deprivation of women's rights;

(ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women,

and take up the issues arising out of such matters with appropriate authorities;

(g) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

(h) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;

(i) participate and advise on the planning process of socio-economic development of women;

(j) evaluate the progress of the development of women under the Union and any State;

(k) inspect or cause to be inspected a jail, remand home, women's institution or other place or custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;

(l) fund litigation involving issues affecting a large body of women;

(m) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

(n) any other matter which may be referred to it by the Central Government.

(2) The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report or any part thereof relates to any matter

with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(4) The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-section (1) have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

## CHAPTER IV

### Finance, Accounts and Audit

11. *Grants by the Central Government:* (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

12. *Accounts and audit:* (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission, under

this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

13. *Annual report:* The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

14. *Annual report and audit report to be laid before Parliament:* The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

## CHAPTER V

### MISCELLANEOUS

15. *Chairperson, Members and staff of the Commission to be public servants:* The Chairperson, the Members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

16. *Central Government to consult Commission:* The Central Government shall consult the Commission on all major policy matters affecting women.

17. (1) *Power to make rules:* (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;

(b) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;

(c) other matters under clause (f) of sub-section (4) of section 10;

(d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;

(e) the form in, and the time at, which the annual report shall be prepared under section 13;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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## NINTH LOK SABHA

## THIRD SESSION

The Third Session (Monsoon Session) of Ninth Lok Sabha which commenced on 7 August 1990, and adjourned *sine die* on 7 September 1990, was treated as Part I of the Session. The House re-assembled on 1 October 1990 for a brief three-day Session and adjourned *sine die* on 5 October 1990. This period was treated as Part II of the same Session. A brief resume of the important discussions held and other business transacted during this period is given below:

## A. DISCUSSIONS

*Rise in prices of essential commodities:* Moving an adjournment motion on the subject on 7 August 1990, Shri Vasant Sathe enquired that when there was record production of food grains, why should there be unabated rise in prices of all essential commodities.

Participating in the discussion, the Leader of the Opposition, Shri Rajiv Gandhi observed that during the past five years of Congress Government, inflation was controlled, but in eight short months of National Front Government, the economic health of the Country had been wrecked. Inflation was reaching a nearly double digit figure due to the populist measures of the Government. Regarding consumption of petrol and diesel, Shri Gandhi pointed out that since a major portion of petrol consumption was on Government account, it needed to be checked.

Intervening in the discussion, in which eight other members\* participated, the Minister of Finance, Shri Madhu Dandavate noted that prior to the presentation of the Budget, Government had consulted the economists, the trade unions, commercial trade organisations, women's organisations, consumer organisations, small scale industries organisations etc., and all of them were agreed to that priority be given to contain the deficit financing. He added that because of the security environment, Defence expenditure was another constraint under which the Government had to control the economy. The deficit in the last Budget was of the order

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\*Other members who took part in the discussion were: Sarva shri Bhabani Shankar Hota, Jaswant Singh, H.K.L. Bhagat, Amal Datta, Surya Narain Yadav, A. Asokaraj, Bhogendra Jha and Professor Vijay Kumar Malhotra.

of Rs. 7,337 crores, the revised estimate was Rs. 11,750 crores and the Government tried to contract it to Rs. 7,206 crores. With a view to closing the deficit gap, the Government were compelled to impose levies on petrol and also on diesel. Shri Dandavate admitted that between December 1989 when the National Front Government took over till the end of July 1990 the wholesale price index had risen.

Shri Sathe replied to the discussion. The motion was later negatived.

*Government's decision to implement the recommendations of the Mandal Commission:* Making a statement on the subject on 7 August 1990, Prime Minister Shri Vishwanath Pratap Singh said that after examining various aspects of Mandal Commission's Report, the Government took the decision that in order to avail themselves of the benefit of the long experience of a number of States in preparing lists of Socially and Educationally Backward Classes (SEBCs) and in order to ensure harmonious and quick implementation Government would adopt in the first phase, the castes that were common in both the lists—one prepared by the Mandal Commission and the other by the States. He added that the Government would provide 27 per cent reservation for the SEBCs in services under the Government of India and Public Undertakings. The present decisions were in tune with the Government's dedication to the cause of the scheduled castes, scheduled tribes, socially and educationally backward classes and other weaker sections, he observed.

On 24 August 1990, replying to the points raised by the members, the Minister of Labour and Welfare, Shri Ram Vilas Paswan asserted that if the House wanted to add an economic clause, it might do so, but it should not be done at the cost of scheduled castes and scheduled tribes and backward classes.

The Minister of Finance, Shri Madhu Dandavate also clarified that the Government were not going to dilute the 27 per cent reservation meant for backward classes.

Making another statement on 27 August 1990, the Prime Minister observed that there was persistent demand from a large section of members in both the Houses for the implementation of the Mandal Commission's Report. He informed the House that the Government's decision in this regard was in accordance with their prior commitment to render justice to the socially and educationally backward classes, who constituted 52 per cent of India's population. This decision was also part of the measures proposed to be taken in the "year of Social Justice..." Baha Saheb Dr. B. R. Ambedkar Centenary year. In extending reservation to OBC, he noted, the intention of the Government was to give them social justice and a share in the governance and shaping of the country in fulfilment of the constitutional obligations. Shri Singh added that the Government were, at the same time, equally concerned about the future of

the Youth in general. It was proposed to provide an additional reservation of 5 per cent to 10 per cent for the poor, irrespective of social groups entirely on the basis of appropriate economic criteria, after taking the sense of the House. He further observed that after interacting with political parties, the Government intended to introduce in that Session itself a Constitutional Amendment Bill, for making the Right to Work a Fundamental Right and would seek the cooperation of all parties in passing it. He informed the House of the Government's decision to increase the flow of resources for various programmes for the Youth from Rs. 20 crores to Rs. 265 crores in the Eighth Plan, mainly for self-employment, higher studies and for their involvement in literacy programmes.

The statements made by the Prime Minister on 7 August and 27 August 1990 were discussed in the House from 4 to 6 September 1990. Initiating the discussion on 4 September, Shri Harish Rawat opposed reservation on caste basis without taking people into confidence. Laying stress on recognising "classes" as important determining factor, Shri Dinesh Singh felt that the only manner in which the Government could implement the Mandal Commission Report by evolving consensus, was to recognise the reality of the gradation of the backwardness in the scheme of reservation. There were very backward classes which have been identified. There were other weaker sections of society which needed equal protection, he added.

On 5 September 1990, participating in the discussion, Shri Somnath Chatterjee demanded 5 to 10 per cent reservation for those who belonged to the poorest sections of the society in the country. Intervening in the discussion, the Minister of State of the Ministry of Communications, Shri Janeshwar Mishra clarified that the reservation was meant to improve the lot of poor people so that they could find their rightful place in the society.

On 6 September 1990, supporting the decision of the Government to introduce 27 per cent reservation for the backward classes, Shri Indrajit Gupta opined that reservation by itself was not going to cure anything. He suggested that new job opportunities must be created in the country, particularly in the rural areas.

Criticising the decision taken by the Government regarding implementation of Mandal Commission Report, the leader of the Opposition, Shri Rajiv Gandhi said that the Government were creating a vested interest in casteism and the country was going to pay a very heavy price for that. He observed that the Mandal Commission Report was based on the data for the period between 1891 and 1931. The Commission itself had said that the mode of data collection was neither scientific nor technically sophisticated and it was not even academically satisfying. The Government, he added, had deliberately kept the minorities out. Besides, there were people who may have originally belonged to

socially and educationally backward groups, but under no circumstances they could be described as socially and educationally backward today.

Intervening in the discussion, in which six other members\* participated, the Prime Minister observed that the political system of the country needed to be restructured to bring about social change. The down-trodden people would have to be accommodated in the political structure.

Refuting the allegation that the recommendations of the Mandal Commission were implemented in a hurry, the Prime Minister said that it was in their Manifesto and it had the approval of all the constituents of the National Front Government. Again, it was mentioned twice in the President's Address. So far as the question of the decision's effect on merit was concerned, Shri Singh contended that there was about 70 per cent reservation in Andhra Pradesh, Karnataka, Kerala and Tamil Nadu and no one could say that the Administration was inefficient there. The Government, he added, had accepted that after ten years, when the backward class of people had reached a certain standard, the matter would be reviewed.

Moving an adjournment motion on 4 October 1990 regarding the unprecedented situation arising out of the agitation against the decision of the Government on the Mandal Commission Report, Shri B. Shankaranand said that immediately after the Prime Minister's sudden declaration expressing sympathy for the backward classes, the whole country had been plunged into darkness. According to him, the Mandal Commission Report contained many recommendations which could not be fully implemented.

Participating in the discussion, Shri Somnath Chatterjee observed that the students should adopt an objective approach in this matter and should respond to the Prime Minister's offer to hold discussions and negotiations. While Shri Indrajit Gupta expressed the view that the Government should have used the media to explain their decision in detail to the people, Shri Chitta Basu said that his party was in agreement with the Mandal Commission's Report on the issue of reservations.

Intervening in the discussion, the Minister of State in the Ministry of External Affairs, Shri Hari Kishore Singh maintained that the Government would definitely find some way out through negotiations and tension would be removed.

Participating in the discussion, Kumari Mayawati alleged that the Congress and the BJP were behind the agitation against the Mandal Commission Report.

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\*Other members who took part in the discussion were: Sarvashri Hukumdeo Narayan Yadav, Ram Naik, Janardhana Poojary, Ram Dhan, Vasant Sathe and Kashiram Rana.



Intervening in the discussion in which seven other members participated, Prime Minister, Shri Vishwanath Pratap Singh announced that the Government would try to hold talks with the youth, Vice-Chancellors of Universities and other people to sort out the matter. The Government had given strict instructions to the police not to use excessive force and they should take action only when their lives were threatened.

The Prime Minister informed the House of the Government's decision to involve the youth in the debate through the National Youth Council. Regarding employment to those qualified in medicine, engineering or various other professions, the Government had a scheme to provide loans to the extent of Rs. 120 crores in this year. He announced that the benefits of Government largesse, in the form of petrol pumps, gas agencies, fertilizer agencies, etc., would flow to the talented youth who were economically weak, he concluded.

The adjournment motion was negatived.

*Atrocities on Scheduled Castes and Scheduled Tribes:* Initiating a discussion on the subject on 8 August 1990, Shri Ramashray Prasad Singh said that atrocities on scheduled castes and scheduled tribes were increasing in spite of the fact that Government had set up special courts to deal with such cases. He urged the Government to take steps to prevent all types of atrocities.

Participating in the discussion on 10 August 1990, Kumari Mayawati accused the Government for not taking timely action in the incidents at Agra.

Replying to the discussion on 16 August 1990, in which 23 other members\* participated, the Minister of Home Affairs, Shri Mufti Mohammed Sayeed informed the House that the Government had decided to set up 333 special courts, which would make available free legal aid to Harijans. With regard to Agra incident, the Union Government would direct the State Government to go into the causes, which led to the killings of so many people there. Compensation amounting to Rs. 10.10 lakhs has already been given to the dependents of those killed in the riots. The Government, he added, would fully implement the report of the parliamentary team and would

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\*Other members who took part in the discussion were: Sarvashri Samarendra Kundu, Madan Lal Khurana, Kamal Nath, Kadambur M.R. Janarthanan, Jagpal Singh, Udai Pratap Singh, and Major D.D. Khanoria.

\*\*Other members who took part in the discussion were: Sarvashri Jagpal Singh, Kalra Das, Ram Saijwan, Shopat Singh Makkar, R. N. Rakesh, Satya Narain Jatiya, Yamuna Prasad Shastri, Ramjilal Suman, Amar Roypradhan, Chand Ram, Ram Lal Rahi, Harish Rawat, Ram Krishna Yadav, Sontosh Mohan Dev, Hari Shankar Mahale, Dasai Choudhary, Hemendra Singh Banera, Bengali Singh, Gopinath Gajapathi, Ram Prem Pradeep, Chhedi Paswan, Ram Dhan and Ch. Multan Singh.

make separate arrangements for rehabilitation of those, who did not want to return to their villages and had a sense of insecurity.

*Position of Indians in Kuwait:* Making a statement on the issue on 8 August 1990, the Minister of External Affairs, Shri I.K. Gujral informed the House that there were about 1,72,000 Indian nationals in Kuwait. He added that on 2 August 1990, the day on which Iraq's military action commenced, Government of India had issued instructions to their Ambassador in Kuwait to evolve appropriate mechanism to get in touch with all members of the Indian community there. The Government had also requested the Iraqi authorities through the Indian Ambassador in Baghdad to ensure that appropriate instructions were sent to the troops to extend protection to Indian nationals in Kuwait, the Iraqi authorities had in turn intimated that such instructions had been sent. A Special Cell was also opened in the Ministry of External Affairs to receive enquiries regarding the welfare of Indian nationals in Kuwait from their relatives and friends.

Making another statement next day, Shri Gujral informed the House that all the members of Indian community were safe and well in Kuwait.

In a statement made on 17 August 1990, the Minister of State in the Ministry of External Affairs, Shri Hari Kishore Singh informed the House that in Kuwait the airports and seaports were also closed on 2 August 1990 and the communication links between Kuwait and the rest of the world became inoperative from 3 August 1990. The Government had managed to establish a communication link which was not entirely reliable. There was no exit route from Kuwait and Baghdad except through Amman, which was the only route kept open by the Iraqi authorities. In the unusual conditions prevailing there, the Government were trying their best to evacuate Indian nationals who were stranded or in distress. He added that the Minister of Energy and Civil Aviation Shri Arif Mohd. Khan, who had gone to Amman on 13 August was assured of full cooperation by the Royal Jordanian Government. Shri Khan was also proceeding to Saudi Arabia immediately to have discussion with the local authorities on the question of evacuation of Indian nationals from Saudi Arabia. The External Affairs Minister, Shri I.K. Gujral, who had gone to Moscow on 13 August 1990, met his Soviet Counterpart next day and discussed the safety and security of the Indian nationals in Kuwait and the adverse impact on India's economy due to increase in oil prices. The Minister observed that Shri Gujral, who would visit Baghdad on return would pursue with the Iraqi authorities the question of safety and security of Indian nationals there and the evacuation of those who were in distress or stranded.

On 22 August 1990, replying to the points raised by members, the Minister of Information and Broadcasting and Minister of Parliamentary

Affairs, Shri P. Upendra stated that arrangements had been made for those, who wanted to come back to India.

