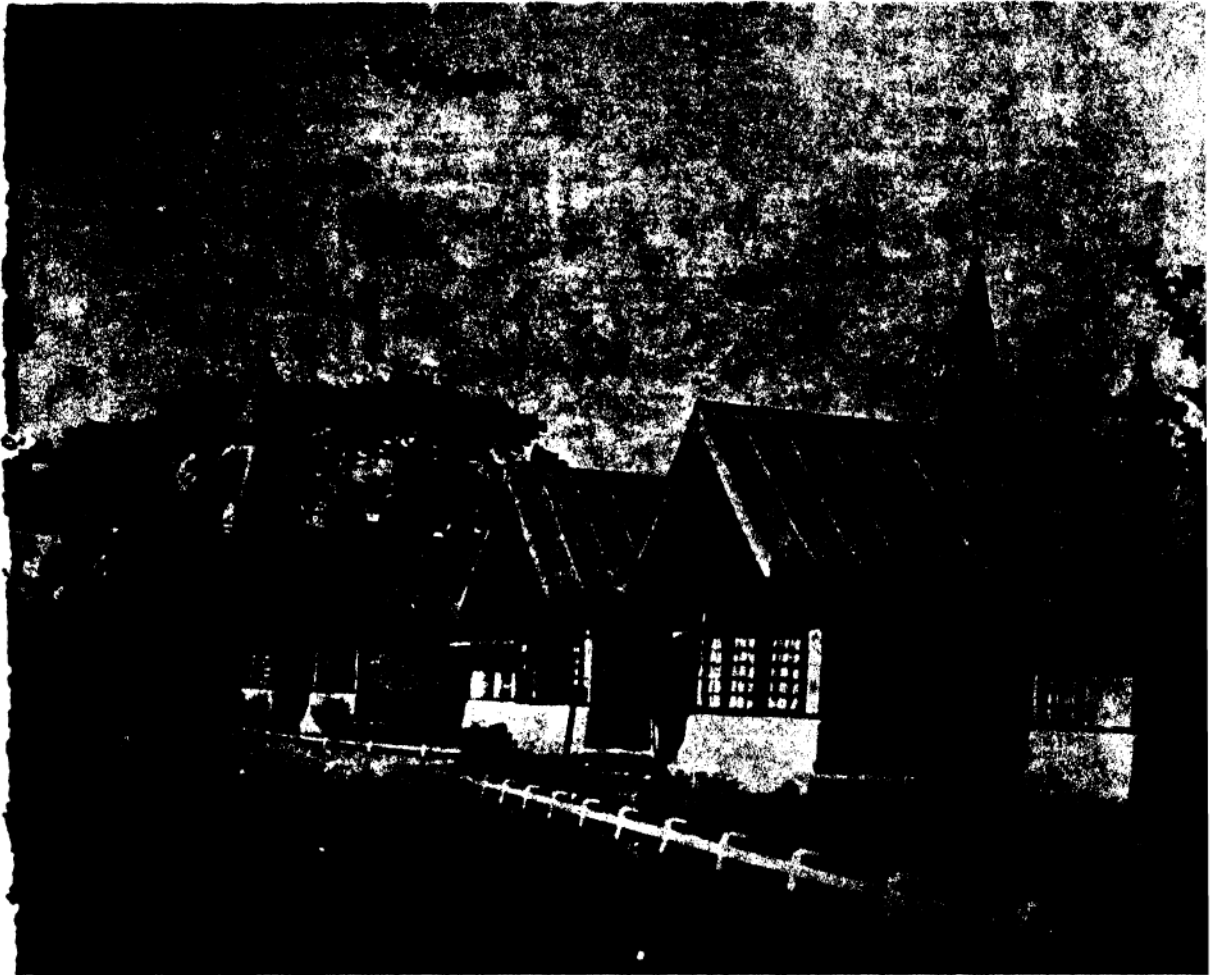


The Journal of Parliamentary Information



A view of the Assam State Legislature Building, Shillong

Vol. V

April, 1959

No. 1

The Journal of
PARLIAMENTARY INFORMATION

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

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UNVEILING OF PORTRAITS IN THE CENTRAL HALL

The photographs on the reverse show the portraits of Deshbandhu Chitta Ranjan Das, Kaviguru Rabindranath Tagore and Shri Surendra Nath Banerjee being unveiled by the President, Dr. Rajendra Prasad, in the Central Hall of Parliament House. The ceremony was held on the 12th September, 1958 with a large and distinguished gathering including the Vice-President, the Prime Minister, the Speaker, the Chief Minister of West Bengal, Dr. B. C. Roy and several Members of Parliament participating.

The portraits were presented to Parliament by the Chief Minister of West Bengal and were accepted by the Speaker on behalf of both the Houses. The speakers on the occasion, who included the President, the Vice-President and the Prime Minister, besides the Speaker and the Chief Minister of West Bengal, referred to the great services rendered by the three leaders to the nation and the way in which they would continue to inspire future generations for the service of the country.



KAVIGURU RABINDRA NATH TAGORE [1861--1941]



DESHBANDHU CHITTA RANJAN DAS [1870-1925]



SHRI SURENDRA NATH BANERJEE [1848-

THE JOURNAL OF PARLIAMENTARY INFORMATION

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Democracy and Modern Age

(The Indian Bureau of Parliamentary Studies organised a symposium on the "Problems and Prospects of Democracy in Asian Countries" in the Central Hall of Parliament House, New Delhi, on the 12th and 13th December, 1958. The symposium was inaugurated by the Prime Minister, Shri Jawaharlal Nehru, excerpts from whose speech are reproduced below).

Mr. President, Mr. Speaker, Your Excellencies, Ladies and Gentlemen,

We have met here to talk about democracy at a rather peculiar time which, from one point of view may be considered suitable because many people are talking about this subject, and unsuitable from another point of view because there is a certain doubt in the minds of people about democracy and a certain lack of mental equilibrium in regard to this subject.

Growth of Political Democracy

The very first thing that strikes one is: when we talk of democracy, what exactly do we mean by it? Well, the word is an old one and it has something to do with the people at large, the masses at large, the *demos*. It means presumably the active association of the people in the political government of the country.

Democracy took shape more with

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developments in England, in the United States in the American Revolution and then in the French Revolution. Yet both in England and the United States, democracy—if by that is meant franchise—was strictly limited to a relatively few persons or a few classes—upper classes—and the others had no share in it. It is only very gradually that the others also had an increasing measure in that limited form of democracy, called voting for the government of the day. It was only after the First World War and the twenties that even in England adult franchise was extended to everybody, even if you take adult franchise to be the fulfilment of political democracy. It is hardly the fulfilment of democracy as a whole, although, taken with other things, it does bring the people into the picture.

Idea of Social Democracy

Then there was the French Revolution with its slogans of liberty, equality and fraternity. For quite a considerable time, in the 19th century, the French Revolution became a symbol of freedom, as to some extent of course it was. But meanwhile, there was another revolution slowly taking place, the Industrial Revolution, which was bigger than any political revolution, in so far as it changed the lives of people. And gradually, another aspect of democracy developed

which was more than political. People began thinking on economic terms, social terms and all that, everywhere, in varying degrees and in various forms. The political aspect of democracy, good in itself, was not adequate, and the concept of social democracy came to influence people's minds more and more.

The vote was useful in a sense to bring pressure on the government of the day or to change the government of the day. But the vote was only useful, if it could be, firstly, freely used and not under pressure, and secondly, if it could be wisely used. However, one might say that the free vote, or the relatively free vote, came into being. But even that was not adequate, because economic problems pressed on people, and though they found they could be relieved—and they were relieved in fact—by political methods, through parliaments etc. sometimes, the process was slow. The pure ideal of political democracy, important as it was, was by itself inadequate, was found to be inadequate. It did not solve the problems, except sometimes indirectly, and after a considerable delay. So other forms of exercising pressure for social and economic reforms came. And every country, even including of course those that had forms of political democracy subsisting in them, gradually moved, whatever the parties in power, towards some measure of social democracy. And to-day, in the wide world, whatever the form of government, it is admitted that this kind of social equality is an ideal to be aimed at, not absolute equality, but equality of opportunity. That is an essential part of democracy.

Social Equality

Equality in voting was the first step, but that was not quite enough. That

does not give equality of opportunity. So, movements in every country, however you might describe them, whatever they might be, actually aim at that; whether it is a country under a socialist or communist regime or a capitalist regime or a social democratic regime, in some form or the other, the ideal of social progress and equality is accepted. Methods differ, the idea of the State may differ, but this ideal is common. In fact, I should say that the dominating urge to-day in various forms is that of creating a measure of social equality. Of course, behind that lies economic problems and where the economic problems press on people greatly, they sometimes seek violent remedies.

Basis of Democracy

At the present moment, democracy is—I won't say in bad repute—certainly not in a very happy state. This is not a question of Asia or Africa. Outside Asia and Africa, the same trend is visible—it may be in different ways. Why is that so? One naturally wonders. Is there something basically wrong about it in so far as it does not meet the needs or demands for the situation? It is not much good to talk of democracy or rather make use of the word 'democracy' or to talk about some particular form of government as the best form, unalterable and something that cannot be criticised. We have to seek the basis of it. The basis, after all, is the development of the human being, of the individual as an individual, in groups and so on. And whatever government one wants, it is the betterment of the human being that is involved, and in that betterment, the very first and obvious thing is material betterment—freedom from economic pressures, hunger, poverty and the like, because you cannot expect a person really to march ahead unless these economic pressures are removed.

Democracy and Modern Age

Individual Freedom

Having done that, perhaps in regard to other aspects of improvement, opinions may not be exactly the same, or where they are almost the same, methods may be quite different. I presume nobody would deny, whatever his methods or faith may be, that we want the individual to grow in freedom, in creativeness in various aspects apart from the material,—mental, if you like, spiritual and the like—and to be creative, productive.

Then again, differences would arise as to what is the best way to reach them. Speaking for myself, in the ultimate analysis, I do not see any real progress unless the individual progresses and I do not see any individual progress unless a large measure of freedom for him is given to progress. Nobody can be given perfect freedom in an organised, complicated society. It has to be restricted to some extent, but the restriction may be a very limited one or an all-embracing one. It is a question of degree again, but I think the ideal must be the development of the individual and the group, in a measure of freedom to develop.

Political and Economic Freedom

Political freedom, under economic pressure is a very limited freedom; and therefore one has to remove those economic pressures and all kinds of other pressures, for the persons to grow. How can creativeness come out of hunger and poverty, even though the man has got a vote? It does not normally come. Therefore, some people begin to lay stress on economic betterment even at the cost of political freedom. There again difficulties arise, because depriving a person of something very essentially necessary to his growth is bound to prevent that growth some time or other.

He may come up to a certain dead level and do a job well. But if you want a higher type of human being to develop, and to have the opportunities for development, that something is necessary *viz.* freedom—both political and economic.

Necessity for Change

It is known that basically our constitutions—political constitutions,—were drafted in the pre-industrial age. They have been amended and changed no doubt, but still they lag behind the present stage of the world, and good as they are, they are too slow-moving, while the world changes rapidly, and that creates crises and difficulties. The one thing that we must not get used to or take for granted is that any constitution has finally solved the problems of government, when day by day the problems of government increase and become more complex and different. It does become more and more unrealistic to have, let us say, national boundaries, when human beings move more and more through air travel and rush across continents in a day or two. When our constitutions were drawn up, in all countries, and our thinking was conditioned by them, nobody thought of air travel. So this fact, this tremendous change due to technological advance is a basic factor of the age, basic factor in regard to nations as well as individuals. New problems such as these cannot be met by old recipes, constitutional or other; and one will have to find gradually some new methods, new answers to these problems. That applies perhaps even more to the individual than to the nation, because individual life is uprooted by these rapid changes in technological advance and the new industrial civilisation. I cannot presume to offer any remedy for this except to say that firmly believing as I do in indivi-

dual worth, in the dignity of the individual, I do not want anything to be done which suppresses that dignity and stops the growth of the individual in all spheres—physical, mental and spiritual. And yet, in a complex life you are all the time compelled to stop the individual from going the wrong way—he comes into conflict with somebody else.

Centralisation vs. De-centralisation

This is a basic difficulty—on the one hand the necessity for individual freedom, and on the other, the necessity, in the modern world, for not only more centralisation but more and more orders, decrees, limitations and all that; otherwise a complex society could not function. How are we to combine these two things—centralisation on the one hand and de-centralisation and individual freedom on the other? I do not know of an answer except that we go on experimenting and gradually trying to find out what one can do.

Inner Content of Democracy

Then again, obviously, democracy is something deeper than a political form of government—voting, election etc. In the ultimate analysis, it is a manner of thinking, a manner of action, a manner of behaviour to your neighbour, a manner of behaviour to your adversary or your opponent. All that comes in

democracy. Therefore, if the inner content is absent and you are just given an outer shell, well, it may not be successful. Of course, even the outer shell will gradually help to bring out the inner content.

I believe in democracy, in democratic institutions; but I do not know whether I am prepared to say that the same type of democratic institutions is suited to every country. It depends on so many factors there; but I would bring in a basic factor, of the dignity of the individual and giving him opportunities of growth, and preventing the reverse of this in political and economic institutions which give unlimited and unremovable power to groups. That is, I think not a good thing, whether in the political field or the economic field.

Life grows; social forms of life grow, everything grows; nothing is static. If our thinking becomes static in any phase of activity we branch off from the growing curve of life tangentially, which is not good for us. So, one of the virtues of a democratic way is this freedom of thought, freedom of discussion, an opportunity for the opposite view to be expressed fully and to be discussed and take the chance for the right view to prevail. It may not sometimes prevail; but presumably, if it is the right view, ultimately it will prevail.

Second Conference of Chairmen of Public Accounts Committees

INAUGURAL ADDRESS
BY
THE SPEAKER, LOK SABHA

(The Second Conference of the Chairmen of Public Accounts Committees of all the Legislatures in India was held in New Delhi on the 14th and 15th March, 1959. The Conference was inaugurated by Shri M. Ananthasayanam Ayyangar, Speaker, Lok Sabha, whose speech is reproduced below.)

Friends,

It gives me great pleasure to welcome you all today at this second Conference of Chairmen of Public Accounts Committees of Parliament and the State Legislatures. The first Conference was held in 1955 which was inaugurated by my distinguished predecessor the late Shri Mavalankar. Such a conference is in the nature of a "get-together" for discussing questions of mutual interest and exchanging views on individual questions of practice and procedure with a view to evolving a uniform approach to such questions both at the Centre and the States. It also facilitates the growth of healthy and well-established conventions both at the Centre and the States. I am sure you will welcome such periodical meets. I am also of opinion that the Conference of Chairmen of the Financial Committees should be held at Delhi for many more years to come before we think of holding them at other places.

At the outset I must congratulate all the Public Accounts Committees at the

Centre and in the States on the work done by them so far. All of them have performed very useful tasks before them and their contributions have been appreciated by the Legislatures, the Press and the public alike. The Committees enjoy great confidence both of the Legislature and the public and are looked upon with great respect. The Departments of Government look upon them with great awe and their very existence acts as a great deterrent against mis-spending, waste and extravagance. The Committees are an instrument of great effectiveness in the service of the nation.

Role of the Public Accounts Committee

Both the Public Accounts Committee and the Estimates Committee are the standing Financial Committees of the Legislature. They are the two eyes of the Legislature in the matter of financial control over public expenditure. In a democratic form of Government, it is the prerogative of the Legislature to exercise control over taxation, to vote supplies for public expenditure and to ensure that the executive applied the funds voted to the purposes for which they were granted. By the institution of the Public Accounts Committee, the Legislature has provided a mechanism to secure the accountability of the executive in respect of the expenditure voted by the Legislature. The Estimates Committee scrutinises the estimates and the activities of the Executive currently and

suggests economies therein within the framework of the accepted policy. By the very nature of its duties, the examination by the Public Accounts Committee is *post mortem*; but its effect does not suffer in any way on this account. Both the Committees have an important part to play in the control of public expenditure by the Legislature and the role of one is complementary to that of the other.

There is one major complaint which is often heard against the Public Accounts Committee. It is that the Committee looks into matters years after the events have taken place and examines them in the light of the circumstances not at the time when decisions were taken but in the atmosphere of post-event. The result is that the administrative services feel afraid of taking responsibility and there are delays and procedural procrastinations in the administration leading to wastes, etc. This complaint can be avoided if the time-lag in the presentation of the Audit reports and their examination by the Public Accounts Committees is reduced. In the U.K., there is a statutory obligation on the part of the administrative departments to prepare Appropriation Accounts and for the Comptroller and Auditor-General to present his Audit Report by due dates. The Public Accounts Committee of the House of Commons also complete their work within the time schedule. In India, on the other hand, we have no such time limits either by statute or by convention. Each authority in the chain, therefore, takes its own time to make its reports with the result that there are sometimes enormous delays which have a deleterious effect on the administrative efficiency. I would suggest for your consideration that methods should be devised whereby the Audit reports are presented to the Legislatures by the Comp-

troller and Auditor-General within a period of six months of the close of the financial year to which the report relates and the Public Accounts Committee should examine these reports expeditiously and present its report to the Legislature either before or during the following Budget session. This will enable the Legislature to refer to the observations of the Committee while discussing the General Budget and the Demands for Grants for the ensuing year.

I will even go a step further and suggest that where some important cases of mis-use of public money or mis-appropriation or irregularity have come to the notice of the Audit authorities, special reports on such cases should be made concurrently during the year so that the Legislature and the Public Accounts Committee are seized of the matter while the expenditure is being incurred and not after the event. These measures will, I am sure, tend to increase the morale and efficiency of the administration as a whole.

We have embarked upon a series of Five Year Plans. The First Plan is over and we are on the threshold of the fourth year of the Second Plan. The blue prints of the Third Plan are being prepared. It is as much the concern of the States as it is of the Centre not only to raise the necessary resources for the successful implementation of the Second and successive Plans, but also to prevent waste and extravagance. I would like to draw your special attention to this because we are passing through a critical period which the Prime Minister summed up so aptly, when he presented the budget last year, "a crisis of development, a crisis of resources". If all the cases of money unprofitably spent or lost that have been commented upon by the Public Accounts Committee at the Centre and the States since Independence were added together, the country

will be presented with a sizable figure. The money thus wasted had been provided by a people who are not rich and who are at the end of their tether so far as taxation is concerned. It is, therefore, of paramount importance that the two Committees should exercise constant vigilance in their respective spheres.

In this task it is essential that there is proper co-ordination between the Estimates Committee and the Public Accounts Committee. It is true that their jurisdictions are well-defined; but there might arise occasions when they overlap and it is on such occasions that we should guard against conflicting opinions being expressed. I am glad to state that there exists at the Centre a system of coordination between the two Committees both at the level of the Chairmen and the officers of the Secretariat. I would commend this to you for adoption in the States.

Composition of the Committee

I would now like to say something about the composition of the Committee. In the House of Commons, U.K. the Chairman of the Public Accounts Committee would be a person who is a spokesman of the Opposition or one who was the Financial Secretary in the previous Government. In India, we have not been able to adopt this principle, at the Centre so far, as there is no organised Opposition party here in Parliament. In some of the States this convention is being adopted. In some other States, however, the Finance Minister continues to be *ex-officio* Chairman of the Committee. It is a well-established convention followed at the Centre that a Minister should not be elected to the Committee, much less as its Chairman; and if a Member after election to the Committee is appointed a Minister he should resign from the

Committee. This question had been discussed by you at length at the last Conference and I need not, therefore, dwell on it here. I trust that these other States will take the earliest opportunity to follow this convention.