Making a statement on 23 August 1990, regarding his visit to Moscow, Washington, Amman, Baghdad and Kuwait in the context of Gulf crises, External Affairs Minister, Shri I.K. Gujral said that the primary reason of his tour was Government's deep concern for the welfare, security and well being of the large Indian community, living and working in Kuwait and elsewhere in the Gulf. Shri Gujral, who had visited several places in Kuwait, observed that while the law and order situation was not normal, there was no cause for grave anxiety. Iraq had decided that no Embassy in Kuwait would be allowed to continue after 24 August 1990. There was little option for the foreign Missions located in Kuwait, but to comply with the decision, he added.

The Minister further observed that in the crossfire on 2 August 1990, two Indian nationals had lost their lives. On his request, the Iraqi Deputy Prime Minister and Foreign Minister agreed to issue specific instructions to the concerned Iraqi authorities to verify if any Indian nationals had been detained through mistaken identity and to release them immediately. For repatriation of Indian nationals, the Government of India had arranged, with the approval of the Iraqi Government, to charter an Iraqi aircraft from Basra, which was close to Kuwait, to take Indian nationals to Amman from where Air India would pick them up. The Government of India were setting up offices on both sides of the Iraq-Jordan border to facilitate passage by the land route. Steps had also been taken for adequate reception at Bombay and Trivandrum airports and for facilitating their onward journey for which the Minister of Railways had agreed to provide free tickets, he added.

The Minister informed the House that an important question discussed by him particularly in Moscow and Washington was that of oil supplies at a reasonable price and the discussions were generally encouraging. The Minister apprehended that the escalation of tension or conflict in the Gulf would have serious repercussions in India. The Government of India were considering the possibility of sending people of all nationalities caught in the crises, he added.

The statement of the Minister of External Affairs was the subject matter of discussion in the House on 24 and 27 August 1990. Initiating the discussion on 24 August 1990, Shri Girdhari Lal Bhargava urged the Government to make arrangements so that people would get regular information about the situation in Kuwait.

In a brief intervention, Shri I.K. Gujral clarified that the Government of India had not accepted the merger of Iraq and Kuwait.

On 27 August 1990, Shri Chitta Basu felt that India, as the leading NAM country should take certain initiatives in collaboration with the

Arab League and other countries. Shri Ibrahim Sulaiman Sait demanded that steamer ships be pressed into service to bring back the Indian Nationals.

Replying to the discussion in which 28 other members\* participated, Shri Gujral informed the House that Government were able to bring back approximately 1,600 passengers per day. The moment it became easier to let the people walk or ride from Basra to Iran, it would be possible to send ships to Bandar Khomeini to clear a bigger number. India also proposed to a shipload of food; and was trying to persuade the United States and others to let the ship proceed to its destination. Shri Gujral maintained that the Government of India did not want to be a self-appointed mediator, but at the same time, her anxiety was second to none in trying to avert the crisis.

*Constitution of the National Security Council:* Making a statement on 24 August 1990, Prime Minister, Shri Vishwanath Pratap Singh announced that the Government had decided to set up a National Security Council comprising the Prime Minister as Chariman and Ministers of Defence, Finance, Home Affairs and External Affairs as its members. The Council might request other Union Ministers and any Chief Minister of a State besides inviting experts and specialists, to attend its meetings, if necessary. He added that the main endeavour of the National Security Council would be to evolve an integrated approach to policy making, as it affected national security, taking account the linkages between the evolving external situation in the political, military and economic fields and our domestic situation. He informed that the subjects submitted for the consideration of the Council would broadly cover external threats strategic defence policies; other security threats, specially those involving atomic energy, space and high technology; internal aspects such as counter-insurgency, counter-terrorism and counter-intelligence; patterns of alienation likely to emerge within the country, especially those with a social, communal or regional dimensions; security implications of evolving trends in the world economy on India's economic and foreign policies; external economic threats in areas such as energy, commerce, food and finance; threats posed by trans-border crimes such as smuggling and trafficking in arms, drugs and narcotics; and evolving a national consensus on strategic and security issues. The Council would be assisted by a strategic Core Group comprising representatives of the three Services and the Ministries concerned with the Cabinet Secretary as its Chairman. The

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\* Other members who took part in the discussion were: Sarvashri Eduardo Faleiro, Samarendra Kundu, Yadvendra Dutt, Bhogendra Jha, T. Basheer, A. Charles, M. Ramanna Rai, Yuvraj, P.R. Kumaramangalam, Prem Kumar Dhurnal, Ramesh Chenithala, Janardhana Poojary, Inderjit, M.S. Pal, Kamaluddin Ahmed, P.C. Thomas, Sontosh Mohan Dev, Piyare Lal Handoo, Kodikunnil Suresh, Ram Krishna Yadav, P.A. Antony, Palai K.M. Mathew, K.V. Thomas, K. Muraleedharan, P.M. Sayeed, P.J. Kurien, Dr. Thambi Durai and Professor (Shrimati) Savithri Lakshmanan.

Council would have a separate Secretariat, headed by a Secretary, who would be in the rank of Secretary to the Government of India, he concluded.

*Proclamation in respect of Punjab:* On 5 October 1990, the Minister of Home Affairs, Shri Mufti Mohammed Sayeed moved a Statutory Resolution for extension of Presidential Proclamation in respect of Punjab for a further period of six months with effect from 11 November 1990. In the ensuing debate 13 members\* participated and all of them pleaded for early restoration of democratic process in Punjab.

Winding up the discussion Prime Minister, Shri Vishwanath Pratap Singh said that the Government were very clear that frequent extension of President's Rule was no solution to the problem. Ultimately the Government would have to take people into confidence and entrust to the people the responsibility of running the State administration in a democratic way. The Government were making efforts in this direction and had taken several steps in this regard. As regards employment scheme for Youth, the Government's proposal was to provide employment to ten thousand youths in border areas by recruiting them in the task force. Regarding 1984 riots, special courts had been set up to deal with the people responsible for inciting the riots, he concluded.

The Resolution was adopted.

*Communal disturbances in the country:* Initiating a discussion on 5 October 1990, regarding communal disturbances in Gonda in Uttar Pradesh and elsewhere in the country, Shri H.K.L. Bhagat appealed to Shri L.K. Advani to withdraw his Rath Yatra in the interest of the unity of the country.

Participating in the discussion, Shri Nani Bhattacharya called upon the Bharatiya Janta Party to declare that they were for secular policy and they must behave in that way. While Shri Chitta Basu observed that Ram Janam Bhoomi-Babri Masjid issue could be settled by mutual negotiations, Shri Ibrahim Sulaiman Sait urged the Government to ban the Rath Yatras so that the country could be saved from disaster.

Replying to the discussion in which 17 other members\*\* participated, the Minister of State in the Ministry of Home Affairs, Shri Subodh Kant Sahay said that guidelines laid down by the previous Government for maintaining

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\*The members who took part in the discussion were: Sarvashri P. Chidambaram, Rajdev Singh, Arif Beg, Sontosh Monan Dev, Harbhajan Lakha, Professor N.G. Ranga, Dr. Biplob Dasgupta, Dr. Thambi Durai, Ch. Ram Prakash, Sardar Atinder Pal Singh, Sardar Kirpal Singh, Shrimati Geeta Mukherjee and Shrimati Bimal Kaur.

\*\* Other members who took part in the discussion were: Sarvashri Brij Bhushan Tiwari, Rajveer Singh, C.K. Jaffer Sharief, Mitrasen Yadav, Yuvraj, Ram Naik, Kadambur M.R. Janarthanan, Ram Krishna Yadav, T. Basheer, Sultan Salahuddin Owaisi, Gumanmal Lodha, R.N. Rakesh, Kalka Das, Ramesh Chenithala, Sardar Atinder Pal Singh, Shrimati Subhasini A. and Dr. (Shrimati) Rajendra Kumari Bajpai.

communal harmony and crushing communalism were being followed in toto by the National Front Government and the States ruled by it. Expressing concern over the Gonda Riots, Shri Sahay said that compensation had been paid to the victims and the culprits of the incident would be punished. The Government would implement the decisions taken in the National Integration Council and would follow the guidelines set by it. State level and district level committees, comprising representatives of various sections of the society, would be set up to oversee the cases of communal riots, he concluded.

#### B. LEGISLATIVE BUSINESS

*National Commission for Women Bill, 1990\**: On 30 May 1990, moving that the Bill be taken into consideration, the Deputy Minister in the Department of Women and Child Development in the Ministry of Welfare, Shrimati Usha Singh said that the Bill would not only prohibit discrimination against women but also contained many provisions for the protection of women. The National Commission for Women had been set up to look into their complaints and to suggest ways for affording legal protection to them and to that end suggest amendments in the laws, wherever necessary, so that women may achieve equal status in all walks of life.

On 8 August 1990, intervening in the discussion, Prime Minister, Shri Vishwanath Pratap Singh observed that the status of the National Commission for Women would be equal to that of the Commission for Scheduled Castes and Scheduled Tribes.

Participating in the discussion, Kumari Mayawati pointed out the plight of women particularly those belonging to down-trodden classes.

Winding up the discussion on 9 August 1990, in which 23 other members\*\* participated, the Minister of Labour and Welfare, Shri Ram Vilas Paswan said that the Chairman of the Commission would be appointed directly by the Government and persons belonging to Scheduled castes and Scheduled Tribes would be included in it. The Union Government would consult the Commission on all matters concerning the interests of women. The Commission would work as an independent unit, he added.

The Bill, as amended, was passed.

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\* The Bill was introduced on 22 May 1990, by the Minister of Labour and Welfare, Shri Ram Vilas Paswan.

\*\* Other members who took part in the discussion were: Sarvashri Harish Rawat, Dalpat Singh Paraste, Girdharilal Bhargava, Hemendra Singh Banera, G.M. Banatwalla, Gumanmaj Lodha, K.R. Narayanan, Ram Krishna Yadav, Palai K.M. Mathew, Rameshwar Prasad, P.C. Thomas, Professor N.G. Ranga, Professor Malini Bhattacharya, Shrimati Jayawanti N. Mehta, Shrimati Subhasini Ali, Shrimati Sumitra Mahajan, Shrimati Uma Gajapathi Raju, Shrimati Geeta Mukherjee, Shrimati Vasundhra Raju, Shrimati Basavarajeswari, Kumari Umabharti, Shrimati Chennupati Vidya and Shrimati J. Jamuna.

*The Armed Forces (Jammu and Kashmir) Special Power Bill, 1990*: On 16 August 1990, moving that the Bill be taken into consideration, the Minister of Home Affairs, Shri Mufti Mohammed Sayeed said that the public order in Jammu and Kashmir had been seriously disrupted due to activities of the secessionist and militant elements. To enhance the capabilities of the security forces of the State Police, it was also considered necessary to arm them with additional powers. As the Parliament was not in Session, an Ordinance was issued by the President on 5 July 1990.

Earlier, moving the Statutory Resolution seeking approval of the Presidential Proclamation issued on 18 July 1990 under article 356 of the Constitution in relation to State of Jammu and Kashmir, the Minister said that the proclamation issued by the Governor on 19 January 1990 was to expire on 18 July 1990. The Governor of Jammu and Kashmir, in his report of 3 July 1990 sent to the President of India, had stated that as the State Assembly stood dissolved, it was not possible to constitute an elected Government and it would not be possible to carry on the Government of the State in accordance with the provisions of the Constitution of Jammu and Kashmir after the expiry of the Proclamation issued by the Governor. The Governor, therefore, recommended to the President, to consider issuing of a Proclamation under article 356 of the Constitution of India. As such, the Proclamation under article 356 was issued by the President on 18 July 1990.

On 20 August 1990, participating in the discussion, Shri Saif-ud-din Soz demanded withdrawal of Disturbed Areas Act and Kashmir (Special Powers) Armed Forces Act. Shri Chitta Basu felt that the Government should have a very firm Kashmir Policy in the interest of the nation's security, unity and integrity.

Replying to the discussion on 21 August 1990 in which 20 other members<sup>\*\*</sup> participated, Shri Mufti Mohammed Sayeed said that Pakistan was planning to create insurgencies in Kashmir and make it difficult for the Indian forces to control the situation. The Government had taken several steps to check infiltration and had taken action against those who had committed wrong things.

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<sup>\*</sup>The Bill was introduced on 8 August 1990, by the Minister of Home Affairs, Shri Mufti Mohammed Sayeed.

<sup>\*\*</sup>Other members who took part in the discussion were : Sarvashri Dinesh Singh, Saifuddin Choudhury, Lokanath Choudhury, P. Chidambaram, Prem Kumar Dhurais, Surya Narain Yadav, Gulab Chand Kataria, Inderjit, Dharam Pal Sharma, Madan Lal Khurana, Pyare Lal Handoo, Hemendra Singh Banera, Janak Raj Gupta, Ram Krishna Yadav, Shikho Sema, Girdhari Lal Bhargava, Rajendra Agnihotri, Harish Rawat, Dr. Thambi Durai and Dr. Venkatesh Kabdey.

After Shri Jaswant Singh spoke, his Resolution moved by him on 16 August 1990 regarding disapproval of the ordinance, was withdrawn by leave of the House.

The Resolution seeking approval of the Presidential Proclamation was adopted.

The Bill was passed.

*The Prasar Bharti (Broadcasting Corporation of India) Bill 1989*<sup>\*</sup>: On 22 August 1990, speaking on the motion moved by him on 21 August 1990 for taking the Bill into consideration, the Minister of Information and Broadcasting and Minister of Parliamentary Affairs, Shri P. Upendra said that in their election manifesto, the National Front, had made a commitment that one of the first acts of the National Front Government would be to free the electronic media from the control of the Government and create an autonomous corporation for this purpose. The demand for autonomy had arisen because of the large-scale misuse of this media in the past. Therefore, the first task of the new Government was to restore the credibility of this media and the Government had taken certain steps in that direction. The Bill had been introduced in December 1989 and a nationwide debate was organised after that. Almost every section of the society participated in the debate. The Government received a large number of suggestions for improving the provisions of the Bill. These were computerised and considered in the Ministry of Information and Broadcasting on the basis of which some amendments were proposed during the Budget Session. There was another round of discussions on the amendments as well as on the main provisions of this Bill. By proposing an amendment in clause 22, it was made obligatory for the Corporation to supply information to the Government for passing on to the Parliament. This Corporation would be under the overall control of the Parliament of India, which represents the people of India. In case the Parliament needed some information that would have to be supplied by the Government, particularly the Information and Broadcasting Ministry which would be a nodal Ministry for this purpose. In case of persistent refusal by the Corporation either to heed to the directives or to supply information, the matter would be brought before the Parliament for whatever action it might deem necessary.