The work of the Committee is getting more and more complex as a result of the diversification of the activities of the Governmental machine. The present practice of allowing only two years tenure to the Members elected to the Committee may act as a handicap to them inasmuch as they would take about a year to get the hang of the work and by the time they get into their strides, their term of office will come to an end. I would, therefore, suggest that the Members should be given a tenure of three years, one-third of the Members retiring at the end of each year. This will ensure the existence of an experienced core of Members at any time in the Committee. It will also enable the Committee to make a sustained and balanced study of the problems before it and make well-considered recommendations.

Scope of the Committee

The examination by the Committee extends, to use an oft-quoted remark, "beyond the formality of the expenditure, to its wisdom, faithfulness and economy". In the context of the Plans, a broader review of the financial position by the Committee is called for. Besides the Appropriation Accounts and the Audit Report thereon drawing attention to financial irregularities, losses etc., the Comptroller and Auditor-General of India presents to the Legislature each year what are called the "Finance Accounts". These Accounts deal with the Revenue position of the Government and Debt and Deposit positions also. The Public Accounts Committee at the

Centre has decided to examine the Finance Accounts also as soon as they are laid before Parliament. In my opinion, this enlargement of the work of this Committee is very necessary for a comprehensive review of the financial position of Government. I am glad to see that this is one of the points on your agenda.

At present the Comptroller and Auditor-General excludes from his reports irregularities in respect of which adequate remedial measures including disciplinary action where necessary have been taken by Government. I feel that this is a serious matter to be examined by your Conference and more particularly by the respective Public Accounts Committees. It may be that large wastes or grave irregularities are involved and both the Legislature and the Public Accounts Committee are kept in dark because if the Comptroller and Auditor-General is satisfied that action has been taken, he will not include them in his Audit Report and consequently neither the Public Accounts Committee nor the Legislature will come to know of them. The Public Accounts Committee and the Legislature will also not know whether the disciplinary action that was taken was adequate in the circumstances of the case and whether the tax-payer's interests were safeguarded. I feel that it is not right to exclude such cases from the Audit Report merely because the Government and the Auditor-General have agreed on a certain course of remedial action. I consider that such cases should form part of the Audit Report in a separate section detailing also the action taken by Government so that the Public Accounts Committee and the Legislature may satisfy themselves that appropriate action was taken in all cases.

For implementing the schemes included in the Plan, large sums of money

are being advanced by the Centre to States both in the form of loans and grants-in-aid are also being given both by the Centre and the States to private bodies. Again, the loans contracted by private institutions are sometimes guaranteed by Government e.g. loans floated by State Co-operative Banks, loans taken by Tatas from the World Bank. In the former case the State Governments have guaranteed the repayment of the loans and in the latter the Central Government has done so. Thus, the respective Governments have undertaken a contingent liability in these cases. Although according to Articles 292 and 293 of the Constitution, the limits in this regard are to be fixed by Parliament or the State Legislature, as the case may be, action has not been initiated in this direction by the Executive. It is desirable that such contingent liabilities undertaken by Government are brought to the notice of the Parliament before the liability is contracted or immediately after, in cases where such prior appraisal was not possible. The Comptroller and Auditor-General of India has in fact drawn attention to this in his Audit Report, 1958 on the Central Civil Accounts which is yet to be considered by the Public Accounts Committee. This will indeed be an important addition to the functions of the Committee.

While on this subject, I would also like to draw attention to another important aspect *viz.*, the jurisdiction of the State Public Accounts Committee and the Central Public Accounts Committee. In fact it has been included as a point for discussion in your Conference. But the scope of the subject has been confined to joint State enterprises like inter-State River Valley Projects. I have no doubt that the conclusions reached would be practicable and mutu-

ally satisfactory. All that I would say in this connection is that the ultimate objective viz., that the tax-payer's interests should not suffer, should be kept in mind constantly; if this is done, the rest is a question of adjustment of the respective spheres. There is bound to be some overlap in this; only care should be taken to avoid friction for obvious reasons. In the context of the scheme of Central assistance, the roles of the Central Public Accounts Committee and the State Public Accounts Committee will have to be supplementary. For example, in the case of a loan or a grant-in-aid to a State, the Central Public Accounts Committee should obviously look to the State Public Accounts Committee to ensure that the money has been applied to the purpose meant.

Public Undertakings

With a socialistic pattern of society as the objective of the country's economic policy where the principal means of production will be under State ownership or control, Government has announced its revised industrial policy in April, 1956. Accordingly, Government have to assume a predominant and direct responsibility for setting up new production units, developing transport facilities and undertaking state-trading on an increasing scale. Since the traditional form of governmental organization was not considered conducive to the efficient working of the new enterprises, Government decided to switch over to the Corporate device by which it created an agency which can act in its own name. The Damodar Valley Corporation, the Indian Air Lines Corporation, the Life Insurance Corporation, the State Bank of India, the Sindri Fertilisers Ltd., the Hindustan Aircraft Ltd., the Bharat Electronics Ltd., are a few of such agencies under the Central Government.

The principal benefits of this organisational device are in its freedom from rigid governmental regulations and controls. But, nevertheless, the funds for the undertakings are provided by Government out of the Consolidated Fund and, therefore, there can be no two opinions on their accountability to Parliament. Unfortunately, a controversy has developed on this question of accountability, particularly in the case of the Life Insurance Corporation. This Corporation has been taken away from the purview of audit by the Comptroller and Auditor-General of India by a specific provision in the Life Insurance Corporation Act.

On this question of accountability of public undertakings, opinions vary to the extreme on either side. According to Herbert Morrison "if we are to run these public corporations—highly commercial, highly industrial, highly economic—on the basis of meticulous accountability to political channels, we are going to ruin the commercial enterprises and the adventurous spirit of the public corporations in their work". The other side of the picture is that the facade of autonomy has been erected mainly to defeat parliamentary control. In the U.K. a self-denying ordinance has been imposed by Members of Parliament on themselves on such matters to enable the public undertakings to work smoothly and efficiently. But the unfortunate trend in the control of state undertakings that had manifested itself in India recently has made it difficult to follow suit here. This question has to be considered objectively, and I am sure, with the right approach, it will not be difficult to find a solution by which their accountability to Parliament is assured while at the same time not impairing the flexibility of their working. In my opinion, the Public Accounts Committee

can be of great assistance to Parliament in evolving new techniques in this matter.

At this juncture, when public undertakings are set up under the Companies Act proper care has to be taken to see that Government Companies maintain their accounts on proper business lines. The Public Accounts Committees will have to devote a good deal of their time to ensure that such Government Companies are in fact run on sound business principles and their balance sheets and profit and loss accounts, etc. do portray the true state of affairs. The examination by the Public Accounts Committee of these commercial accounts should go beyond the technical compliance with the procedural formalities and it is necessary that their financial soundness is constantly kept in view and examined.

One of the directions in which such examination can with advantage be conducted is for the Public Accounts Committee to see that expenditure on administrative services and overheads is kept to the minimum and ceiling in terms of the percentage of the total expenditure on the whole undertaking is fixed so that there is automatic check on unproductive expenditure. Another matter which Public Accounts Committees should always keep in mind is that proper costing organizations are set up in the Government undertakings constantly to locate wastes, expensive processes and bad planning with a view to eliminating them in time to yield better results and competitive functioning of the undertakings. In short, Government undertakings have to be run in a way as to serve models in all respects so that the confidence of people grows in the capacity of Government to manage business concerns on sound and efficient lines. Public Accounts Committees shall be rendering great service to the

nation if they gave their earnest attention to these problems from time to time.

Recommendations of the Committee

The recommendations of the Public Accounts Committee are treated with utmost respect because of the semi-judicial and non-party approach which the Members of the Committee bring to bear on the deliberations of the Committee. Although the recommendations are only advisory in nature, it is a well-established convention that most of them are accepted by Government and implemented. Differences of opinion, if any, between the Committee and the Government are brought before the Committee for reconsideration and by this process they are resolved.

Although it is open to the Legislature to discuss the reports of the Committee, rambling discussion of the whole report leads us nowhere and tends to destroy the effectiveness of the recommendations of the Committee. I am, therefore, of opinion that specific points should be raised for discussion, more particularly on those points where there is an unresolved difference of opinion between the Committee and the Government.

One other point I would draw attention to is the examination of the representatives of Government who appear before the Committee to give evidence. As you are all aware the Committee's function is to criticise without fear or favour but the aim is to advance the betterment and efficiency of the administration. At times, the examination will tend to encroach upon policy matters or may not be quite relevant. It is on such occasions that each of you as Chairman of the Committee has a special responsibility to discharge either by cautioning the

Conference of P.A.C. Chairmen

Member concerned or ruling a question out of order.

Friends, I thank you for the patience with which you have been listening to me. The points that will be considered

by you are of great importance. I have referred to a few in my address. I am sure that under the Chairmanship of my friend, Prof. N. G. Ranga the conclusions reached on the various points will be satisfactory from all points of view.

"The position of the Clerk of the Parliaments is a most unusual one; one might almost say that it is unique. He is expected to know everything that has any reference to the House and its business, whether it relates to some rather abstruse constitutional point, the care of our great collection of documents, or when any of us Members are in doubt about the proper procedure that any of us individually should take in certain given circumstances. That means that any really good Clerk of the Parliaments must have to a marked degree three great and rare qualities: learning, wisdom and tact".

The MARQUESS of SALISBURY while speaking in the House of Lords on the retirement of Sir Francis William Lascelles as Clerk of the Parliaments. (Debates of the House of Lords, 30th January, 1950).

Short Notes

Scope of President's Address to Parliament

In the course of his reply to the debate on the President's Address in the Lok Sabha on the 19th February 1959, the Prime Minister explained the scope of the President's Address to Parliament and said:

"The first thing I should like to say is that there appears to be some misapprehension as to what the President's Address to a joint session of the two Houses should be. It has been said by some Member that the speech lacked urgency, vigour and vitality and that it should be more analytical and critical showing where Government had gone wrong and so on. Now, what the Member has said presumes that our President is more or less in the position of the President of the United States with his State of the Union message, which he sometimes gives—an analytical survey. It is obvious that our President is not constitutionally or otherwise in that position and it would not be fair to him or fair to this House for the President to function in any other way than is laid down in the Constitution. Therefore, his annual Address is necessarily not an analytical and critical document, except very broadly speaking, it is to be rather a simple narration of what has been done, giving some idea of the major things that Government is going to undertake. If we have to start some other convention in this matter, I do not know how it will fit in with such ideas of our Constitution and the President's position as have thus far been accepted by us"

India—1958 Exhibition: Participation by the Lok Sabha Secretariat

With a view to acquainting the public with the work of the Indian Parliament, the Lok Sabha Secretariat participated in the India—1958 exhibi-

tion held in New Delhi during the months, October 1958—January 1959. A number of display panels and charts depicting the various activities of Parliament were exhibited in the pavilion "Indian Panorama" of the Ministry of Information and Broadcasting. Arrangements were also made by deputing the necessary staff to explain the exhibits to the visitors and distribute folders which had been prepared by the Lok Sabha Secretariat on the activities of Parliament.

In addition, a Sales Counter was also set up at the pavilion to exhibit and sell the various publications of the Secretariat to the public. The Counter functioned throughout the four months of the Exhibition and gave wide publicity to the Secretarial publications, some of which like the 'Panchsheel', 'The Constitution of India—Extracts', 'Guide to Parliament House' etc. were in great demand. Besides these, several descriptive leaflets and folders were distributed free to the public, which were specially liked by school and college students.

Mysore Vidhan Sabha: Statement by Ministers on Resignation from Government: Speaker's Observations

On the 29th October 1958, the Leader of the Opposition in the Mysore Vidhan Sabha raised the question of Ministers making statements in the House on their resignation from Government and the outgoing and incoming Chief Ministers making state-

ments on a change of government. The Speaker observed as follows:—

"I have examined all the available precedents on the subject. The position in the United Kingdom is stated to be that while the Speaker of the House of Commons would certainly permit a resigning Minister to make a statement about the resignation of himself or the Government of which he has been the Head, it does not seem that the House has any power to demand such a statement, but at Westminster such matters tend to be governed by political rather than procedural considerations and would, therefore, be discussed in the Press rather than in the House, although references might frequently be made to the change or changes in the course of debates. When Mr. Stanley Baldwin, Sir Winston Churchill and Sir Anthony Eden resigned the Prime Ministership of the United Kingdom in May 1937, April 1955 and January 1957 respectively tributes were paid to the retiring Prime Minister and speeches were made welcoming the new Prime Minister in the House of Commons immediately after the question hour on the 31st May, 1937, 6th April 1955 and 22nd January 1957 respectively. On all these aforesaid three occasions, the new Prime Minister replied to the felicitations offered to him by members after himself joining in giving tributes to his predecessor. It is evident from these events that neither the Prime Minister who resigns nor his successor makes a statement informing the House of the reasons for the change in the Ministry. However so much would depend in any particular case on the circumstances of the change of government that they cannot be regarded as precedents. It would, therefore, appear that so far as the House of Commons is concerned, though the House never compels a statement to be made, individual Ministers normally follow the practice which permits them an opportunity to make a personal statement. But in the case of a whole Ministry, political expediency or prior public knowledge often makes a statement in the House either impolitic or superfluous and it cannot be enforced by the Opposition. The Government of the day have only volunteered a statement when it seemed advantageous from its point of view to do so.

Coming to the Legislatures in India it may be mentioned at once that there is no precedent at the Centre on this point. So far as the State Legislatures are concerned, I may refer to two cases in which

such statements were made. One occurred in Bengal in 1943. Mr. Fazlul Huq resigned his office as Chief Minister and the Ministry as a whole, therefore, became *functus officio*. Mr. Fazlul Huq wanted to make a statement but the succeeding Chief Minister, Sir Nazimuddin and other members of the Government Party of the time, strenuously opposed on the ground that the rule did not allow a Chief Minister to make a statement in circumstances when there was a wholesale change of Ministry. Speaker Naushir Ali ruled that the relative rule was not limited to the case of an individual Minister resigning from the Ministry and he, therefore, permitted Mr. Fazlul Huq and the other Ministers to make statements regarding the cause of their resignation.

In a more recent case which arose in West Bengal when Dr. P. C. Ghosh resigned because the Party wanted to choose another Leader and Dr. B. C. Roy was elected Leader and formed a Ministry, neither of them made any statement regarding the resignation, nor was any statement asked for by the House.

The other case in which a resigning Chief Minister sought permission of the Chair to make a statement and was permitted to do so, occurred in Madras when Sri Prakasam who was the Chief Minister resigned his office. On the 25th March 1951 he made a detailed statement regarding the resignation of his Government.

In the Travancore-Cochin Assembly in identical circumstances which occurred in 1951, though a request was made by the Opposition, neither the out-going Chief Minister nor the new Chief Minister offered to make any statement. On that occasion, Shri A. Thanu Pillai who made the request made it very clear that he did not base it on any convention. The Speaker gave the following ruling: "Rule 31 provides that a member who has resigned the Office of Minister may make a personal statement in explanation of his resignation and with reference to such a statement a Minister holding Office may also make a statement, but there is no provision making it obligatory on the part of either to offer any explanation or to make any statement as to the circumstances which led to the resignation."

In addition to these, there is also a third type of case in which there was a change in the Ministry, but no statement

was either asked for or made. In Orissa the Chief Minister, Shri Nabha Krushna Choudhary resigned and Dr. Hare Krushna Mahtab became Chief Minister, but neither of them made any statement nor was any statement demanded from either of them.

Our Rules of Procedure provide on this subject that "a member who has resigned the office of Minister may with the consent of the Speaker make a personal statement in explanation of his resignation and any Minister may thereafter be entitled to make a statement pertinent thereto." As observed by Speaker Naushir Ali in the Bengal ruling, the rule applies not only to a Minister who resigns from the Cabinet but also to every Ex-Minister in the case of resignation of the entire Cabinet. Such being the case, as in the case of an individual Minister, so too in the case of a Cabinet, it is for the Minister concerned, whether he is an individual Minister or an ex-Chief Minister, if he feels like making a statement, to approach the Speaker for permission to do so, and the Speaker will exercise his discretion in such a way so as not to curtail the rights and privileges of the members of the House. Normally, in such cases consent will be automatically given unless the Speaker is convinced that to give consent will lead to an abuse of the privilege.

There are any number of cases in which an individual Minister who has resigned from the Cabinet has sought the permission of the Chair to make a statement explaining the reasons which led to his resignation. He has been usually permitted to do so in fairness to the member concerned and the Ministry is also permitted to offer remarks pertinent thereto. Such cases have occurred in the House of Commons, in the Parliament of India and in several State Legislatures. But these are cases where an individual Minister has differed from the rest of his colleagues on some important matter of policy and has, therefore, resigned. The conditions and circumstances which exist in such a case are naturally absent when the entire Cabinet resigns.

In the case of resignation of the entire Cabinet, if the out-going Chief Minister

breaks away from his Party he would perhaps choose to make a statement, but if he remains within the Party it becomes obvious that he would not make his differences with the Party public, and would, therefore, refrain from making any statement."

Retirement of Shri K. K. Rangole, Secretary, Madhya Pradesh Assembly*

Shri K. K. Rangole, Secretary of the Madhya Pradesh Vidhan Sabha, retired on 15th February, 1959, after nearly 39 years of distinguished service. Shri Rangole joined the office of the Central Provinces Legislative Council in March 1920 and served in the subsequent Legislature of the old Madhya Pradesh and the present Madhya Pradesh Vidhan Sabha until his retirement.

On 20th February, 1959, references were made in the Madhya Pradesh Vidhan Sabha by the Speaker, the Chief Minister and the leaders of the Opposition Groups appreciating the services of Shri Rangole. The Chief Minister Dr. K. N. Katju, said that Shri Rangole had served the Vidhan Sabha with great ability "in various ways and in different capacities" and had contributed to the smooth working of the House. The Speaker observed :

"The way Shri Rangole conducted the work of the Vidhan Sabha Secretariat deserves appreciation and praise. His behaviour with all the members was impartial, liberal and friendly. I was fortunate enough to have such an erudite scholar of law as my Secretary. I would once again say that we have been deprived of the services of a very able and competent Secretary."

*Similar appreciative references were made in the Bombay Legislative Assembly on 30th September, 1953 at the retirement of Shri S. K. Sheode, previous Secretary of the Bombay Legislature, in the Madras Legislative Assembly on 22nd March 1955 at the retirement of Shri R. V. Krishna Ayyar, the then Secretary of that Assembly and in the old Bengal Legislative Council on 26th August 1924 and 21st December 1939 respectively at the retirement of Mr. C. Tiedall and Shri K. N. Majumdar, the then Secretaries of that Council.

Short Notes

Provision of Desks for Members in front of their Seats in the House: Views of the Canadian Prime Minister

In the Canadian House of Commons, the seating arrangements for Members consist of an upholstered armchair and a desk in front of each Member. Speaking about the arrangements in the House on 4th August, 1958, the Prime Minister of Canada, Mr. Diefenbaker remarked:

"It is difficult with desks before us to achieve that degree of perfection in

debate, cogency in argument and lack of prolixity, which is so necessary for effective debate.... The fact remains that one of the major reasons the British Parliament has been so effective is that there are no desks before the Members of that House that permit of an extensiveness in extemporaneousness added and abetted by manifold documents on a desk. They speak there after preparation. They have no space on an individual desk before them on which to lay voluminous notes or great volumes. When a speaker has to bow every now and then in order to remove books and papers from under the seat upon which he was sitting prior to his rising to take part in the debate he is less inclined to have copious reference to voluminous documents."