Previously the Government thought of having a full time Chairman. But after reconsideration it was thought that a part-time Chairman would be more suitable for the purpose. Therefore, an amendment had been brought in this regard also.

Previously, there was a provision in the Bill, that the Broadcasting Council which would be the watch-dog of this Corporation would submit a report every year and that report would form part of the main reports of

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<sup>\*</sup>The Bill was introduced on 29 December 1989 by the Minister of Information and Broadcasting and Minister of Parliamentary Affairs, Shri P. Upendra.



the Prasar Bharati. But a suggestion had come, that in such cases the Broadcasting Council would become subsidiary to the Prasar Bharati, which should have its own independent existence. Therefore, it had been suggested that the Broadcasting Council would submit its own report independently and not as a part of the Prasar Bharati report. Therefore, that also had been brought as an amendment.

There was a proposal that the Prasar Bharati should have financial autonomy also as the funding by the Government would undermine its autonomy and independence. The Minister argued that the Election Commission, the Union Public Service Commission and the Comptroller and Auditor General are funded by the State without affecting the independence of these organisations. Therefore, there was no reason to suspect that simply because the State would fund the Prasar Bharati to the extent of its deficit, it was going to undermine the independence and autonomy of the Corporation.

As regards the selection of the Board of Governors, a special provision was made in the Bill. The Chairman of the Board of Governors of the Prasar Bharati would be selected by a high-powered committee to be headed by the Vice-President of India. It would consist of the Chairman of the Press Council and an expert to be nominated by the President of India.

There were many other suggestions and amendments received from various parties. The Government would also give thought to what amendments could be accepted. There was a suggestion that this Bill be referred to a Select Committee. A nation-wide debate had already taken place. Since almost every section of the society had reacted to this, no further discussion was needed.

The Bill was discussed on 22, 23, 27, 28, 29 and 30 August 1990. Speaking on 27 August 1990, Shri L. K. Advani said that the Bill would be a landmark in the history of broadcasting in the country. On 28 August 1990, Shri Chitta Basu said that the Bill was a true reflection of the needs of the Indian people. Shri Nani Bhattacharya termed it as a new venture. Laying emphasis on regional/linguistic aspirations, Shri Saif-ud-din Soz suggested that there should be a second channel of Doordarshan available to the State Governments.

Replying to the discussion on 29 August 1990, in which 34 other members participated, Shri P. Upendra said that there was no need for referring the Bill to a Select Committee, as there was a consensus on most of the amendments.

The Government had acceded to the suggestion that the term, Governor, used for members in the Bill was not appropriate and now the members would be called members of the Prasar Bharati Board and the Executive Governor would be called Executive Member of the Prasar Bharati Board. The Government had also incorporated the suggestion that the two Directors-General of Doordarshan and All India Radio should also be its members. In compliance with suggestions received from the members, the Government had given an amendment providing for inclusion of two workers' representatives, one from the engineering staff and another from non-engineering and other staff. The number of the members of the Board would be 15 instead of 11. The Bill also provided for a parliamentary committee viz. the Committee of Parliament on the Broadcasting Media, to oversee the working of the Corporation with 15 members from Lok Sabha and seven from Rajya Sabha.

On 30 August 1990, speaking on the motion moved by the Minister that the Bill, as amended, be passed, Shri Somnath Chatterjee said that his party was having reservations on the overall impact of the legislation. Shri L. K. Advani expressed the hope that credibility of the electronic media would go up and the standard of programmes broadcast from Radio and Television would improve. Shri Nani Bhattacharya observed that it was to be ensured that its accountability would be only to the Parliament.

Winding up the discussion, in which 14 other members\*\* participated, Shri P. Upendra assured the House that no essential feature or no basic objective of the Bill was watered down or compromised, while arriving at a consensus.

The Bill, as amended, was passed.

*The Constitution (Seventy-Fifth Amendment) Bill, 1990\*\*\* and the Constitution (Seventy-Sixth Amendment) Bill, 1990: On 1 October 1990, moving that the Seventy-Fifth Amendment Bill be taken into consideration,*

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\* Other members who took part in the discussion were: Sarvashri Vasant Sathe, Santosh Bhartiya, Loknath Choudhury, S. Krishna Kumar, A. N. Singh Deo, Kusuma Krishnamurthy, Mandhata Singh, P. C. Thomas, Ram Krishna Yadav, P. R. Kumaramangalam, Rameshwar Patidar, Rupchand Pal, Brij Bhushan Tiwari, Sontosh Mohan Dev, Inderjit, Anantrao Deshmukh, Nandu Thapa, Santosh Kumar Gangwar, Moreshwar Save, Palai K. M. Mathew, Shailendra Nath Shrivastava, P. Chidambaram, K. S. Chavda, Rasa Singh Rawat, C. M. Negi, V. N. Gadgil, P. Narsa Reddy, Dasai Choudhary, Sardar Kirpal Singh, Dr. Thambi Durai, Dr. Debi Prosad Pal, Professor Ram Ganesh Kapse, Professor (Shrimati) Malini Bhattacharya and Shrimati Uma Gajapathi Raju.

\*\* Other members who took part in the discussion were: Sarvashri A. K. Roy, Sontosh Mohan Dev, Vasant Sathe, Bhogendra Jha, P.J. Kurien, Inderjit, P.M. Sayeed, Saifuddin Choudhury, K.S. Rao, S. Krishna Kumar, Nirmal Kanti Chatterjee, Hemendra Singh Banera, Kapil Dev Shastri and Dr. Thambi Durai.

\*\*\* The Bill was introduced on 1 October 1990 by the Minister of Home Affairs, Shri Mufti Mohammed Sayeed.

the Minister of Home Affairs, Shri Mufti Mohammed Sayeed said that the President had issued a Proclamation under article 356(1) of the Constitution on 11 May 1987 in relation to the State of Punjab. As the law and order situation in the State continued to be disturbed, President's rule in Punjab had been further extended from time to time with the approval of Parliament. Accordingly, clauses (4) and (5) of article 356 of the Constitution were amended to enable the extension of President's rule in Punjab which was due to expire on 10 November 1990, for a total period of three years and six months. However, the prevailing circumstances in the State were not conducive to holding free and peaceful elections to the State Legislative Assembly. Clause (4) of the article 356 of the Constitution was, therefore, proposed to be amended so as to facilitate extension of the said Proclamation upto a total period of four years.

Participating in the discussion, Shri Indrajit.Gupta said that continuing with the President's rule without taking other measures simultaneously, would not lead to any improvement in the situation. Shri Nani Bhattacharya felt that the situation in Punjab was such that free and fair elections could not be held. Shri Saif-ud-din Soz stated that the situation in Punjab and Kashmir was inter-connected.

Winding up the discussion in which 14 other members\* participated, Shri Mufti Mohammed Sayeed said that the Government had tried to provide a healing touch to the people of Punjab. The Prime Minister, during his visit to Punjab had announced that employment to one lakh youth of Punjab would be provided and for that purpose the Union Government had placed an amount of Rs. 100 crores at the disposal of the State Government. In addition to this, State Government were also preparing a task force of about ten thousand people, he added.

The motion for consideration of the Bill was declared as not carried since it did not get a majority of the total membership of the House in accordance with rule 157 of the Rules of Procedure and Conduct of Business in Lok Sabha and in accordance with article 368 of the Constitution.

Since the Constitution (Seventy-Fifth Amendment) Bill 1990, fell through on 1 October 1990, in Lok Sabha, on 4 October 1990 Shri Mufti Mohammed Sayeed moved a motion that Rule 338\*\* of the Rules of

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\*Other members who took part in the discussion were: Sarvashri Kamal Chaudhary, Yamuna Prasad Shastri, Prem Kumar Dhumal, Saifuddin Choudhury, Kapil Dev Shastri, Inderjit, Harbhajan Lakha, Rajdev Singh, A.K. Roy, Dr. Thambi Durai, Sardar Atinder Pal Singh, Sardar Kirpal Singh, Shrimati Bimal Kaur and Shrimati Sukhbuns Kaur.

\*\*Rule 338 which deals with repetition of motion, provides, "A motion shall not raise a question substantially identical with one on which the House has given a decision in the same session".

Procedure and Conduct of Business in Lok Sabha be suspended in its application to the motions for leave to introduce, consideration and passing of the Constitution (Seventy-Sixth Amendment) Bill, 1990, which was also regarding extension of President's Rule in Punjab during the current session of Lok Sabha. The motion was adopted.

The Minister of Home Affairs, Shri Mufti Mohammed Sayeed then introduced the Bill and moved that the same be taken into consideration.

Winding up the discussion on the motion that the Bill, as amended, be passed, Shri Sayeed said that the Government were very keen to restore normal conditions in Punjab and also for holding elections there.

The Bill as amended, was passed by the requisite majority in accordance with the provisions of article 368 of the Constitution.

### C. THE QUESTION HOUR

During Part I of the Session, 222, 61 notices of Questions (177, 46 Starred, 4,421 Unstarred, 91 Short Notice Questions and 3 Questions under rule 40† of the Rules of Procedure and Conduct of Business in Lok Sabha) were received. Out of these, 440 Starred Questions, 5,094 Unstarred, one Short Notice Question and one Question under rule 40† were admitted. Six Starred and 80 Unstarred Questions were deleted/postponed/transferred from one Ministry to another.

There was no Question Hour during Part-II of the Session. Members, however, tabled notices of Short Notice Questions. Out of notices received for three Short Notice Questions, two were disallowed and one lapsed at the end of the Session.

*Daily Average of Questions:* The list of Starred Questions in respect of every day when the House sat contained 20 Questions except on 16 August 1990 when it had 22 Questions and 29, 30, 31 August and 3 September 1990, 21 Questions each. The average number of Starred Questions orally answered per day on the floor of the House during the Session was four. The maximum Starred Questions answered on a day were six on 9 August and the minimum were three each on 7, 8, 17, 20, 22 and 31 August 1990.

The average number of Questions in the daily lists of Unstarred Questions was 232 against the prescribed limit of 230 Questions, the

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\*Four other members who spoke on the motion, were: Sarvashri A.K. Roy, Inderjit, Dr. Thampi Durai, and Shrimati Bimal Kaur.

\*\*The Bill was renumbered as the Constitution (Sixty-Seventh Amendment) Bill, 1990 after it was passed by the two Houses.

†Rule 40 provides for asking a Question from a private member provided the subject matter of the Question relates to some Bill, Resolution and any other matter connected with the business of the House for which that member is responsible. The notices of such Questions, are, however rarely received.

minimum being 230 on 24 August and the maximum being 242 on 5 September 1990.

*Half-an-Hour Discussions:* In all, 87 notices of Half-an-Hour Discussions were received during the Session. Out of these, 17 notices were admitted and four were discussed on the floor of the House.

#### D. OBITUARY REFERENCES

During the Session, the House made obituary references to the passing away of Shri Shashibhai Jamod and Ch. Multan Singh (sitting members), Sarvashri Harindranath Chattopadhyaya, Devendra Satpathy, C. Nanjappa, G.N. Dixit, C.M. Poonacha, J. Matha Gowder, Mulki Raj Saini, T.R. Shamanna, Raj Bahadur, Prafulla Chandra Sen and Charanjit Singh (all former members).

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### RAJYA SABHA

#### HUNDRED AND FIFTY-FIFTH SESSION\*

The Rajya Sabha met for its Hundred and Fifty-Fifth Session on 7 August 1990 and adjourned *sine die* on 7 September 1990. It was reconvened on 1 October 1990 and adjourned *sine die* on 5 October 1990. A brief resume of some of the important discussions held and other business transacted during the Session is given below:

#### A. DISCUSSIONS

*Price situation in the country:* Initiating a short duration discussion on 7 August 1990, Shri Atal Bihari Vajpayee asserted that the present Government had inherited a very bad economic situation. The Government had expressed their concern over the rising prices and despite some steps having been taken by them, the prices were still increasing. He said that one of the main reasons for the price rise was heavy taxes in the Budget. According to the member, if the prices had in any case to be raised by the Government themselves then certain other measures should also have been taken so as to contain the rise in items of common use.

Replying to the debate\*\* on 8 August 1990, in which 17 members participated, the Minister of Finance, Professor Madhu Dandavate said that the price rise was a national problem which had to be dealt with in a national perspective. He said that his first priority was to try to curtail the deficit. The original budgetary deficit last year was Rs. 7,337 crores, which was revised to Rs. 11,750 crores. The present Budget projected a deficit

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\*Contributed by the Research and Library Section, Rajya Sabha Secretariat.

\*\*Other members who took part in the discussion were: Sarvashri S.B. Chavan, Ish Dutt Yadav, N.K.P. Salve, E. Balanandan, Murlidhar Chandrakant Bhandare, Rameshwar Thakur, T.R. Balu, Shankar Dayal Singh, Gurudas Das Gupta, G. Swaminathan, Anant Ram Jaiswal, Subramanian Swamy, Krishna Kumar Birla, Ram Jethmalani, Ram Awadhesh Singh, Dr. G. Vijaya Mohan Reddy and Professor Sourendra Bhattacharjee.

of Rs. 7,602 crores. The Minister felt that a time had come to decide unanimously whether some sort of ceiling should be fixed on borrowings. Referring to the increase in the price of petrol by 15 per cent, the Minister observed that whenever certain increases were caused in a Budget, the cascading effect was far more than what was supposed to be. He admitted that increase in petroleum product prices and diesel prices had affected not only transport charges but also the prices of a number of commodities.

With regard to sugar, the Minister observed that the Government had also to take into account the interests of the sugarcane growers and for that, it would not allow the imbalance to be created between the remunerative prices, the consumer prices and also the cost of production. Despite best production sometimes, the industry and the traders tried to keep the stocks and deliberately created an artificial scarcity, which also created inflationary pressure on the prices of sugar. He warned those who resorted to hoarding and tried to create an artificial scarcity, to be dealt with strictly. So far as tea was concerned, the Minister added, the Soviet Union had allowed India to stagger export of tea and as a result its price had come down to some extent.

The Minister noted that the surpluses generated in the public sector could be utilised for welfare and developmental activities. Unfortunately, as the present statistics revealed, almost half of the public sector enterprises were earning profits whereas rest of them were losing concerns. The Government would take proper steps to ensure that the public sector was reformed.

The Minister assured the House that in spite of the oil prices increased by OPEC recently and the recent aggression or the developments that had taken place in Kuwait, fortunately, India had built up inventories, and on this score also, an alarming situation would not develop at all.

Winding up the debate, the Minister observed that the situation with regard to edible oils was most alarming due to production of oil-seeds having gone down considerably. India had entered into agreements with certain countries, according to which large stocks of milk powder lying unsold here would be exported to them and in return they would be sending Palmoleine oil in the refined and purified form which would be sold at a lower price in India, he concluded.

*Government's decision to implement recommendations of Mandal Commission Report:* Making a statement on the subject on 7 August 1990, Prime Minister Shri Vishwanath Pratap Singh expressed happiness over a momentous decision taken by his Government to provide social justice to the Socially and Educationally Backward classes (SEBCs) on the basis of the recommendations as contained in the Mandal Commission's Report. He observed that the Constitution envisaged that SEBCs be identified, their difficulties removed and their conditions improved in terms of article

340(1) read with articles 15(4) and 16(4). It was a negation of the basic structure of the Constitution that till now this requirement had not been fulfilled, he felt.

The Prime Minister informed the House that the Second Backward Classes Commission under the Chairmanship of late Shri B.P. Mandal which was appointed on 1 January 1979 had submitted its report on 31 December 1980. In accordance with Government's commitment before the people this was included in its Action Plan. He announced that in order to avail of the benefit of the long experience of a number of States in preparing lists of SEBCs and in order to ensure harmonious and quick implementation, the Government had decided to adopt in the first phase, the castes common in both the lists—one prepared by the Mandal Commission and the other by the States. He added that the percentage of reservation for the SEBCs would be 27 per cent and would be applicable to services under the Government of India and Public Undertakings.

Referring to an announcement made by him designating the Ambedkar Centenary Year as the 'Year of Social Justice', the Prime Minister added that a number of measures of social justice pertaining to scheduled castes, scheduled tribes and other weaker sections had been taken by the Government.

On 9 August, 1990, while replying to the points raised by members, the Prime Minister observed that the present socio-economic system was adversely biased against the weaker sections. He added that to ask those weaker sections to compete equally with the other sections, which were better off, proved that there was something defective in the system itself. Treating unequals as equals was the greatest injustice. He recalled that the National Front Government's commitment for reform in the social order was something of great significance. What was necessary, on the Government side was to make a conscious decision and implement such programmes and schemes by which these sections were drawn into the decision-making and power-sharing processes. In reply to a point regarding reservation on the basis of economic criteria, he said that the Government did not want to dilute 27 per cent reservation by any other categorisation. But, the question to involve the poorest into the power structure remained. If 40 per cent people were below the poverty line, seats should be reserved for them to that extent in the Rajya Sabha, Lok Sabha and State Legislature, he felt.

Referring to other measures taken by the Government in this regard the Prime Minister said that there was an idea to set up an expert committee which would interact with the States to find out solutions regarding those castes or classes which had not been included in the State List but were mentioned in the Mandal Commission recommendations. So far as the question of providing reservation in educational institutions was concerned, the Government had, in first phase, implemented the Report

for appointment in the Government Departments and the Public sector only. He added that a decision had been taken that in every selection Board of the Government of India, there might be a member of the minority community and one belonging to scheduled castes or scheduled tribes so that their feeling that justice was not being done in selection, would be removed.

Replying to another point regarding total reservation, the Prime Minister informed that there would now be a total reservation of 49.5 per cent—15 per cent for scheduled castes, 7½ per cent for scheduled tribes and 27 per cent for other Backward Classes. While reservation for these categories were caste-wise, for Ex-servicemen and handicapped, etc., it might include among them scheduled castes and scheduled tribes and other backward class persons and such percentage of Ex-Servicemen and handicapped who were scheduled castes, scheduled tribes and backward classes would be set off against the quota of reservation for those communities. In other words, he added, reservation for the Ex-Servicemen and the handicapped was inclusive of the total reservation for scheduled castes and scheduled tribes and backward classes. As regards the Muslims, the Mandal Commission had said that wherever a State had recognised them as backward, they would be treated as such, for example, 'Arzaris' was recognised in Uttar Pradesh. In some of the States more than 50 per cent reservation had been made and so there was no ceiling on that. In conclusion, the Prime Minister observed that the Government were also coming up with a Bill, so far as women were concerned—for their reservations in panchayat bodies, Zila Parishads and Municipalities. That was one step towards sharing of power by women.

*Constitution of National Security Council:* Initiating a short duration discussion on 28 August 1990 on the constitution of National Security Council by the National Front Government, Leader of the Opposition, Shri P. Shiv Shanker questioned the necessity of its setting up since all aspects of national security were looked at in a coordinative and comprehensive manner by the existing structures.

Replying to the discussion on the same day in which nine members participated, Prime Minister, Shri Vishwanath Pratap Singh said that his Government wanted to have friendly relation with all the neighbours and would actively pursue that policy. But, if there was any threat to national security, it would be effectively dealt with.

Referring to the queries that the Council would become too powerful and the Prime Minister could misuse it or that it was just a sub-committee and there was nothing new about it, the Prime Minister observed that these were two different sides of the criticism. The Government had taken

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\* Other members who took part in the discussion were: Sarvashri Mohd. Khaleelur Rehman, Dipen Ghosh, N.K.P. Salve, Kapil Verma, Raj Mohan Gandhi, Murlidhar Chandrakant Bhandare, Ram Awadhesh Singh, Sardar Jagjit Singh Aurora and Kumari Sushma Swaraj.



all care to see that the Council functioned within the Cabinet system, and that it did not impinge on the powers of Parliament.

Regarding a point that when the Government were reducing expenditure what was the necessity for setting up a new Secretariat for National Security Council, the Prime Minister noted that such expenditure had to be made as it would save more of country's expenditure later on to deliberate collectively, a body was necessary. The Secretariat would address itself entirely to it. So, it would be like a memory bank, the Prime Minister said.

#### B. LEGISLATIVE BUSINESS

The National Commission for Women Bill, 1990<sup>\*</sup>: Moving the motion for consideration of the Bill on 20 August 1990, the Deputy Minister in the Department of Women and Child Development in the Ministry of Welfare, Shrimati Usha Singh said that in the National Front manifesto, the Prime Minister had promised that with a view to prevent discrimination against women and for redressal of their grievances, a National Commission for Women would be set up giving suitable representation to women from all walks of life. She added that the Ministry of Women and Child Welfare had held consultations with the members of Parliament, concerned State Ministers and various Women's organisations and finalised the draft of the National Commission for Women Bill. She informed the House that the main task of the Commission would be to study and monitor all matters relating to the constitutional and legal safeguards provided for the women, to review the existing legislations and suggest amendments, wherever necessary.

After the discussion in which five members<sup>\*\*</sup> participated, the motions for the consideration of the Bill and clauses etc. were adopted and the Bill was passed on 23 August 1990.

*The Armed Forces (Jammu and Kashmir) Special Powers Bill 1990*:<sup>\*\*\*</sup> Moving the motion for consideration of the Bill on 23 August 1990, the Minister of Home Affairs, Shri Mufti Mohammed Sayeed said that the Jammu and Kashmir State Assembly, initially kept under animated suspension, was dissolved by the Governor of Jammu and Kashmir on 19 February 1990. The Proclamation issued by the Governor on 19 January 1990 had expired on 18 July 1990 at the expiration of six months. Under the Constitution of Jammu and Kashmir, there was provision for further continuance of the Proclamation by the Governor. The Governor had, in his report dated 3 July 1990 sent to the President of India, stated that the terrorist elements had stepped up their attacks on the security forces and continued to indulge in large-scale violence against innocent people and

<sup>\*</sup>The Bill as passed by the Lok Sabha, was laid on the Table on 10 August 1990.

<sup>\*\*</sup>Other members who participated in the discussion were: Sarvashri Subramanian Swamy, Gurudas Das Gupta, Shrimati Satya Bahin, Shrimati Bijaya Chakravarty and Kumari Saroj Khaparde.

<sup>\*\*\*</sup>The Bill as passed by the Lok Sabha was laid on the Table on 21 August 1990.

that the current situation in the State was not conducive to the holding of early elections to the Legislative Assembly. The Governor had further stated that as the State Assembly stood dissolved, it was not possible to constitute an elected Government. He had, therefore, recommended to the President to consider issuance of a Proclamation under article 356 of the Constitution of India.

The Minister observed that the Union Government had considered the Governor's report on the situation in the State and felt that there was no alternative but to issue the Proclamation under article 356 of the Constitution of India. As such it was issued by the President on 18 July 1990.

The Minister noted that under the present circumstances, concerted and well-coordinated efforts by the State police and security forces to intercept the infiltrators and taking of action against the armed terrorists besides countering the designs of the secessionist elements had become necessary. The line of actual control was under the operational control of the Army. He further observed that as Parliament was not in session the Armed Forces (Jammu and Kashmir) Special Powers Ordinance, was issued by the President on 5 July 1990. The proposed legislation was framed on the model of Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, with suitable amendments, keeping in view the special status of the State of Jammu and Kashmir under article 370 of the Constitution.

After the discussion in which eight other members\* participated, the motion for consideration of the Bill was adopted followed by its clauses etc. whereafter the Bill was passed on 3 September 1990.

The Resolution seeking approval of President's Proclamation under Article 356 of the Constitution in relation to the State of Jammu and Kashmir also moved by the Minister on 23 August 1990 was adopted on 3 September 1990.

The Resolution seeking disapproval of the Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990 moved earlier by Shri S.S. Ahluwalia was negatived.

*The Prasar Bharati (Broadcasting Corporation of India) Bill, 1990*: Moving the motion for consideration of the Bill on 4 September 1990, the Minister of Information and Broadcasting and Minister of Parliamentary Affairs, Shri P. Upendra observed that the National Front Government intended to fulfil one of its important commitments by bringing the Bill before Parliament. The Government were keen to have a

\*Other members who participated in the discussion were: Sarvashri Gurudas Das Gupta, Vithalbhai M. Patel, Jagmohan, Rafique Alam, S.S Ahluwalia, Subodh Kant Sahay, Dr. Ratnakar Pandey and Professor Sourendra Bhattacharjee.

\*\*The Bill as passed by the Lok Sabha was laid on the Table on 3 September 1990.

consensus on this important measure as they wanted all the parties to be committed to the concept of autonomy. The Bill was, therefore, a product of the collective wisdom of all the parties represented in Parliament.

Explaining in detail the concept, the Minister said that autonomy meant freedom from Government control. It was never the intention of the Government that this autonomy would mean unbridled autonomy. Therefore, a provision had been made in the Bill to form a parliamentary committee of both the Houses to oversee the functioning of the proposed Corporation. He added that the Government were not in favour of privatisation of the media or allowing any multinational to enter into that sphere. But, the Indian Telegraph Act had already granted the power to the Government to issue licences to any genuine organisations to start radio stations or even television centres and that power was quite enough. In the parliamentary committee, he added, there would be 15 members from Lok Sabha and seven members from Rajya Sabha. The powers of that Committee would be defined by the Rules Committee.

The Minister further informed the House that the Bill provided for the creation of the Broadcasting Council, which would be the conscience keeper or watchdog of the Corporation. The Broadcasting Council would consist of 15 members-11 people belonging to different walks of life and four members of Parliament, two each from Lok Sabha and Rajya Sabha. The Council would hear complaints against the functioning of the Corporation or against any particular programme. The Prasar Bharati would submit its annual report to the Parliament. The Broadcasting Council would also submit a separate report to the Parliament. The Parliament would have a discussion on both these reports. The members of the Prasar Bharati Board would be selected by high-power selection committee headed by the Chariman of the Council of States. He would be assisted by the Chairman of the Press Council and an expert, preferably media expert, to be nominated by the President of India. The three-member committee would select the Board of Management or the Prasar Bharati Board. In no other case such a selection procedure had been prescribed, the Minister added. An independent selection committee had been provided in this case, which will objectively select the Board of Management and that itself was a good guarantee that eminent and qualified people would be selected by the Board. There was also a suggestion for giving powers to the Judiciary instead of the Parliament. Parliament was competent enough to deal with such matters and there was no need to take the assistance of the Judiciary, the Minister observed.

So far as the assets were concerned, they would be transferred by the Government on such terms and conditions as the Government might decide and the book value of all those assets would form part of the initial

capital of the Prasar Bharati. The proposed Corporation would not be able to transfer or dispose of the assets, without the prior permission of the Government of India.

In conclusion, the Minister noted that the Corporation would submit, every year, its financial statement showing its estimated income and expenditure, indicating the deficit so that the Parliament could vote and grant the amount which was still needed by the Corporation.

After the discussion in which nine members\* participated, the motion for consideration of the Bill and the clauses etc. were adopted and the Bill, as amended, was passed on 5 September, 1990.

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1990; and The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill, 1990:

\*\*Moving the motions for consideration of the Bills on 5 September 1990, the Deputy Minister in the Ministry of Finance, Shri Anil Shastri observed that the Government had already announced their firm resolve to effectively deal with the smugglers and other economic offenders including the foreign exchange racketeers. While stringent measures were continued to be taken under the normal laws, preventive detention of smugglers and foreign exchange racketeers might become necessary in certain types of cases. The COFEPOSA Act, 1974, was one of the powerful weapons for disrupting organised activities of smugglers and foreign exchange racketeers. In particular, section 9 of the Act dealt with the detention of any person who was engaged in smuggling activities in areas highly vulnerable to smuggling. This section, however, applied only in respect of detention orders made on or before 31 July 1990 which had been extended for a further period of three years beyond 31 July 1990 under COFEPOSA (Amendment) Ordinance, 1990 promulgated by the President on 30 July 1990. The Bill sought to replace the COFEPOSA (Amendment) Ordinance, 1990, he added.

After the discussion in which three members \*\*\* participated, the motions for consideration of the two Bills and their clauses etc. were adopted and both the Bills were passed on the same day.

The statutory resolutions seeking disapproval of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance 1990, and the Conservation of Foreign Exchange and

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\* Other members who participated in the discussion were: Sarvashri Rajni Ranjan Sahu, Bhaskar Annaji Masadkar, Vithalbai M. Patel, Vithalrao Madhavrao Jadhav, Vishvijit P. Singh, Shamim Hashmi, Dr. Ratnakar Pandey, Professor Chandresh P. Thakur and Sardar Jagjit Singh Aurora.

\*\* The Bills, as passed by the Lok Sabha, were laid on the Table on 3 September 1990.

\*\*\* The Bill, as passed by the Lok Sabha was laid on the Table on 4 October 1990.

Prevention of Smuggling Activities (Amendment) Ordinance, 1990 moved earlier by Shri Subramanian Swamy were negated.