"In political speculations 'the tyranny of the majority' is now generally included among the evils against which society requires to be on its guard."

From the Tradition of Freedom Ed. by Milton Mayor.

A Historical Review of Speakership in Canada and Australia

By

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THE office of the Speaker of the British House of Commons, which today represents at its best the non-partisan, non-political, and impartial type of presiding officer, has exercised immense influence upon similar offices in other countries which have adopted the parliamentary form of government in the nineteenth and twentieth centuries. The British Dominions of Canada and Australia adopted the British form of parliamentary government, but the pattern of Speakership transplanted from the Mother of Parliaments showed marked variations in the two countries. A brief historical review of the evolution of the office of the Speaker in the two countries will give the proper perspective to understand the present position of the Speakers in the two democracies and the tasks before them which have made it difficult for them to conform strictly to the British pattern of Speakership.

Canada

The evolution of the office of the Speaker in the Canadian Legislature is closely connected with the course of democracy and parliamentary institutions in Canadian history, which may be divided into a few very clear epochs. During the French regime, which came

to an end in 1759, there were no parliamentary institutions of any kind. The rule of the French kings was oppressive and autocratic. Canada came under the British rule at the end of the seven years' war and for eleven years thereafter, the colony was under military regime. The Quebec Act which was passed in 1774 gave power to the Governor assisted by an Executive Council appointed by the Crown to legislate and govern, and also granted the colonists the right to free exercise of their religion. Under this policy, the responsibility of government was centred, absolutely and exclusively, in the Governor. The Governor consulted the Executive Council at his discretion but was not bound by their advice. He was responsible only to the supreme authority of the Crown.¹

The American Revolution brought a great exodus of loyalist stock from the South to the Maritime Provinces and Quebec in Canada. These people had grown up in an atmosphere of political freedom and therefore demanded political rights soon after their settlement in Canada. The Act of 1791 separated Canada into Lower and Upper Canada and introduced a representative type of government. Lower Canada had predominantly a French majority and was to continue with the French

¹Alpheus Todd: *Parliamentary Government in the British Colonies*, pp. 25—30.

civil laws. Upper Canada which had a British majority was administered under the English common law. Each province had a nominated hereditary Legislative Council and an elected Assembly. The Governor had the right of veto and was empowered to reserve Bills for the Crown's pleasure. In many respects the Imperial Parliament in London acted as the central authority. Both in the Lower and Upper Canada, which were separate provinces from 1792 till 1842 with distinct governments, political differences had long existed. These differences were due to lack of harmony between the legislative and executive authorities. The Assemblies, when they initiated legislation, were opposed by the Legislative Councils and the Governors. The Legislative Councils were packed with the nominees of the Governor and were mostly monopolized by the British commercial class. Governors from 1792 to 1837 were strongly partisan and were 'imbued with the spirit of the English Toryism of the period'.²

Lower Canada

In Lower Canada there were many causes of friction between the Legislative Council, the stronghold of privilege, and the Assembly. This was accentuated by the additional difficulty of race. The proportion of French members in the Legislative Council, fairly large at first, gradually declined. The same was true

of the Executive Council which interfered with the Legislative Council to a great extent. In 1827, 18 out of the 27 members of the Legislative Council were receiving salary from the government and all the 18 were English. Of these 18, 7 were members of both the Councils.³ During the regime of Sir James Craig (1807-11) the Assembly had its first conflict with the Executive, in an attempt to prevent the judges from being councillors. The Assembly returned to the attack, year after year, without much success. The sound proposal to 'divorce the judicial from the other branches of government' became the subject of racial strife, for the councillors took the attack on the judges (most of whom were English) as an attack on the ruling race.⁴ Another cause of friction was spoliation of the public lands. There were also frequent charges of absenteeism in office-holding and monopolization of posts by the English. In 1834 the French held less than a quarter of the public places, although they constituted over three-quarter of the population.⁵ Yet another cause of friction was the confiscation of Jesuit, Estates by the Crown. The proceeds of these estates were being applied to State education through the Royal Institution.⁶ To French eyes this looked like Catholic money being spent on Protestant education. Louis Joseph Papineau, who was elected Speaker of the Legislative Assembly in the French Province in 1815,

²Edward Porritt : *Evolution of the Dominion of Canada*, pp. 60—69.

³A. R. Lower: *History of Canada*, p. 217.

⁴*Ibid.*

⁵*Ibid.*

⁶The 1801 Act establishing the so-called 'Royal Institutions' set up a Corporation to which was given the power to hold and disburse public money and to make rules and regulations subject to the sanction of the governor for the 'direction, conduct and government of free schools of Royal foundation'. The Governor was given power to establish free schools in parishes or towns and to name local trustees for them.

became the leader of constitutional revolt against the Executive. He held the office of the Speaker until the armed rebellion of 1837. He launched an attack on the Government at Quebec within purely constitutional limits. Under the leadership the Assembly made an insistent demand for the right to inquire into the expenditure by the Crown or the money voted by the Assembly and thus came into conflict with the Governor. The Governor openly interfered in election, and was always against the popular group in the Legislative Assembly. The Assembly claimed its right over taxation and in appointing public officers for the administration and making them responsible to peoples' representatives. It repeatedly refused to vote the estimates and demanded the redress of their political grievances. The Governor, who took a very active part in the struggle, had therefore to sanction the appropriation of funds for running the administration.

As mentioned earlier, Papineau's fight with the Executive before the revolt of 1837 was strictly constitutional. In 1822 the Imperial Government of U.K. launched a Union Bill for uniting the two Canadas. It included proposals to make English the sole official language, to impose high-property franchise and also suggested Crown control of revenue and limitation on the Roman Catholic Church. Papineau went over to London and succeed in getting the Bill dropped. He was thereafter drawn into a conflict with Governor Dalhousie over the latter's threat to use the Crown's revenue whether the Assembly voted the expenditure or not. Dalhousie was so strongly opposed to Papineau that in 1827 he refused to accept Papineau as Speaker on his re-election. Popular feeling rose so high against the Governor

that he was recalled and replaced by Governor Sir James Kempt. The latter was more conciliatory towards the Assembly, and at his suggestion the British Parliament appointed a committee in 1828 to make an elaborate inquiry into the conditions of Lower Canada. The Committee made recommendations favourable to the popular side, but its report did not receive any attention from the Government. The opportunity for a compromise did not recur. After 1831 therefore, the Assembly under Speaker Papineau became very restive. It adopted a programme of conquering power, with no plea for compromise. This included complete control of all revenue. The Government tried to appease Papineau by offering him a seat in the Executive Council but he rejected it. In 1835 Papineau stated clearly in a speech in the Assembly what he and his party desired. "The Government I long for" he said, "is one composed of friends of legality, liberty, and justice—a Government which would protect indiscriminately every proper interest and accord to all ranks and to each race of inhabitants equal rights and privileges. We demand for ourselves such political institutions as are in accordance with those of the rest of the Empire, and the age we live in."

Upper Canada

Of a similar nature was the agitation for self-government in Upper Canada where the struggle for independence was led by William Mackenzie, a member of the Assembly. He was expelled from the Assembly in 1832 for assailing the Executive for crowding it with office-holders and for criticising the appointment of the Episcopalian Chaplain to the Assembly. He was elected four times

¹Edward Porritt: *Evolution of the Dominion of Canada*, p. 90. Citation from J. Boyd 'Political History of Canada', pp. 91-94.

a member of the Assembly but was ejected every time from the Assembly by the Sergeant-at-Arms when he presented himself before the Assembly. His constituents presented a petition to the Governor on this account but the grievance was not redressed.

When all peaceful constitutional methods to secure the redress of grievances failed, the people launched open rebellion against the Government under the political leadership of Papineau and Mackenzie both in Lower and Upper Canada. These revolts were suppressed violently but they heralded the dawn of a new era of British colonial development.⁶ Its direct result was the Durham Report which united both the Lower and Upper Canada into one Union and introduced representative government though not responsible to the people. Nevertheless the struggle for responsible government was carried on from 1841 to 1849 under the leadership of the Speaker of the Canadian Assembly. Ultimately the British North America Act of 1867 conferred full-fledged autonomy to Canada on a federal pattern.

Present Position

At present the position of the Speaker of the Canadian House of Commons is midway between the position of the Speaker at Washington and that of the Speaker at Westminster. At Westminster the Speaker, as soon as he is elected to the Chair, severs his connection from the parties. He never enters a political club and never publicly discusses politics. He is outside the arena of political parties and by a well-established convention he continues in office for as long a period as he is willing to

serve the House. In Canada the Speaker is less divorced from the entanglements of the party. The Canadian practice is that a Speaker holds office only for the duration of one Parliament. The Canadian Speaker cannot withdraw from his party as the British Speaker, if he wishes to continue in politics. It is a tradition at Westminster of now a hundred and fifty years' standing that a Speaker must not continue as a member of the House of Commons after the end of his service in the Chair. Since Addington vacated the Speakership to become the Chancellor of the Exchequer and Premier of the Administration during 1801-1804, no Speaker at Westminster has ever resigned to accept office in the Cabinet. After his retirement the Speaker is rewarded with a peerage and a pension. In Canada, the Speaker remains in office as long as his party dominates the House. The office of the Speaker is not the climax but simply one of the milestones in a parliamentary career. It often leads to a ministerial post later and there have been occasions in which a Speaker vacated the chair to accept office in the Cabinet. The Speaker in Canada cannot sever his connections with the party, because after serving the duration of one Parliament he has to continue his parliamentary career and fight his next election. In England the ruling of the Speaker is not subject to criticism in the House but in Canada the Speaker's rulings are challenged by the opposition and are subjected to Parliamentary vote. There is a practice in Canada that a Speaker of British origin should be followed in the next Parliament by one of the French race and the Deputy-speaker should always differ in racial origin from the Speaker. The Speaker in Canada is not a partisan in the same sense as the American Speaker, who after election to the Chair continues

⁶*Ibid.*, pp. 91-94.

as the leader of the Party Commanding the majority in the House of Representatives. Service in the Chair at Washington, moreover, has frequently been a stepping stone to the position of a candidate at national conventions for the Presidency of the United States.⁹ In the conduct of his function of presiding over the House, the Canadian Speaker has remained remarkably free from partisanship, although he does not possess the impartiality of his British counterpart who enjoys security of tenure. Variations from the Westminster precedent is largely due to race and language and partly due to long-prevailing ideas as to the distribution of Governmental patronage.