The Constitution (Seventy-Sixth Amendment) Bill, 1990: \*Moving the motion for consideration of the Bill on 4 October 1990, the Minister of State in the Ministry of Home Affairs, Shri Subodh Kant Sahay said that President's rule was promulgated in Punjab in 1987. In April 1990, while seeking for extension of President's rule in Punjab for a further period of six months, the Government had expressed their intention to hold elections in Punjab, but normalcy could not be restored there. He added that all the national political parties were of the opinion that the present atmosphere in Punjab was not conducive for holding free and fair elections. In the circumstances, the Government were constitutionally bound to extend President's rule in Punjab for a further period of six months. Meanwhile, efforts would be made to create congenial atmosphere there with the cooperation of political and social powers to bring the State in the national mainstream.

After the discussion in which 17 members\*\* participated, the motion for consideration of the Bill was adopted by a majority of a total membership of the House and by a majority of not less than two-thirds of the members present and voting, followed by adoption of its clauses etc. in the same manner. The Bill\*\*\* was passed by a majority of the total membership of the House and by a majority of not less than the two-thirds of the members present and voting on the same day.

### C. THE QUESTION HOUR

During the Session, 7,500 notices of Questions (6,777 Starred and 723 Unstarred) were received. Out of these, 433 Starred Questions and 3,687 Unstarred Questions were admitted. Eight Short Notice Questions were received but none was admitted. After the lists of Questions were printed, nine Starred and 87 Unstarred Questions were transferred from one Ministry to another.

*Daily Average of Questions:* Each of the lists of Starred Questions contained 18 to 21 Questions. On an average, four Questions were orally answered per sitting on the floor of the House. The maximum

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\*Other members who participated in the discussion were: Sarvashri Subramanian Swamy, Murkidhar Chandrakant Bhandare and Jagesh Desai.

\*\*Other members who took part in the discussion were: Sarvashri Madan Bhatia, Shankar Dayal Singh, Sukomal Sen, Harvendra Singh Hanspal, Krishan Lal Sharma, S.B. Chavan, Kapil Verma, Bhupinder Singh Mann, Gurudas Das Gupta, Anand Prakash Gautam, S.S. Ahluwalia, B.L. Panwar, Subramanian Swamy, Satya Prakash Malaviya, Ashoke Kumar Sen, Dr. Ratnakar Pandey and Sardar Jagjit Singh Aurora.

\*\*\*The Bill was renumbered as the Constitution (Sixty-Seventh Amendment) Bill 1990, after it was passed by the two Houses.

number of Questions orally answered was seven on 5 September 1990 and the minimum number of Questions orally answered was three on 7, 8, 9, 10, 13, 20, 21, 30 and 31 August 1990.

The minimum number of Questions admitted in Unstarred Questions lists was 98 on 30 August 1990 and their maximum number was 228 on 13 August 1990. Their average came to 167.6.

*Half-an-Hour Discussions:* In all 14 notices of Half-an-Hour Discussions were received. Out of them, two were admitted and only one was discussed.

*Statement correcting answers to Questions:* Only two statements correcting answers to Questions replied in the House were made by the Minister concerned.

#### D. OBITUARY REFERENCES

During the Session, references were made to the passing away of Sarvashri Mohammed Amin Ansari, sitting member, Bapuraoji Marotraoji Deshmukh, C.M. Poonacha, K. Chathunni Master, V. Prasad Rao and Dr. Gopal Singh, all former members. Members stood in silence for a short while as a mark of respect to the deceased.

#### STATE LEGISLATURES

##### ANDHRA PRADESH LEGISLATIVE ASSEMBLY\*

The Andhra Pradesh Legislative Assembly commenced its Monsoon Session on 20 September 1990 and was adjourned *sine die* on 26 September 1990. The Assembly met again for its next session from 5 October 1990 and was adjourned *sine die* on 16 October 1990.

*Financial Business:* The first batch of Supplementary Estimates of Expenditure for 1990-91 was presented by Minister for Finance on 5 October 1990 and discussed and passed by the House on 9 October 1990.

*Motion of No-confidence:* A motion of No-confidence in Council of Ministers given notice of by Shri N. T. Rama Rao, Leader of Opposition and Leaders of CPI (M), BJP and Janata Dal and others was discussed in the House on 12 and 13 October and was lost on 13 October.

*Obituary references:* The Assembly adopted 13 condolence motions relating to the death of former members of the Assembly and one on the death of a former member of composite Madras State. The House also adopted a condolence Motion on 10 October 1990 on the death of 47 passengers due to burning of a Railway bogie of Kakatiya Fast Passenger Express at Charlapalli village.

\*Material contributed by Andhra Pradesh Legislative Assembly Secretariat.

## HIMACHAL PRADESH LEGISLATIVE ASSEMBLY\*

The Seventh Himachal Pradesh Vidhan Sabha commenced its Third Session on 17 August 1990 and was adjourned *sine die* on 20 August 1990.

*Election of Speaker and Deputy Speaker:* Consequent upon the resignation of Shri Radha Raman Shastri from the office of Speaker on 17 August, Shri Thakur Singh Negi of BJP was unanimously elected Speaker of the Assembly on 20 August 1990. Earlier on 17 August, Shri Rikhi Ram Kandal of BJP was elected Deputy Speaker of the Assembly.

## MADHYA PRADESH LEGISLATIVE ASSEMBLY\*\*

The Madhya Pradesh Vidhan Sabha commenced its Second Session on 20 June and was adjourned *sine die* on 1 August 1990.

*Financial Business:* A major part of the Session was devoted to the transaction of financial business. The Budget for the year 1990-91 was presented on 21 June 1990 by the Finance Minister Shri Ramhit Gupta. For the first time in the history of Madhya Pradesh Vidhan Sabha, the entire Budget speech was directly broadcast by all the Stations of All India Radio in the State.

The general discussion on the Budget commenced on 25 June 1990 followed by the discussion and voting on the Demands for Grants for individual Ministries which continued upto 24 July 1990. Immediately after the voting on Demands for Grants was completed the Appropriation (No. 3) Bill, 1990 was introduced which was considered on the next day. The financial business concluded when the Finance Bill, 1990 was passed by the House on 25 July 1990.

*Obituary references:* On the opening day of the Session the House made obituary references to Shri Sukumar Pagare, former member of the Assembly and Shri K. Sadaniand Hegde, former Speaker of the Lok Sabha. Obituary references were made to the passing away of Shri Prit Ram Kurre and Shri Sampat Rao Bhaoji Bhole, both former members of the Assembly on 16 and 20 July 1990, respectively.

## UTTAR PRADESH LEGISLATIVE ASSEMBLY\*\*\*

The Uttar Pradesh Legislative Assembly commenced its Budget Session on 14 June 1990 and was adjourned *sine die* on 17 July 1990.

*Financial Business:* On 15 June 1990, Shri Mulayam Singh Yadav, Chief Minister who is also holding the portfolio of Finance, presented the annual Budget for 1990-91. The Appropriation Bill was passed on 17 July 1990.

\*Material contributed by Himachal Pradesh Legislative Assembly Secretariat.

\*\*Material contributed by Madhya Pradesh Legislative Assembly Secretariat.

\*\*\*Material contributed by Uttar Pradesh Legislative Assembly Secretariat.

WEST BENGAL LEGISLATIVE ASSEMBLY\*

The Tenth West Bengal Legislative Assembly commenced its Ninth Session on 14 August 1990 and was adjourned *sine die* on 31 August 1990.

*Obituary references* : On 14 August 1990, the House made obituary references to the passing away of Shri Madhabendu Mohanta, a sitting Member of the Assembly and some former members of the Assembly and Parliament and other eminent personalities.

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\*Material contributed by West Bengal Legislative Assembly Secretariat.



## RECENT LITERATURE OF PARLIAMENTARY INTEREST

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(Discusses whether the treaty of Waitangi which marked the original foundation of colonial settlement in New Zealand provides a constitutional basis for New Zealand's Political future).

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## APPENDIX I

### STATEMENT SHOWING THE WORK TRANSACTED DURING THE THIRD SESSION OF THE NINTH LOK SABHA

<b>1. PERIOD OF THE SESSION</b>	<b>7 August to 7 September 1990 and 1 October to 5 October 1990</b>	
<b>2. NUMBER OF SITTINGS HELD</b>		24
<b>3. TOTAL NUMBER OF SITTING HOURS</b>		163 hours
<b>4. NUMBER OF DIVISIONS HELD</b>		6
<b>5. GOVERNMENT BILLS</b>		
(i) Pending at the commencement of the session	—	39
(ii) Introduced	—	19
(iii) Laid on the Table as passed by Rajya Sabha	—	2
(iv) Returned by Rajya Sabha with any amendment and laid on the Table	—	1
(v) Referred to Select Committee	—	Nil
(vi) Referred to Joint Committee	—	Nil
(vii) Reported by Select Committee	—	Nil
(viii) Reported by Joint Committee	—	Nil
(ix) Discussed	—	12
(x) Passed	—	10
(xi) Withdrawn	—	Nil
(xii) Negatived	—	1
(xiii) Part-discussed	—	1
(xiv) Discussion postponed	—	Nil
(xv) Returned by Rajya Sabha without any recommendation	—	3
(xvi) Motion for concurrence to refer the Bill to Joint Committee adopted	—	Nil
(xvii) Pending at the end of the Session	—	50
<b>6. PRIVATE MEMBERS' BILLS</b>		
(i) Pending at the commencement of the Session	—	73
(ii) Introduced	—	58
(iii) Motion for leave to introduce negatived	—	Nil
(iv) Laid on the Table as passed by Rajya Sabha	—	Nil
(v) Returned by Rajya Sabha with any amendment and laid on the Table	—	Nil
(vi) Reported by Select Committee	—	Nil
(vii) Discussed	—	4
(viii) Passed	—	Nil
(ix) Withdrawn	—	3
(x) Negatived	—	Nil
(xi) Circulated for eliciting opinion	—	Nil
(xii) Part-discussed	—	1
(xiii) Discussion postponed	—	Nil
(xiv) Motion for circulation of Bill negatived	—	Nil
(xv) Referred to Select Committee	—	Nil
(xvi) Removed from the Register of Pending Bills	—	Nil
(xvii) Pending at the end of the Session	—	128

*The Journal of Parliamentary Information*

<b>7. NUMBER OF DISCUSSIONS HELD UNDER RULE 193</b> (Matters of Urgent Public Importance)		
(i) Notices received	—	661
(ii) Admitted	—	6
(iii) Discussion held	—	6
(iv) Part discussed	—	3
<b>8. NUMBER OF STATEMENT MADE UNDER RULE 197</b> (Calling-attention to matters of urgent Public Importance)		
Statements made by Minister	—	5
<b>9. MOTION OF NO CONFIDENCE IN COUNCIL OF MINISTERS</b>		
(i) Notices received	—	Nil
(ii) Admitted and discussed	—	Nil
(iii) Barred	—	Nil
<b>10. HALF-AN-HOUR DISCUSSIONS HELD</b>	—	4
<b>11. STATUTORY RESOLUTION</b>		
(i) Notices received	—	8
(ii) Admitted	—	8
(iii) Moved	—	6
(iv) Adopted	—	3
(v) Negatived	—	2
(vi) Withdrawn	—	1
<b>12. GOVERNMENT RESOLUTIONS</b>		
(i) Notices received	—	1
(ii) Admitted	—	1
(iii) Moved	—	1
(iv) Adopted	—	1
<b>13. PRIVATE MEMBERS' RESOLUTIONS</b>		
(i) Received	—	5
(ii) Admitted	—	5
(iii) Discussed	—	2
(iv) Adopted	—	Nil
(v) Negatived	—	1
(vi) Withdrawn	—	Nil
(vii) Part-discussed	—	1
(viii) Discussions postponed	—	Nil
<b>14. GOVERNMENT MOTIONS</b>		
(i) Notices received	—	2
(ii) Admitted	—	2
(iii) Discussed	—	Nil
(iv) Adopted	—	Nil
(v) Part-discussed	—	Nil
<b>15. PRIVATE MEMBERS' MOTIONS</b>		
(i) Notices received	—	436
(ii) Admitted	—	95
(iii) Moved	—	Nil

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\*Resolution placed before the House by the Speaker and adopted unanimously.

(iv) Discussed	—	Nil
(v) Adopted	—	Nil
(vi) Negatived	—	Nil
(vii) Withdrawn	—	Nil
(viii) Part-discussed	—	Nil
<b>16. MOTION REGARDING MODIFICATION OF STATUTORY RULE</b>		
(i) Received	—	Nil
(ii) Admitted	—	Nil
(iii) Moved	—	Nil
(iv) Discussed	—	Nil
(v) Adopted	—	Nil
(vi) Negatived	—	Nil
(vii) Withdrawn	—	Nil
(viii) Part-discussed	—	Nil
<b>17. NUMBER OF PARLIAMENTARY COMMITTEES CONSTITUTED, IF ANY, DURING THE SESSION</b>		
		Nil
<b>18. TOTAL NUMBER OF VISITORS PASSES ISSUED DURING THE SESSION</b>		
	—	27,406
<b>19. MAXIMUM NUMBER OF VISITORS' PASSES ISSUED ON SINGLE DAY, AND DATE ON WHICH ISSUED</b>		
	—	3,423
	on 7 September, 1990 and 4 October, 1990.	
<b>20. NUMBER OF ADJOURNMENT MOTIONS</b>		
(i) Brought before the House .	—	13
(ii) Admitted and discussed	—	2
(iii) Barred in view of adjournment motion admitted on the subject	—	11
(iv) Consent withheld by Speaker outside the House	—	65
(v) Consent given by Speaker but leave not granted by the House	—	Nil
<b>21. TOTAL NUMBER OF QUESTIONS ADMITTED</b>		
(i) Starred	—	440
(ii) Unstarred (including Starred Questions converted as Unstarred Questions)	—	5,095
(iii) Short-Notice Questions	—	1
<b>22. WORKING OF PARLIAMENTARY COMMITTEE</b>		

Sl. No.	Name of the Committee	No. of sittings held during the period 1 July to 30 September 1990.	No. of Reports presented to the House during the Session
1	2	3	4
(i)	Business Advisory Committee	4	4
(ii)	Committee on Absence of Members	1	1
(iii)	Committee on Public Undertakings	7	6
(iv)	Committee on Papers laid on the Table	2	1
(v)	Committee on Petitions	4	1
(vi)	Committee on Private Members Bills and Resolutions	4	4
(vii)	Committee on the Welfare of Scheduled Castes and Scheduled Tribes	4	2



(viii) Committee of Privileges	6	—
(ix) Committee on Government Assurances	3	5
(x) Committee on Subordinate Legislation	7	1
(xi) Estimates Committee	9	9
(xii) General Purposes Committee	1	—
(xiii) House Committee	1	—
(a) Accommodation Sub-Committee	—	—
(b) Sub-Committee on Amenities	—	—
(c) Sub-Committee on Furnishing	—	—
(xiv) Public Accounts Committee	3	17
(xv) Railway Convention Committee	3	—
(xvi) Rules Committee	1	1
<b>JOINT/SELECT COMMITTEES</b>		
(i) Joint Committee on Offices of Profit	3	—
(ii) Joint Committee on Salaries and Allowances of Members of Parliament	3	—
(iii) Joint Committee on Railways Bill, 1986	—	—
<b>SUBJECT COMMITTEES</b>		
(i) Subject Committee on Environment and Forest	1	—
(ii) Subject Committee on Agriculture	2	—
(iii) Subject Committee on Science and Technology	2	—
<b>23. NUMBER OF MEMBERS GRANTED LEAVE OF ABSENCE</b>		<b>4</b>
<b>24. PETITIONS PRESENTED</b>		<b>4</b>
<b>25. NUMBER OF NEW MEMBERS SWORN WITH DATE</b>		<b>2</b>
		<b>on 7 September 1990</b>

## APPENDIX II

### STATEMENT SHOWING THE WORK TRANSACTED DURING THE HUNDRED AND FIFTY-FIFTH SESSION OF RAJYA SABHA

1. PERIOD OF THE SESSION	7 August 1990 to 7 September 1990 and 1 October 1990 to 5 October 1990.
2. NUMBER OF SITTINGS HELD	24
3. TOTAL NUMBER OF SITTING HOURS	142 hours and 12 minutes
4. NUMBER OF DIVISIONS HELD	Nil
5. GOVERNMENT BILLS	
(i) Pending at the commencement of the session	19
(ii) Introduced	4
(iii) Laid on the Table as passed by Lok Sabha	8
(iv) Returned by Lok Sabha with any amendment	Nil
(v) Referred to Select Committee by Rajya Sabha	Nil
(vi) Referred to Joint Committee by Rajya Sabha	Nil
(vii) Reported by Select Committee	Nil
(viii) Reported by Joint Committee	Nil
(ix) Discussed	11
(x) Passed	11
(xi) Withdrawn	Nil
(xii) Negatived	Nil
(xiii) Part-Discussed	Nil
(xiv) Returned by Rajya Sabha without any recommendation	3
(xv) Discussion postponed	Nil
(xvi) Pending at the end of the session	20
6. PRIVATE MEMBERS, BILLS	
(i) Pending at the commencement of the session	20
(ii) Introduced	26
(iii) Laid on the Table as passed by Lok Sabha	Nil
(iv) Returned by Lok Sabha with any amendment and laid on the Table	Nil
(v) Reported by Joint Committee	1
(vi) Discussed	Nil
(vii) Withdrawn	Nil
(viii) Passed	Nil
(ix) Negatived	Nil
(x) Circulated for eliciting opinion	1
(xi) Part-discussed	Nil
(xii) Discussion postponed	...
(xiii) Motion for circulation of Bill negatived	Nil
(xiv) Referred to Select Committee	...
(xv) Lapsed-due to retirement/death of Member-in-charge of the Bill	46
(xvi) Pending at the end of the session	...
7. NUMBER OF DISCUSSIONS HELD UNDER RULE 176 (Matters of Urgent Public Importance)	
(i) Notices received	139
(ii) Admitted	5
(iii) Discussions held	5

8. NUMBER OF STATEMENTS MADE UNDER RULE 180 (Calling-Attention to Matters of Urgent Public Importance) Statements made by Ministers	1
9. HALF-AN-HOUR DISCUSSIONS HELD	1
10. STATUTORY RESOLUTIONS	
(i) Notices received	8
(ii) Admitted	8
(iii) Moved	6
(iv) Adopted	4
(v) Negatived	2
(vi) Withdrawn	NH
11. GOVERNMENT RESOLUTIONS	
(i) Notices received	NH
(ii) Admitted	NH
(iii) Moved	NH
(iv) Adopted	NH
12. PRIVATE MEMBERS' RESOLUTIONS	
(i) Received	12
(ii) Admitted	12
(iii) Discussed	3
(iv) Withdrawn	2
(v) Negatived	NH
(vi) Adopted	1
(vii) Part-discussed	NH
(viii) Discussion postponed	NH
13. GOVERNMENT MOTIONS	
(i) Notices received	2
(ii) Admitted	2
(iii) Moved	NH
(iv) Adopted	NH
(v) Part-discussed	NH
14. PRIVATE MEMBERS' MOTIONS	
(i) Received	115
(ii) Admitted	217*
(iii) Moved	NH
(iv) Adopted	NH
(v) Part-discussed	NH
(vi) Negatived	NH
(vii) Withdrawn	NH
15. MOTIONS REGARDING MODIFICATION OF STATUTORY RULE	
(i) Received	NH
(ii) Admitted	NH
(iii) Moved	NH
(iv) Adopted	NH
(v) Negatived	NH
(vi) Withdrawn	NH
(vii) Part-discussed	NH

\*Including notices of Short duration Discussions admitted as No-Day-Yet-Named Motions.

16. NUMBER OF PARLIAMENTARY COMMITTEES CREATED, IF ANY, DURING THE SESSION	Nil
17. TOTAL NUMBER OF VISITORS' PASSES ISSUED	2,982
18. TOTAL NUMBER OF PERSONS VISITED	3678
19. MAXIMUM NUMBER OF VISITORS' PASSES ISSUED ON ANY SINGLE DAY, AND DATE ON WHICH ISSUED	232 on 4 September 1990
20. MAXIMUM NUMBER OF PERSONS VISITED ON ANY SINGLE DAY, AND DATED ON WHICH VISITED	338 on 21 August 1990
21. TOTAL NUMBER OF QUESTIONS ADMITTED	
(i) Starred	433
(ii) Unstarred	3687
(iii) Short-Notice Question	Nil
22. DISCUSSION ON THE WORKING OF THE MINISTERS	Nil
23. WORKING OF PARLIAMENTARY COMMITTEES	

Name of Committee	No. of meetings held during the Period from 1 July 1990 to 30 September 1990	No. of Reports Presented during the 155th Session.
1. Business Advisory Committee	4	Nil
2. Committee on Subordinate Legislation	4	1
3. Committee on Petitions	3	Nil
4. Committee on Government Assurances	4	Nil
5. Committee of Privileges	1	Nil
6. Committee on Rules	Nil	Nil
7. Committee on Papers Laid on the Table	5	Nil

24. NUMBER OF MEMBERS GRANTED LEAVE OF ABSENCE	3
25. PETITIONS PRESENTED	1
26. NAME OF NEW MEMBERS SWORN WITH DATES	

S.No.	Name of Members sworn	Date on which sworn
1	2	3
1.	Shri W. Kulabidhu Singh	7.8.90
2.	Shri Hiphei	-do-
3.	Dr. Sanjaya Singh	-do-
4.	Dr. Z. A. Ahmad	31.8.90

## 27. OBITUARY REFERENCES

S.No.	Name	Sitting Member/ Ex-Member
1.	Shri Mohammed Amin Ansari	Sitting Member
2.	Shri Bepuraoji Marotraoji Deshmukh	Ex-Member
3.	Shri C.M. Poonacha	-do-
4.	Dr. Gopal Singh	-do-
5.	Shri K. Chathunni Master	-do-
6.	Shri V. Prasad Rao	-do-

**APPENDIX III**  
**STATEMENT SHOWING THE ACTIVITIES OF THE LEGISLATURES OF STATES AND UNION TERRITORIES**  
**DURING THE PERIOD 1 JULY TO 30 SEPTEMBER 1990**

Legislature	Duration	Sittings	Govt. Bills	Private Bills	Starred Questions	Unstarred Questions	Short Notice Questions
1	2	3	4	5	6	7	8
<b>STATES</b>							
Andhra Pradesh L.A.	20-9-90 to 26-9-90 and 5-10-90 to 16-10-90	15	22(21)	5	662(150)	159(a)	104(5)
Arunachal Pradesh L.A.	19-8-90 to 20-9-90	2	—	—	119(101)	47(44)	—
Assam L.A.*@	—	—	—	—	—	—	—
Bihar L.A.	22-6-90 to 9-8-90	27	9(7)	—	5370(4214)	(1017)	(139)
Bihar L.C.	2-7-90 to 11-8-90	19	7(7)	—	1831(1692)	(46)	615(276)
Gujarat L.A.	18-6-90 to 28-7-90	29	17(17)	11	845(403)	389(312)(b)	50(9)
Goa L.A.	9-7-90 to 3-8-90	21	13(13)	—	891(618)	2(144)(c)	2
Haryana L.A.	3-8-90 to 4-9-90	2	4(4)	—	207(90)	35(23)	—
Himachal Pradesh L.A.	17-8-90 to 20-8-90	2	1(1)	—	187(108)(d)	37(32)	2(1)
Jammu & Kashmir L.A.@@	—	—	—	—	—	—	—
Jammu & Kashmir L.C.**	—	—	—	—	—	—	—
Karnataka L.A.	4-6-90 to 18-7-90	34	3(2)	—	1707(575)(e)	(992)	13(2)

1	2	3	4	5	6	7	8
Karnataka L.C.	11-6-90 to 16-7-90	27	2(2)	—	943(421)	522(393)	11
Kerala L.A.	4-6-90 to 26-7-90	35	5(3)	—	13609(1944)(f)	(9406)	3
Madhya Pradesh L.A.	20-6-90 to 1-8-90	22	12	1	6114(2256)(g)	(1118)	23
Maharashtra L.A.	20-6-90 to 11-8-90	33	6(6)	28	10007(1410)	370(110)	228(40)
Maharashtra L.C.	20-6-90 to 11-8-90	28	10(6)	—	3055(653)	4(4)	33(14)
Manipur L.A.	28-8-90 to 31-8-90 and 25-9-90	5	4(3)	—	70(48)	3(3)	8(6)
Meghalaya L.A.**	—	—	—	—	—	—	—
Mizoram L.A.**	—	—	—	—	—	—	—
Nagaland L.A.**	—	—	—	—	—	—	—
Orissa L.A.**	—	—	—	—	—	—	—
Punjab L.A.\$	—	—	—	—	—	—	—
Rajasthan L.A.	26-6-90 to 24-7-90	20	16(13)	—	2067(529)	1565(948)	18(1)
Sikkim L.A.	6-9-90 to 7-9-90	1	1(1)	1(1)	10(10)	—	—
Tamil Nadu L.A.	20-8-90 to 23-8-90	4	9(5)	—	2140(579)	(566)	4
Tripura L.A.	30-7-90 to 1-8-90	3	3(3)	—	104(70)	25(30)(h)	—
Uttar Pradesh L.A.	—	—	—	—	—	—	—
Uttar Pradesh L.C.	—	—	—	—	173(199)(i)	7(11)(j)	26
West Bengal L.A.	14-8-90 to 31-8-90	11	14(13)	—	270(167)	81(47)	2
<b>UNION TERRITORIES</b>							
Delhi Metropolitan Council	—	—	—	—	—	—	—
Pondicherry L.A.**	—	—	—	—	—	—	—

\*\*The Statement received from State Legislature contained nil report.

\*\*Information not received from the State Legislature.

Notes:

- (i) Figures in Cols. 4 and 5 indicate the number, respectively of Government and Private Members Bills introduced with the number of Bills passed in brackets.
- (ii) Figures in Cols. 6, 7 and 8 indicate the number of notices received followed by the number of notices admitted in brackets.
- @ President's Rule was imposed in the state from 28-11-1990 and the Assembly is kept under suspended animation since that day.
- @@ During Governor's rule, the Assembly was dissolved on 19-2-1990 and the State was brought under President's rule from 19-7-1990.
- \$ President's rule was imposed in the State on 11-5-1987 and the Assembly was dissolved on that day.
- £ Metropolitan council of Delhi was dissolved on 13-1-1990.
- (a) The figure 159 includes notices for 144 Starred Questions admitted as Unstarred.
- (b) The figure 312 includes notices of 20 Starred Questions admitted as Unstarred.
- (c) The figure 144 includes notices for 144 Starred Questions admitted as Unstarred.
- (d) The figure 167 includes 8 Notices postponed from the previous session; the figure 108 includes 8 Notices from the preceding session and the figure 32 excludes notices for 31 Starred Questions admitted as Unstarred.
- (e) The figure 1,707 indicates the total number of Notices received.
- (f) The figure 13,609 indicates the total number of Notices for Starred and Unstarred Questions received.
- (g) The figure 6,114 indicates the total number of Notices for Starred and Unstarred Questions received.
- (h) The figure 30 includes Notices for 5 Starred Questions admitted as Unstarred.
- (i) The figure 199 includes Notices for 26 Short Notice Questions admitted as Starred.
- (j) The figure 11 includes Notices for 4 Starred Questions admitted as Unstarred.