Australia

The evolution of Speakership in Australia has practically followed the same line of development as in Canada. It was Captain Cook who discovered this colony, and the first colonization started in 1788 with the foundation of the colony of New South Wales. The existence of gold and silver mines attracted wave after wave of British colonisers who established small colonies. In the initial stages of colonization strong and quick administration was needed and so a unitary form of government was established there. Each colony was administered by the Governor as agent of the British Crown with the help of official nominees. He owed no responsibility to the Legislative Council.

The period of colonial rule in Australia was a period of bitter conflict between the Speaker and the Legislature on the one hand and the Governor and the Home Government on the

other. The Speaker of the Lower House stood forth as the champion of the rights of the people and fought hard for their constitutional rights. Even during the first session of the legislature (3rd August, 1843), established under the New South Wales Act of 1842, Speaker Alexander Mcleay and the elected members came into conflict with the Governor and opposed the estimates for 1844, which was the only way to seek redress of their grievances. During the December session of 1843 the members also discussed various measures relating to the constitution. The members of the legislature held the view that only the representatives of the people had the right to vote the people's money and that the Home Government had no right to fix a Civil List of £81,000 without their consent. The dissatisfaction which existed in the Legislative Council increased due to the promulgation by the Governor of depasturing licence regulations on April 2, 1834 without consulting the Legislative Council.¹⁰ Although the legislature was helpless to effect the repeal of these new regulations, Speaker Alexander Mcleay allowed the representatives of the people to pass a resolution¹¹ condemning the depasturing regulations and expressing their disapproval of the land policy which was placed beyond their control by the new regulations. The Home Government flouted the popular feelings and this increased the discontent of the people all the more, who became more determined to secure the repeal of the Land Sales Act of 1843 and of section of the Constitutional Act of 1843, which debarred the Legislative Council from passing any measure on waste lands. Meanwhile the demand for responsible Government became more insistent. On

⁹Ibid p. 380.

¹⁰Sweetman : Constitutional Development, p. 103.

¹¹The resolution was : 'The management of Crown lands and revenues arising therefrom should be placed at the disposal of the Governor and the Council'.

Speakership in Canada and Australia

the 28th August, 1845, the Legislature under the leadership of Speaker Alexander Mcleay passed a vote of censure on the Executive Government for appropriating more than a certain sum of money which had been fixed for the detection of illicit distillation. The Governor proved to be a mere tool of the Colonial Office and the elected members very much resented his autocracy and showed their displeasure by rejecting the taxation proposals of the Government. Nevertheless the Government continued to retain office in spite of its repeated defeats.

The Speaker and the House devised another method to exert pressure on the Home Government in order to secure the solution of their economic and political grievances. With the concurrence of the House Speaker Mcleay appointed Francis Scott as Parliamentary Agent in England in 1844¹² and instructed him to champion the cause of the colonists and put forth their grievances arising from the Land Sales Act of 1842, the fixing of the Civil List by the British Parliament without their consent and the absence of ministerial responsibility under the Constitution Act.¹³ Scott remained Parliamentary Agent till 1855 and continued to look after the interest of the colonists in the British House of Commons. Then came the Constitution Act of 1855 which provided a nominated Upper House and an elected Lower House. It did not however redress the long-standing grievances of the colonists. The Home Government still retained control of the Civil List and waste lands. The legislature under the leadership of Speaker Charles Nicholson, lodged a protest against this Constitution and it was forwarded on May 1st, 1851 to Earl

Gray through Governor Fitzroy. The legislature demanded the withdrawal of the power of the British Parliament to tax the people of the colony. It also pressed that the colonial legislature alone should be empowered to regulate and control the gross revenue of the colony from whatever source arising and that no Bills should be reserved for the signification of Her Majesty's pleasure unless they affected the prerogatives of the Crown or the general interests of the Empire.¹⁴ The Secretary of State for the Colonies did not give a satisfactory reply. The Council on 10th August, 1852 protested that the British Constitution was the inalienable birthright of the people of the colonies as well and pledged to continue their efforts till all their grievances were removed. The legislature again on 25th August, 1852 decided, on a motion by Wentworth, that they would not grant supplies for the year 1854 unless a favourable reply was sent to them. The Home Government in the end conceded all the demands of the legislature and passed the Federal Council of Australia Act in 1883 giving to the colonies sovereign powers, which were previously vested in the Imperial Government. Finally after spasmodic efforts the Commonwealth of Australia Act of 1900 established a federal form of government modelled on the British parliamentary system.

Present Position

The Speaker of the House of Representatives of Australia, like the Canadian Speaker, does not divorce himself from party politics. He is a party nominee and is usually unseated with a change of Government¹⁵. The immunity of the Speaker from electoral contests has not been conceded in Aus-

¹² The Parliamentary Agent was specially deputed by the Legislature to represent the case of New South Wales.

¹³ Sweetman, *op cit*, p. 184.

¹⁴ *Ibid* p. 257.

¹⁵ Crisp : *Parliamentary Government in Australia*, p. 144

tralian Politics, as at Westminster. The reason for this departure from the British precedent is that the House is small (121 members) and Australians feel that every seat is 'too precious to go uncontested'¹⁶. It is also argued that it is unreasonable to disfranchise the whole electorate by returning the Speaker uncontested. As is the practice in Canada, Speakership in Australia is not the summit but a milestone in parliamentary career. There have been cases when a Speaker after vacating office subsequently held a ministerial post in the Labour Cabinet¹⁷. The Australian Speaker exercises his rights of an ordinary member such as attending to constituency matters, attendance at Party meetings etc. He also takes part in discussion when the House is in Committee, although this has not occurred in the British House of Commons since 1870. Apart from speaking in the Committee the Speaker is sometimes called on to vote directly for his part. Sir Elliott Johnson, when Speaker, several times saved the Government in 1913-14 by joining in the Committee Divisions. Speaker Littleton Groom, who refused to vote with his own party on the Arbitration Court Amendment Bill in a Committee division in 1929, was denounced in his electorate by Prime Minister Bruce and defeated at the next elections¹⁸. Speakers from the Liberal Party also, who have shown a readiness to withdraw party support, have not been appreciated by their party¹⁹. Because of lack of impartiality the Australian Speaker does not inspire confidence in the House and occasionally a

ruling from the Chair is successfully voted down—as on September 10, 1937, when on a motion of the Prime Minister himself a vote on party lines nullified the rulings of the Speaker. This does not happen in the British House of Commons.

It would appear from the above short review that in the British Dominions of Canada and Australia the Speakers of the Lower House could not conform to the British pattern of Speakership. This is in the main due to conflicts of race and language and distribution of political patronage and also due to lack of healthy parliamentary traditions. But under stable conditions there is a tendency of the office slowly approximating to the British model. The Speaker normally is considered the guardian of the rights and privileges of the members of the House. His duty is to maintain discipline and decorum in the House and to allow minorities legitimate opportunities for debate and criticism, without undue obstruction and delay. The true position of the Speaker in these two countries is as stated in an extract from the editorial of 'Canberra Times', dated June 22, 1943: "The Speakership lies not in the gift of any party or parties. It is an office bestowed by the House. It is not a political job, and the holder of the office fails to distinguish his duties and stains the traditions of the Speakership in measure as he makes it a stalking-horse for political manoeuvre."²⁰

¹⁶*Ibid.*, p. 144.

¹⁷Crisp mentions the case of Speaker Norman Makin who after vacating the chair held a ministerial post in the Labour Cabinet, p. 145.

¹⁸Brady: *Democracy in the Dominions*, p. 77.

¹⁹George Knox refused a request from the Joint Liberal and Country Party Conference in Sept. 1947, that he should resign in order to dislodge a Labour Govt. with a precarious majority. (*Ibid.* p. 90.)

²⁰This editorial was written on the resignation of Speaker Nairn of the House of Representatives of Australia when a no confidence motion was tabled against the Government. Mr. Nairn belonged to the Opposition party and he declared that his tenure of office of the Speaker was governed by the wishes of his party. He resigned in response to the decision of his party.

Resolutions and their Effects

By

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Before India's Independence

BEFORE India attained independence, the rules of the Indian Legislative Assembly provided that a resolution should be "in the form of a specific recommendation to the Governor General and "any member may move a resolution relating to a matter of general public interest". This right was subject to certain limitations and the decision of the Governor General on the point whether any resolution was or was not within the rule was final.¹ A resolution therefore, was then no more than a recommendation when adopted by the House. It was open to the Government to accept or reject it, since neither the Legislature was representative nor the Government of the day was responsible to the Assembly.

After Independence

After Independence, in accordance with the provisions in the Constitution

and the supreme character of Parliament, the following rule *inter alia* governs the form of a resolution:—

"A resolution may be in the form of a declaration of opinion, or a recommendation; or may be in the form so as to record either approval or disapproval by the House of an act or policy of Government, or convey a message; or commend, urge or request an action; or call attention to a matter or situation for consideration by Government; or in such other form as the Speaker may consider appropriate." (Rule 171 of Rules of Procedure and Conduct of Business in Lok Sabha—5th Ed.)

Categorisation

Under the present Constitutional set-up, a question arose, on a point of order, in the Madras Legislative Assembly as to the nature of resolutions passed by the Legislature and their effect upon Government. The then Chief Minister of Madras, Shri C. Rajagopalachari gave a learned exposition on the 31st July, 1953 of the different categories of resolutions that a representative

¹ Rule 23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Governor-General in Council.

(2) No resolution shall be moved—

- (i) on any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's dominions ; or
- (ii) save with the consent of the Governor-General in his discretion,—
 - (a) on any matter connected with relations between His Majesty or the Governor-General in Council and any foreign State or Prince ;
 - (b) on any matter connected with the tribal areas or the administration of any excluded area ;
 - (c) on any action taken in his discretion by the Governor-General in relation to the affairs of a Province ;
 - (d) on any matter connected with any Indian State ; or
 - (e) on the personal conduct of the Ruler of any Indian State or a member of the ruling family thereof.

(3) The decision of the Governor-General in his discretion on the point whether any resolution is or is not within the restrictions imposed by sub-rule (2) shall be final.

Legislature deals with and their Constitutional or conventional effect on Government. The following excerpts are relevant to the subject matter of this article :—

"Laws are made by acceptance of Bills in the two Houses and assent of the Governor. Resolutions passed by the Assembly fall under three categories: (1) Resolutions which become part of the law of the land; (2) Resolutions passed by the House in the matter of control over its own proceedings; and (3) Resolutions which are mere expressions of opinion.

To the first category of resolutions, that is, resolutions which have statutory effect, belong resolutions to which the Constitution or enactments, passed by the Central and State Legislature, attach certain consequences. For example, Article 213(2) (a) states, in regard to an Ordinance made by the Governor, that, if a resolution disapproving the Ordinance is passed by the Legislative Assembly and agreed to by the Legislative Council the Ordinance shall cease to have effect. Another example is Article 252(1) which says that, on resolutions being passed by the Houses of Legislature of the State, the Central Legislature shall be competent to enact, let us say, a law authorising the levy of estate duty in respect of agricultural land in the State of Madras. Similarly, Section 3(4) of the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939) says that rules framed under that Section shall not come into force unless they are approved by a resolution of the Legislative Assembly.

The second category of resolutions are resolutions passed by the House of Legislature in the matter of control over its own proceedings.

The third category of resolutions are resolutions through which either Government or private members obtain an expression of opinion so as to assist Government in the framing of their policies It is in regard to such resolutions that Dicey says "The resolution of neither House is a law"....

A resolution of the Assembly, which is not law, but which is an expression of its opinion may, though devoid of legal effect, that is to say, though not having the effect of altering or adding to the laws of the State, may yet have the political effects, if the resolution is a

decision on a motion which the Government treated as a motion of confidence. In that event the passing of the resolution against the Government's opposition would amount to a vote of no-confidence which, according to established convention of the working of Parliamentary institutions, would entail resignation of the Government or a recommendation of the Governor that the Assembly be dissolved.....

The Labour Government of Mr. Ramsay MacDonald was defeated in the House of Commons ten times between January and August, 1924, and did not resign or advise dissolution for that reason. Mr. Balfour's Government was defeated in the Committee of Supply on an Irish question, but neither resigned nor dissolved Parliament. The Opposition can always test the opinion of the House by a vote of no-confidence.

This, Sir, is the political implication of the resolution. As for the legal effects of the resolution referred to, I have explained the correct position at the outset."

The above categorisation applies appropriately to resolutions in Parliament as well.

Constitutional Resolutions

So far as Parliament is concerned, the Constitution provides for resolutions for various purposes and they have statutory effect or the force of law when passed. The impeachment and removal of the President, the removal of the Vice-President, and Officers of Parliament can be done only by resolutions in the manner prescribed by the Constitution. (*vide* Articles 61, 67, 90 and 94.)

Article 249 vests Parliament with power to legislate with respect to a matter in the State List, if the Council of State has declared by a resolution passed by a special majority that it is necessary or expedient in the national interest that Parliament should make laws for the whole or any part of India with respect to that matter, [*e.g.*, The Essential

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supplies (Temporary Powers) Amendment Bill, 1950; The Supply and Prices of Goods Bill, 1950; The Evacuee Interest (Separation) Bill, 1950].

Under Article 312, if the Council of State has so declared by resolution, Parliament may by law in the national interest provide for the creation of one or more All-India Services common to the Union and the States (e.g., The All-India Services Act, 1951).

Under Article 123, an Ordinance shall cease to operate, if before its date of expiry resolutions disapproving it are passed by Parliament. Article 352 provides that a Proclamation of Emergency shall cease to operate on the expiry of two months unless before its expiry it has been approved by resolutions of both Houses of Parliament.

Article 356, which deals with the failure of the constitutional machinery in States provides for resolutions being passed by both Houses of Parliament for the continuance of the President's Proclamation.

Statutory Resolutions

Certain statutes contain provisions by which the orders and regulations made thereunder are subject to approval of Parliament by means of Resolutions, without which they could not be enforced, (e.g., Delimitation of Constituencies Orders, 1951). Under other Acts which contain provisions relating to subordinate legislation the rules, regulations or bye-laws are subject to modification by Parliament, which when made have the force of law.

Resolutions regarding Procedure in the House

The second category of resolutions relates to motions moved by any member with regard to the procedure or proceedings of the House. Such motions when adopted become the resolutions of the House, which have the force of law and cannot be challenged in any court of law. Erskine May in this connection says:—

"The House has a collective right to settle its own code of procedure. The House is not responsible to any external authority for following the rules it lays down for itself, but may depart from them at its own discretion. This is equally the case whether a House is dealing with a matter which is finally decided by its sole authority, such as an order or resolution or whether like a Bill, it is the joint concern of both Houses."²

Under Rule 388 of the Rules of Procedure of Lok Sabha any member may, with the consent of the Speaker, move that any rule may be suspended in its application to a particular motion before the House and if the motion is carried the rule in question shall be suspended for the time being. Such motions have been adopted in Lok Sabha to regularise its procedure on certain occasions, when necessary, to meet particular circumstances.

The House may also by resolution evolve its own procedure to meet a situation not specifically provided for in its rules. A recent example of such a resolution in Lok Sabha was the one by the Leader of the House on the 15th July, 1957, which related to the action which the House should take against an intruder in the House who posed as an elected member, took the oath and signed the scroll.³

² May's *Parliamentary Practice*, 16th Ed., p. 60.

³ "This House is of the opinion that a person who gave his name as Birendra Kumar Majumdar and posed as an elected member of this House and who signed the Roll of Members as such this morning has committed contempt of this House and the Speaker is authorised to send him to a Medical Board for examination of his mental state and to take such further action as the Speaker may think fit on receipt of the report of the Medical Board."

Resolutions in General

In general, resolutions moved in Parliament relate to the third category, namely, resolutions which are merely expressions of opinion by the House. Such resolutions may be moved either by Government or by private members. When moved by Government they are intended either to obtain an expression of opinion by the House so as to assist them in the framing of their policies or to secure its approval to their policy, (e.g., the Five Year Plan, food policy, foreign policy etc.) or an executive act (international treaties e.g., Treaty of Friendship with Iran in 1950.)

"Such resolutions by Private Members", Campion observes, "are generally used to test the feeling of the House with regard to proposals which are still indefinite or ahead of public opinion".⁴ Generally, as Ivor Jennings says: "Private Members' motions.....are part of the technique of propaganda. They enable the opinion of the House to be taken. The 'opinion' need not be representative, for the attendance may be small."⁵

Effect of Resolutions

As to the legal effect of such resolutions when adopted by the House, Dicey observes:—

"The House of Commons, at any rate, has from time to time appeared to claim for resolutions of the House something like legal authority. That this pretension cannot be supported is certain.....It is, however, established that the resolution of neither House is a law."⁶

Since Resolutions are intended by Private Members either as a means to obtain the opinion of the House or as

a part of the technique of propaganda and as they are invested with no legal authority, Government is not bound, as convention goes, to give effect to them. It rests entirely on the discretion of Government whether or not to implement the action suggested in such a resolution. However, there is a moral duty devolving on a democratic Government to respect the wishes of the House when it adopts a Resolution.

Instance in the House of Commons

In this connection the following case in the House of Commons might be cited as an illustration. During the Parliamentary session in 1953-54 a Select Committee of the House of Commons unanimously recommended *inter alia* that Parliamentary allowance to members be increased from £1000 to £1500 per annum. On the 14th April, 1954 Prime Minister Sir Winston Churchill informed the House that though a unanimous report of a Select Committee should command respect, yet "in the view of Her Majesty's Government it would not be right in the present circumstances to proceed in the particular manner recommended by the Select Committee". However, on the 24th May, 1954 a Private Member's (Mr. George Thomas's) resolution was adopted by the House by a majority that members' allowances should be raised by £500 per annum and that Her Majesty's Government should at an early date introduce legislation to improve the financial position of junior Ministers. On the 24th June, 1954, the Prime Minister made the following statement in the House:—

"While the opinion of the House remains on record, it cannot be said that there is at present that wide measure of agreement in the House which I put

⁴ Campion, 2nd Ed., p. 110.

⁵ "Parliament", 2nd Ed., p. 367.

⁶ 'Law of the Constitution', p. 54.

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forward in my statement of 14th April—with, I think, general acceptance—as being desirable on this particular issue, Her Majesty's Government do not, therefore, feel justified in present circumstances in pressing forward with the steps necessary to put the increase in salary from £1000 to £1500 a year into effect."

However on the 8th July, 1954 the Prime Minister made a further statement to the House in the following terms:—

"Having examined the precedents in Commonwealth Legislatures and overseas, the Government have decided that the most equitable and practical way of meeting this situation is by the institution of a session allowance. This will be payable to those members who choose to draw it at a rate of £2 for every day (other than a Friday) on which the House sits. It can be drawn monthly or at such other times as may be arranged to suit the convenience of individual members. A Supplementary Estimates will be laid as soon as possible."