- Notes: Figures in the brackets indicate the number of reports presented to the House.
- (a) Committee on the Welfare of Scheduled Castes—13 sittings; and Committee on the Welfare of Scheduled Tribes—11 sittings.
- (b) Committee on Welfare of Backward Classes—8 sittings.
- (c) Question and Calling Attention Committee—22 sittings; Internal Resources Committee—17 sittings; Nivedan Committee—31 sittings; and District Panchayat Committee—65 sittings.
- (d) Question and Calling Attention Committee—15 sittings and 4 reports; Committee on Members' Amenities—5 sittings; Committee on Zila Parishad and Panchayati Raj—9 sittings; Committee on Control of Leprosy expansion— 9 sittings and 1 report; Committee on Welfare of Handicapped—11 sittings; Committee on Implementation—10 sittings; Committee on slum Development and Town Development—18 sittings; Subarna Rekha Dam Probe Committee—12 sittings; Committee on Pollution Control—9 sittings; Weavers Welfare Committee—9 sittings; Committee on Athletic Development—11 sittings.
- (e) Committee on Welfare of Scheduled Castes—7 sittings and 1 report; and Committee on Welfare of Scheduled Tribes—3 sittings.
- (f) Committee on Welfare of Socially and Educationally Backward Classes—5 sittings and 1 report; Members' Allowances Rules Committee—2 sittings; Committee on Panchayati Raj—6 sittings; Committee on Absence of Members—2 sittings and 1 report; Committee on MLA's Hostel—4 sittings and 1 report; and Committee on Papers Laid on the Table of the House—1 sitting.
- (g) Committee on Papers Laid on the Table of the House—3 sittings; Committee on Implementation of Official Language—3 sittings; Committee on Forests, Environment and allied Matters—5 sittings; Committee on Agriculture, Horticulture and allied Matters— 5 sittings; and Committee on Tourism and other Allied Matters—7 sittings.
- (h) Committee on Papers Laid on the Table—10 sittings; and Committee on Backward Classes—7 sittings.
- (i) Subject Committee(I)—1 sitting; Subject Committee(II)—1 sitting; Subject Committee (IV)—2 sittings; Subject Committee (V)—2 sittings; Subject Committee (VI)—2 sittings; Subject Committee (VII)—5 sittings and 1 report; Subject Committee(X)—4 sittings; and Subject Committee(X)—2 sittings.
- (j) Committee to examine the Papers Laid on the Table—2 sittings; Question and Reference Committee—2 sittings; and Women and Children's Welfare Committee—2 sittings.
- (k) Catering Committee—5 sittings; Employment Guarantee Scheme Committee—10 sittings; Panchayati Raj Committee—12 sittings; and Vimukta Jati and Nomedic Tribes Committee—8 sittings.
- (l) Catering Committee—5 sittings; Employment Guarantee Scheme Committee—10 sittings; Panchayati Raj Committee—12 sittings; and Vimukta Jati and Nomedic Tribes Committee—8 sittings.
- (m) Forest Committee—3 sittings.
- (n) Committee on Papers Laid on the Table of the House—9 sittings.
- (o) Committee on Welfare of Scheduled Castes—2 sittings; and Committee on Welfare of Scheduled Tribes—2 sittings.
- (p) Committee on Prashna evam Sandarbha Samiti—1 sitting; and Committee on New Sound Control System of the U.P. Legislative Assembly—2 sittings.
- (q) Committee on Financial and Administrative delays—4 sittings; Questions and Reference Committee—5 sittings; Committee on Compilation of Rulings—4 sittings; Committee on Parliamentary Studies—2 sittings; and Parliamentary and Social Goodwill Committee—3 sittings.
- (r) Committee on Health and Family Welfare—4 sittings; Committee on Environment—5 sittings; Subject Committee on Panchayat—5 sittings; Committee on the Entitlements of the Members—1 sitting and 1 report; Subject Committee on Education—3 sittings; Ad-hoc Committee on the Questions of Subject Committee—6 sittings; Subject Committee on Transport—4 sittings; Subject Committee on Irrigation and Waterways—6 sittings; and Subject Committee on Welfare—5 sittings.

#### APPENDIX IV

### LIST OF BILLS PASSED BY THE HOUSES OF PARLIAMENT AND ASSENTED TO BY THE PRESIDENT DURING THE PERIOD 1ST JULY TO 30TH SEPTEMBER 1990.

S.No.	Title of the Bill	Date of assent by the President
1.	The Commissions of Inquiry (Amendment) Bill, 1990.	28.8.1990
2.	The National Commission for Women Bill, 1990.	30.8.1990
3.	The Armed Forces (Jammu and Kashmir) Special Powers Bill, 1990.	10.9.1990
4.	The Appropriation (No. 3) Bill, 1990.	10.9.1990
5.	The Punjab Appropriation (No. 2) Bill, 1990.	10.9.1990
6.	The Appropriation (Railways) No. 3 Bill, 1990.	10.9.1990
7.	The Prasar Bharati (Broadcasting Corporation of India) Bill, 1990.	12.9.1990
8.	The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1990.	13.9.1990
9.	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill, 1990.	13.9.1990

## APPENDIX V

### LIST OF BILLS PASSED BY THE LEGISLATURES OF STATES AND UNION TERRITORIES DURING THE PERIOD 1 JULY TO 30 SEPTEMBER 1990

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#### STATES

##### ANDHRA PRADESH LEGISLATIVE ASSEMBLY

1. The Andhra Pradesh Leprosy (Repeal) Bill, 1990.
2. The Indian Penal Code (A.P. Amendment) Bill, 1990.
3. The Andhra Pradesh Public Libraries (Amendment) Bill, 1990.
4. The Andhra Pradesh Gram Panchayats (Amendment) Bill, 1990.
5. The Andhra Pradesh Co-operative Societies (Amendment) Bill, 1990.
6. The Andhra Pradesh Yogadhyana Parishad (Repeal) Bill, 1990.
7. The Andhra Pradesh Municipal Laws (Amendment) Bill, 1990.
8. The Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads, Zilla Pransalka and Abhivrudhi Sameeksha Mandalas (Amendment) Bill, 1990.
9. The Andhra Pradesh Advocates' Welfare Fund (Amendment) Bill, 1990.
10. The Andhra Pradesh Co-operative Societies (Second Amendment) Bill, 1990.
11. The Andhra Pradesh Co-operative Societies (Second Amendment) Bill, 1990.
12. The Andhra Pradesh (Telangana Area) Land Revenue (Amendment) Bill, 1990.
13. The Andhra Pradesh Appropriation (No. 5) Bill, 1990.
14. The Andhra Pradesh Payment of Salaries and Pension and Removal of Disqualifications (Amendment) Bill, 1990.
15. The Andhra Pradesh Universities Bill, 1990.
16. The Andhra Pradesh College Service Commission (Amendment) Bill, 1990.
17. The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Bill, 1990.
18. The Andhra Pradesh Sugar Cane (Regulation of Supply and Purchase) Amendment Bill, 1990.
19. The Andhra Pradesh Municipal Laws (Second Amendment) Bill, 1990.
20. The Jawaharlal Nehru Technological University (Amendment) Bill, 1990.
21. The Andhra Pradesh Co-operative Laws (Amendment) Bill, 1990.

##### BIHAR LEGISLATIVE ASSEMBLY

1. The Bihar Appropriation on Bill, (No. 2) 1990.
2. The Bihar Administrative Tribunal (Repeal) Bill, 1990.
3. The Bihar Legislature (Members' Salaries, Allowances and Pension) (Amendment) Bill, 1990.

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<sup>1</sup>Awaiting assent.

4. The Bihar Legislature (Leader of the Opposition's Salary and Allowances) (Amendment) Bill, 1990.
5. The Bihar Cess (Amendment and Validation) Bill, 1990.
6. The Bihar Wood-saw (Regulation) Bill, 1990.
7. The Bihar Finance Service (Appointment by Selection) Bill, 1990.

BIHAR LEGISLATIVE COUNCIL

1. Bihar Vidhanmandal (Neta, Virodhi Dal, Vetan Aur Bhatta) (Sanshodhan) Vidheyak, 1990.
2. Bihar Vidhan Mandal (Sedasyon Ka Vetan, Bhatta Aur Pension) (Sanshodhan) Vidheyak, 1990.
3. Bihar Prashasnik Adhikaran (Nirasen) Vidheyak, 1990.
4. Bihar Cess (Sanshodhan Evam Vidhi Manyakaran) Vidheyak, 1990.
5. Bihar Kasht Chiran (Viniyamand) Vidheyak, 1990.
6. Bihar Vit Seva (Chayan Dwara Niyukti) Vidheyak, 1990.
7. Bihar Viniyog (Sankhya-2) Vidheyak, 1990.

GOA LEGISLATIVE ASSEMBLY

1. The Goa Appropriation Bill, 1990.
2. The Goa Contingency Fund (First Amendment) Bill, 1990.
3. The Goa Mundkars (Protection from Eviction) Amendment Bill, 1990.
4. The Goa (Extension of Dowry Prohibition Act) Bill, 1990.
5. The Goa Public Moneys (Recovery of Dues) (Amendment) Bill, 1990.
6. The Legislative Diploma No. 2070 dated 15.4.1961 (Amendment) Bill, 1990.
7. The Goa Motor Vehicles (Taxation on Passengers and Goods) (Amendment) Bill, 1990.
8. The Goa Sales Tax (Amendment and Validation) Bill, 1990.
9. The Goa Sales Tax (Amendment) Bill, 1990.
10. The Goa Motor Vehicle Tax (Amendment) Bill, 1990.
11. The Goa Change of Name and Surname Bill, 1990.
12. The Goa Ferries Bill, 1990.
13. The Goa Salaries and Allowances of Ministers (Amendment) Bill, 1990.

GUJARAT LEGISLATIVE ASSEMBLY

1. The Lepers (Gujarat Repeal) Bill, 1990.
2. The Gujarat Local Authorities Laws (Amendment) Bill, 1990.
3. The Gujarat Sales Tax (Amendment) Bill, 1990.
4. The Gujarat Municipalities (Amendment) Bill, 1990.
5. The North Gujarat University (Amendment) Bill, 1990.
6. The Gujarat Panchayats (Amendment) Bill, 1990.

- <sup>27</sup>. The Bombay Prevention of Gambling (Gujarat Amendment) Bill, 1990.
- <sup>28</sup>. The Indian Boilers (Gujarat Amendment) Bill, 1990.
- <sup>29</sup>. The Registration (Gujarat Amendment) Bill, 1990.
10. The Gujarat Agricultural Produce Markets (Amendment) Bill, 1990.
11. The Gujarat Entertainments Tax (Amendment) Bill, 1990.
12. The Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Bill, 1990.
13. The Bombay Stamp (Gujarat Amendment) Bill, 1990.
14. The Bombay Land Requisition (Gujarat Amendment) Bill, 1990.
15. The Gujarat Appropriation Bill, 1990.
16. The Bombay Khadi and Village Industries (Gujarat Amendment) Bill, 1990.
17. The Gujarat Sales Tax (Second Amendment) Bill, 1990.

#### HARYANA LEGISLATIVE ASSEMBLY

1. The Haryana Legislative Assembly (Facilities to Members) Amendment Bill, 1990.
2. The Haryana Legislative Assembly (Allowances and Pension of Members) Second Amendment Bill, 1990.
- <sup>23</sup>. The Haryana Appropriation (No. 3) Bill, 1990.
- <sup>24</sup>. The Haryana Co-operative Societies (Amendment) Bill, 1990.

#### HIMACHAL PRADESH LEGISLATIVE ASSEMBLY

1. The Electricity (Supply) (Himachal Pradesh Amendment) Bill, 1990.

#### KARNATAKA LEGISLATIVE ASSEMBLY

1. The Karnataka Land Reforms (Amendment) Bill, 1990.
2. The Karnataka Appropriation Bill (No. 2), 1990.

#### KARNATAKA LEGISLATIVE COUNCIL

1. The Karnataka Land Reforms (Amendment) Bill, 1990.
2. The Karnataka Appropriation (No. 2) Bill, 1990.

#### KERALA LEGISLATIVE ASSEMBLY

1. The Kerala Appropriation (No. 3) Bill, 1990.
2. The Kerala Relief Undertakings (Special Provisions) Amendment Bill, 1990.
3. The Kerala Appropriation (No. 4) Bill, 1990.
4. The Kerala Finance Bill, 1990.

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<sup>2</sup>Awaiting assent.

## MADHYA PRADESH LEGISLATIVE ASSEMBLY

1. Bhartiya Stamp (M.P. Sanshodhan) Vidheyak, 1990.
2. M.P., Dukan Tatha Sthapana (Sanshodhan) Vidheyak, 1990.
3. Madhya Pradesh Vanopaj (Vyapar-viniyaman) Sanshodhan Vidheyak, 1990.
4. Madhya Pradesh Rajya Suraksha Tatha Lok Vyavastha (Sanshodhan) Vidheyak, 1990.
5. Madhya Pradesh Makhanlal Chaturvedi Rastriya Patrikarita Vishwavidyalaya Sansthan Vidheyak, 1990.
6. Madhya Pradesh Viniyog (No. 2) Vidheyak, 1990.
7. Bhartiya Stamp (M.P. Second Sanshodhan) Vidheyak, 1990.
8. Madhya Pradesh Panchayati Raj Vidheyak, 1990.
9. Madhya Pradesh Viniyog (No. 3) Vidheyak, 1990.
10. Madhya Pradesh Samanya Vikray-Kar (Sanshodhan) Vidheyak, 1990.
11. Madhya Pradesh Hotel Tatha Vas Garhon mein vilas vastueon par Kar, 1990.
12. Madhya Pradesh Sahakari Society (Sanshodhan) Vidheyak, 1990.
13. Madhya Pradesh Vritti Vyapar Ajivika Aur Seva Yojana Kar (Sanshodhan) Vidheyak, 1990.
14. Madhya Pradesh Rajya Matsya Vikas Nigam (Sanshodhan) Vidheyak, 1990.

## MAHARASHTRA LEGISLATIVE ASSEMBLY

1. The Bombay Sales Tax (Amendment and Validation) Bill, 1990.
2. The Maharashtra Zilla Parishads and Panchayat Samitis and Village Panchayats (Amendment and Postponement of Election) Bill, 1990.
3. The Bombay Motor Vehicles Tax (Amendment) Bill, 1990.
4. The Maharashtra Sales, Professions, Luxuries and Sugarcane Tax Laws (Amendment, Levy and Validation) Bill, 1990.
5. The Maharashtra Appropriation Bill, 1990.
6. The Maharashtra (Second Supplementary) Appropriation Bill, 1990.

## MAHARASHTRA LEGISLATIVE COUNCIL

1. The Maharashtra Land Revenue code and Maharashtra Restoration of Lands to Scheduled Tribes (Amendment) Bill, 1990.
2. The Bombay Provincial Municipal Corporation (Amendment) Bill, 1990.
3. The Maharashtra Mathadi Hamal and other Manual workers (Regulation of Employment and Welfare) (Amendment) Bill, 1990.
4. The Maharashtra Municipalities (Amendment) Bill, 1990.
5. The Maharashtra Universities (Amendment) Bill, 1990.
6. The Bombay Land Requisition (Amendment) Bill, 1990.

## MANIPUR LEGISLATIVE ASSEMBLY

1. The Salaries and Allowances of Ministers ( Manipur) (Seventh Amendment) Bill, 1990.



2. The Salaries and Allowances of Members of the Legislative Assembly (Manipur) (Thirteenth Amendment) Bill, 1990.
3. The Manipur Sales Tax Bill, 1990.
- \*4. The Manipur Sales Tax Bill, 1990.

RAJASTHAN LEGISLATIVE ASSEMBLY

1. Rajasthan Nyayalay Fees Tatha Vaad Mulyankan (Sanshodhan) Vidheyak, 1990.
2. Rajasthan Nagarpalika (Sanshodhan) Vidheyak, 1990.
3. Rajasthan Viniyog (Sankhya 4) Vidheyak, 1990.
4. Rajasthan Vit Vidheyak, 1990.
5. Rajasthan Vikray Kar (Dwitiya Sanshodhan) Vidheyak, 1990.
6. Rajasthan Mantri Vetan (Sanshodhan) Vidheyak, 1990.
7. Rajasthan Vidhan Sabha (Adhikariyon Tatha Sadasyon Ke Parilabdhiyan Aur Pension) (Sanshodhan) Vidheyak, 1990.
8. Rajasthan Video Film (Pradarshan Ka Viniyaman) Vidheyak, 1990.
9. Rajasthan (Hotelon Aur Bason Me) Visson Par Kar Vidheyak, 1990.
10. Rajasthan Nagarpalika (Dwitiya Sanshodhan) Vidheyak, 1990.
11. Rajasthan Upnivashan (Sanshodhan) Vidheyak, 1990.
12. Rajasthan Nagar Sudhar (Sanshodhan Aur Vidhimanyakaran) Vidheyak, 1990.
13. Jaipur Vikas Pradhikaran (Sanshodhan Aur Vidhimanyakaran) Vidheyak, 1990.

SIKKIM LEGISLATIVE ASSEMBLY

1. The Sikkim Motor Vehicles Taxation (Amendment) Bill, 1990.

TAMIL NADU LEGISLATIVE ASSEMBLY

1. The Tamil Nadu District Municipalities (Second Amendment and Special Provisions) Bill, 1990.
2. The Tamil Nadu District Municipalities (Third Amendment) Bill, 1990.
3. The Tamil Nadu District Municipalities (Fourth Amendment) Bill, 1990.
4. The Tamil Nadu Payment of Salaries (Second Amendment) Bill, 1990.
5. The Tamil Nadu Appropriation (No. 4) Bill, 1990.

TRIPURA LEGISLATIVE ASSEMBLY

1. The Salaries and Allowances of Ministers (Tripura) (Seventh Amendment) Bill, 1990.
2. The Tripura Educational Institutions (Prevention of Ragging) Bill, 1990.
3. The Tripura University (Amendment) Bill, 1990.

WEST BENGAL LEGISLATIVE ASSEMBLY

1. The West Bengal State Health Service (Amendment) Bill, 1990.
2. The West Bengal Council of Higher Secondary Education (Amendment) Bill, 1990.
- \*3. The St. Thomas School (Amendment) Bill, 1990.
- \*4. The West Bengal Board of Secondary Education (Amendment) Bill, 1990.
- \*5. The Code of Criminal Procedure (Amendment) Bill, 1990.
6. The West Bengal Taxation Laws (Amending and Repealing) Bill, 1990.

\*Awaiting assent.

- <sup>17</sup>. The West Bengal Land Reforms (Amendment) Bill, 1990.
  - <sup>18</sup>. The Bengal Municipal (Amendment) Bill, 1990.
  - <sup>19</sup>. The Howrah Municipal Corporation (Amendment) Bill, 1990.
  - <sup>10</sup>. The City Civil Court (Amendment) Bill, 1990.
  11. The Bengal Finance (Sales Tax) (Amendment) Bill, 1990.
  - <sup>12</sup>. The West Bengal Co-operative Societies' (Amendment) Bill, 1990.
  - <sup>13</sup>. The Calcutta University (Amendment) Bill, 1990.
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**APPENDIX VI**  
**ORDINANCES PROMULGATED BY THE UNION AND STATE GOVERNMENTS DURING THE PERIOD**  
**1ST JULY TO 30TH SEPTEMBER 1990**

S.No.	Subject	Date of promulgation	Date on which laid before the House	Date of Cessation	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
<b>UNION GOVERNMENT</b>					
1.	The Armed Forces (Jammu and Kashmir) Special Powers, Ordinance, 1990 (No. 3 of 1990)	5.7.1990	7.8.1990	—	Replaced by Legislation
2.	The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 1990 (No. 4 of 1990)	30.7.1990	7.8.1990	—	-do-
3.	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1990 (No. 5 of 1990)	30.7.1990	7.8.1990	—	-do-
<b>STATE GOVERNMENTS</b>					
<b>Bihar:</b>					
1.	The Bihar-Private Secondary School-(Management, Control and take over Adoption) (Amendment) Second Ordinance, 1990	—	2.7.90	—	—
2.	The Bihar Intermediate Education Council Second Ordinance, 1990	—	-do-	—	—
3.	The Nalanda Open University Second Ordinance 1990	—	-do-	—	—

4.	The Patna University (Amendment) Third Ordinance 1990	—	-do-	—	—	—
5.	The Bihar Private Sanskrit School (Management, Control and Take Over) Second Ordinance, 1990	—	-do-	—	—	—
6.	The Bihar Private Engineering College Take Over Ordinance, 1990	—	-do-	—	—	—
7.	The Bihar Administrative Tribunal (Repeal) Ordinance, 1990	—	-do-	—	—	—
8.	The Bihar Cess (Amendment & Validation) Ordinance, 1990.	—	-do-	—	—	—
9.	The Bihar Contingency Fund (Amendment) Ordinance, 1990	—	-do-	—	—	—
GUJARAT						
1.	The Gujarat Municipalities (Amendment) Ordinance, 1990	8.4.90	18.6.90	26.6.90	Replaced by Legislation	—
2.	The Gujarat Local Authorities Laws (Amendment) Ordinance	13.4.90	-do-	-do-	-do-	—
3.	The Gujarat Sales Tax (Amendment) Ordinance, 1990	20.4.90	-do-	-do-	-do-	—
4.	The Gujarat Legislative Assembly members (Removal of Disqualifications) (Amendment) Ordinance, 1990	30.8.90	—	—	—	—
HIMACHAL PRADESH						
1.	The Electricity (Supply) (Himachal Pradesh Amendment) Ordinance, 1990	13.7.90	17.8.90	—	Replaced by Legislation	—
KERALA						
1.	The Kerala Public Men's Corruption (Investigations and Inquiries) Amendment Ordinance, 1990.	28-8-90	—	—	—	—

(1)	(2)	(3)	(4)	(5)	(6)
2.	The Kerala Stamp (Amendment) Ordinance, 1990.	12-9-90	—	—	—
1.	The City of Nagpur Corporation and Maharashtra Municipalities (Amendment) Ordinance, 1990.	MAHARASHTRA 17-9-90	—	—	—
1.	Rajasthan Nagarpalika (Sanshodhan) (Adhyadesh Sankhya-1), 1990.	RAJASTHAN —	26-6-90	—	—
1.	The Tamil Nadu Municipal Corporation Laws (Third Amendment) Ordinance, 1990.	TAMIL NADU 25-9-90	—	—	—
1.	Uttar Pradesh Bikkri-Kar (Sansodhan Aur Vadhhi Karan) (Dwitiya) Adhyadesh, 1990.	UTTAR PRADESH —	26-7-90	—	—
2.	The Uttar Pradesh Nagar Swayata Shasan Vidhi (Tritiya Sanshodhan) Adhyadesh, 1990.	—	-do-	—	—
3.	The Uttar Pradesh Rajya Vishwa Vidyalaya (Dwitiya) Adhyadesh, 1990.	—	-do-	—	—
4.	The Uttar Pradesh (Sambharan Ka Viniyaman) (Dwitiya) Adhyadesh, 1990.	—	27-7-90	—	—
5.	Bhrashtachar Nivaran (Uttar Pradesh Sansodhan) Adhyadesh, 1990.	—	8-8-90	—	—
6.	The Uttar Pradesh Audyogik Jhegra (Sanshodhan) 1990.	—	13-8-90	—	—
7.	The Uttar Pradesh Krishi Utpadan Mandi (Sanshodhan) Adhyadesh, 1990.	—	21-8-90	—	—

8.	The Uttar Pradesh Bhartiya Chikitsa (Sanshodhan) Adhyadesh, 1990.	—	28-8-90	—	—
9.	The Uttar Pradesh Homoeopathic Medicine (Sanshodhan) Adhyadesh, 1990.	—	19-9-90	—	—
10.	The Uttar Pradesh Rajya Vishwavidyalaya (Tritiya Sanshodhan) Adhyadesh, 1990.	—	21-9-90	—	—
11.	The Uttar Pradesh Municipality Notified Area Aur Town Area (Alpakalik Vyawastha) (Dwitiya Sanshodhan) Adhyadesh, 1990.	—	27-9-90	—	—
WEST BENGAL					
1.	The Bengal Finance Sales Tax (Amendment) Ordinance, 1990.	18-6-90	22-8-90	26-9-90	Replaced by Legislation









27. Pondicherry Nominated	1	1	—	—	—	—	—	—	—	—	1	—
	12	5	—	—	—	—	—	—	—	—	12	—
<b>Total</b>	<b>245</b>	<b>106</b>	<b>39</b>	<b>17</b>	<b>17</b>	<b>47</b>	<b>9</b>	<b>235</b>	<b>10</b>			

- (a) Telugu Desam — 10.
- (b) Asom Gana Parishad — 5; and Indian Congress(S) — 1.
- (c) C.P.I. — 1; and Lok Dal — 2.
- (d) National Conference — 2.
- (e) Kerala Congress — 1; Muslim League — 1; and CPI — 1.
- (f) Shiv Sena — 1.
- (g) Hill State People's Democratic Party — 1.
- (h) Akali Dal — 1.
- (i) Sikkim Sangram Parishad — 1.
- (j) AIADMK — 4; and DMK — 10.
- (k) Janata Party — 1; and CPI — 1.
- (l) Revolutionary Socialist Party — 2; CPI — 1; and Forward Bloc — 1.

## C. PARTY POSITION IN STATE LEGISLATURES

State/Union Territory	Seats	Cong.(I)	Janata Dal	Lok Dal	BJP	CPI(M)	CPI	Other Parties	Ind.	Total	Vacancies
	2	3	4	5	6	7	8	9	10	11	12
1											
Andhra Pradesh- L.A. (As on 1.10.1990)	285	180	1	—	5	6	8	89(a)	5	294	1
Arunachal Pradesh L.A. (As on 1.10.1990)	60	37	11	—	—	—	—	1(b)	11	60	—
Assam L.A. (As on 31.8.1990)	126	23	—	—	—	2	—	93(c)	2	120	6
Bihar L.A. (As on 5.3.1990)	325	70	120	—	37	6	23	26(d)	36	318	7
Bihar L.C. (As on 1.1.1990)	96	44	21	3	1	—	6	2(e)	2	60	36
Goa L.A. (As on 1.10.1990)	40	13	—	—	—	—	—	25(f)	2	40	—
Gujarat L.A. (As on 1.10.1990)	182	32	70	—	67	—	—	2(g)	10	181	1
Haryana L.A. (As on 1.10.1990)	90	5	48	—	17	1	1	9(h)	6	87*	2
Himachal Pradesh L.A. (As on 1.10.1990)	68	9	11	—	46	—	1	—	1	68	—
Jammu and Kashmir L.A. @	—	—	—	—	—	—	—	—	—	—	—
Jammu and Kashmir L.C.	36	12	—	—	—	—	—	18(i)	—	30	6
Karnataka L.A. (As on 1.7.1990)	225	177	24	—	4	—	—	7(j)	12	224*	—
Karnataka L.C. (As on 9.10.1990)	75	21	31	—	6	—	—	6(k)	9	73*	1
Kerala L.A. (As on 1.10.1990)	141	32	7	1	—	38	16	35(l)	10	139*	1
Madhya Pradesh L.A. (As on 1.10.1990)	321	55	28	—	220	3	2	4(m)	10	320*	—
Maharashtra L.A. (As on 1.10.1990)	289	141	24	—	42	3	2	64(n)	13	289*	—
Maharashtra L.C. (As on 1.10.1990)	78	49	1	—	7	1	—	9(o)	10	77	1
Manipur L.A. (As on 1.10.1990)	60	12	11	—	—	—	3	27(p)	—	53	7
Meghalaya L.A. (As on 1.10.1990)	60	—	—	—	—	—	—	57(q)	1	58*	1
Mizoram L.A. (As on 1.4.1990)	40	22	—	—	—	—	—	17(r)	—	39*	—



- (b) Janata Party—1.  
 (c) Acom Gaha Parishad—69; Indian Congress (S)—3; United Minorities Front (J)—12; United Minorities Front (O)—5; PTCA—3; and United Tribal National Liberation Front—1.  
 (d) Jharkhand Mukti Morcha—19; and Indian People's Front—7.  
 (e) Sub-Judice —2.  
 (f) Maharashtrawadi Gomantak Party —18; and Goan People's Party —7.  
 (g) Lok Swaraj Manch —1; and Yuva Vikas Party —1.  
 (h) Unattached —9.  
 (i) National Conference —17; and Awami National Conference —1.  
 (j) Janata Party —2; Raita Sanga —2; Muslim League —1; AIADMK —1 and Nominated —1.  
 (k) Janata Party —6.  
 (l) Muslim League —15; Indian Congress (Socialist Saratchandra Sinha) —6; Revolutionary Socialist Party —6; Kerala Congress —4; and Kerala Congress (Marl Group) —4.  
 (m) Bahujan Samaj Party —2; Nominated —1; and Krantikari Samajwadi—1.  
 (n) Shiv Sena —62; Peasants and Workers' Party—8; Congress(S)—1; Republican Party of India—(Khorbragade)—1; Muslim League—1; Nominated—1.  
 (o) Peasants and Workers' Party—3; Shiv Sena—4; Republican Party of India (Gaval Group)—1 and Republican Party of India—1.  
 (p) Manipur People's Party—11; Congress(S)—6; Kuki National Assembly—2; National People's Party—1; and Unattached—7;  
 (q) Meghalaya United Parliamentary Party—32; and United Meghalaya Parliamentary Party—25.  
 (r) Mizo National Front—14; Mizo National Front (D)—2; and Democratic Party—1.  
 (s) Nagaland Peoples Council—24; and Unattached—2.  
 (t) Sikkim Sangram Parishad—32.  
 (u) Dravida Munnetra Kazhagam—144; All India Anna Dravida Munnetra Kazhagam—29; All India Anna Dravida Munnetra Kazhagam (Janaki M.G. Ramachandran Group)—1; Indian Union Muslim League (1)—4; Tamil Nadu Forward Bloc—1; Indian Farmers and Toilers Party—1; United Communist Party of India—1; and Nominated—1.  
 (v) Tripura Juba Samiti—8; and Revolutionary Socialist Party—2.  
 (w) Shoshit Samaj Dal—1; Akhil Bharatiya Hindu Mahasabha—1; and Bahujan Samaj Party—13.  
 (x) Shikshak Dal (Non-Political)—8.  
 (y) All India Forward Bloc —27; Revolutionary Socialist Party—19; West Bengal Socialist Party—3; Forward Bloc (Marxist)—2; Democratic Socialist Party—2; Revolutionary Communist Party of India—1; Socialist Unit-Centre of India—2; Muslim League—1; and Nominated—1.  
 (z) Dravida Munnetra Kazhagam—12; and All India Anna Dravida Munnetra Kazhagam—3.

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