From the above instance it would be seen that according to the nature of the resolution and the volume of opinion in the House, Government could hardly ignore the desire of the House.

Rescission of Resolutions

As Jennings has pointed out "The opinion of the House need not be representative, for the attendance may be small". A Private Member's motion or resolution might be passed in spite of Government's opposition in a thin House or by a snap vote. In such a situation there is always a remedy open to Government. In the following session they could move a resolution rescinding the previous one. Erskine May in this connection observes:

"There is nothing in the practice of either House to prevent the rescission of a resolution or discharge of an order of a previous session when such is held to

be of continuing force and validity ... Technically, rescinding of a resolution resolved in the affirmative by the House, is the matter of a new question and is in order. The form for moving such a question is to read the resolution of the House and to move that it be rescinded. Thus the same question which had been resolved in the affirmative is not again offered although its effect is annulled."

Resolutions Involving Vote of Confidence

Under Rule 171 of Lok Sabha "A resolution may be in the form so as to record either approval or disapproval of the House of an act or policy of the Government." It might therefore happen that a particular resolution may amount to a censure motion, if either the Government or the Opposition treats it as such for all practical purposes. "A defeat of the Government on a major issue may produce its resignation", says Ivor Jennings. There being no illegality about the non-resignation of a Ministry in the face of its defeat, it is more or less a matter of judgment to know that a particular ministry has lost the confidence of the House. The only adverse vote upon which Government would be expected to resign would be if it did not carry a direct vote of confidence in the Government as a whole, which should not be linked up with a particular detail of Government policy. When the Government is defeated in the division lobby on any particular issue, that vote, according to Parliamentary practice, should be followed by a definite vote of confidence in the Government as a whole on the understanding that if it was defeated on that, there would be either a new Government or a call to the electorate.

¹ *May's Parliamentary Practice*, 16th Ed., p. 415.

² "Parliament" 2nd Ed., p. 136.

Petitions to Lok Sabha*

Origin

THE Indian Legislative Assembly Rules and Standing Orders which were originally¹ framed for governing the procedure in the Indian Legislative Assembly set up under the Government of India 'Act, 1919, did not contain any provision regarding presentation of petitions. Provisions regarding petitions and for setting up of Committee on Petitions were incorporated² in the Standing Orders of the Central Legislative Assembly as S.Os. Nos. 77 to 86 only on the 12th July, 1923. Explaining the origin of these Standing Orders, Sir Frederick Whyte, the first President of the Legislative Assembly, observed³ as follows on the 5th July, 1923:

"The Report of the Select Committee has already been presented and I think a very few words only are needed to explain the circumstances out of which these new Standing Orders arose. On the 15th September, 1921, Sir Manckji Dadabhoj moved a Resolution in the other Chamber asking for the appointment of a Committee to deal with the general question of petitions to the Legislature. The debate which arose out of that proceeded on lines which show that the other Chamber desired to endorse the Resolution; but the Resolution itself was actually withdrawn and an undertaking given by the then Home Member that the Government would take the matter up.

Thereupon,—I am not sure whether the Governor-General-in-Council or the Home Department—appointed a Committee under the Chairmanship of my Honourable Colleague, the President of the Council of State, the Committee consisting of 6 members which sat in the early part of 1922. The Committee produced a report which I have no doubt Honourable Members have all read. It went into the historical origin of the presentation of petitions to the Imperial Parliament, and showed that whereas at a certain time in the Parliamentary history of England, petitions played a very large and effective part in the public life of the country, as the functions both of the Legislature and of the Judicature developed, these petitions lost much of their importance. None-the-less, they still play some part in parliamentary proceedings in England, and the Committee thought it proper to recommend that they should also play some part in the proceedings of the Indian Legislature."

The draft Standing Orders were referred⁴ to a Select Committee by the Assembly on the 21st March, 1923, and the Report of the Select Committee was presented⁵ to the Assembly on the 27th March, 1923. The Assembly approved⁶ the Standing Orders on the 5th July, 1923 and they were brought into operation on the 12th July, 1923.

The first Committee on Petitions was constituted on the 20th February, 1924,

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

¹ See Gazette of India Extraordinary, dated 27th September, 1920 and Gazette of India, dated the 18th December, 1920.

² See Gazette of India, Part I, dated the 14th July, 1923, pp. 678-79.

³ See L. A. Deb., dated the 5th July, 1923, pp. 4370-71.

⁴ See L. A. Deb., dated the 21st March, 1923, p. 3834.

⁵ See L. A. Deb., dated the 27th March, 1923, p. 4018.

⁶ See L. A. Deb., dated the 5th July, 1923, pp. 4370-75.

Petitions to Lok Sabha

by the President of the Central Legislative Assembly under Standing order No. 80^{*}. The first petition was presented to the Central Legislative Assembly on the 14th September, 1922[†]. The first report of the Committee was presented to the Assembly by the Deputy President on the 19th February, 1925 on certain petitions relating to the Indian Penal Code (Amendment) Bill, popularly known as the Age of Consent Bill.

Till the end of 1953, petitions could be presented to the Assembly, and later to Lok Sabha, only on Bills which had been published in the Gazette of India or introduced in the House or in respect of which notice, to move for leave to introduce the Bill had been received. The question of enlarging the scope[‡] of petitions which could be presented to the House was discussed in great detail by the Rules Committee of Lok Sabha at their sittings held on the 15th and 22nd December, 1953. The Committee felt that, as in the United Kingdom, the people should have the right to present petitions to Parliament not only in respect of Bills but in the case of other grievances also and Parliament should receive the same. They, therefore, recommended that petitions may also be presented to the House on—

- (i) any matter connected with the business pending before the House; and

- (ii) any matter of general public interest provided that it was not one—

- (a) which fell within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a statutory tribunal or authority or a quasi-judicial body, or a commission;
- (b) which should ordinarily be raised in a State Legislature;
- (c) which could be raised on a substantive motion or resolution; or
- (d) for which remedy was available under the law, including rules, regulations, bye-laws made by the Central Government or an authority to whom power to make such rules, regulations etc. is delegated.

In accordance with the recommendations of the Rules Committee, the scope of petitions which could be presented to the House was amplified and incorporated as rule 171 in the Rules of Procedure and Conduct of Business in the House of the People (Third Edition). That rule has remained unchanged

^{*} S. O. No. 80.—(1) A Committee on Petitions shall be constituted at the commencement of each session and shall consist of the Deputy President who shall be chairman and four members nominated by the President, of whom one shall be a Chairman of the Assembly; in the absence of the Deputy President, the Chairman of the Assembly shall preside.

(2) The President may, if he thinks fit, fill up any vacancies occurring on the Committee during the session.

[†] L. A. Deb., dated the 14th September, 1922, p. 501.

[‡] See rule 126 of the Rules of Procedure and Conduct of Business in the House of the People (Second Edition).

since then, and is given as rule 160 in the Fifth Edition.¹⁰

Form of Petitions

All petitions to Lok Sabha are required to be in the prescribed form as set out in First Schedule to the Rules of Procedure and Conduct of Business in Lok Sabha with such variations as the circumstances of each case may require. The following, however, are essential requirements:—

- (i) name and designation or description of petitioner(s);
- (ii) concise statement of case;
- (iii) prayer of the petitioner(s);
- (iv) signature or thumb impression of the petitioner(s) with address.

In case the petition is to be presented to the House by a Member, it must also bear the counter-signature of the Member wishing to present it.

Every petition should be either in English or in Hindi. If a petition is made in any other Indian language, it should be accompanied by a translation either in English or in Hindi which should be signed by the petitioner. If such a petition is to be presented to the House by a Member its translation in English or Hindi should also be counter-signed by the Member wishing to present it.¹¹ In the First Lok Sabha,

for example, Petition No. 49 on the States Reorganisation Commission Report was received in Kannada and Petition No. 60 on the Hindu Succession Bill was received in Telugu. Both these petitions were accompanied by their English translations duly signed by the petitioners.

Character and Substance of Petitions

Every petition should be couched in respectful, decorous and temperate language. The petition must set forth a case in which the House has jurisdiction to interfere and the relief prayed for is within the power of the House. It should not relate to personal or individual grievances; nor should any letters, affidavits or other documents be attached to it.

Presentation of Petitions

A petition, if found admissible under the Rules of Procedure, is presented to the House by the Member who has counter-signed it. The Member concerned has to give advance intimation to the Secretary of his intention to present the petition. No debate is permitted on the presentation of a petition. A Member presenting a petition must confine¹² himself to a statement in the following form:

"Sir, I beg to present a petition signed by.....petitioner(s) regarding....."

¹⁰ Rule 160 in the Fifth Edition, which is as follows :—

"Petitions may be presented or submitted to the House with the consent of the Speaker on—

(i) a Bill which has been published under rule 64 or which has been introduced in the House;

(ii) any matter connected with the business pending before the House; and

(iii) any matter of general public interest provided that it is not one :—

(a) which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a statutory tribunal or authority or a quasi-judicial body, or a commission ;

(b) which should ordinarily be raised in a State Legislature ;

(c) which can be raised on a substantive motion or resolution ; or

(d) for which remedy is available under the law, including rules, regulations, bye-laws made by the Central Government or an authority to whom power to make such rules, regulations, etc. is delegated.

¹¹ Rule 164 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

¹² Rule 168, *ibid.*

Petitions to Lok Sabha

If a petition, after presentation, is found defective, it may be withdrawn¹³ by an order of the Speaker and the petitioner informed accordingly. In the Lok Sabha, however, there has been so far no case of withdrawal¹⁴ of a petition. A Member cannot present a petition from himself. Petitions for presentation to Lok Sabha can be transmitted by post at book packet¹⁵ rates.

Committee on Petitions

Every petition presented to Lok Sabha stands referred to the Committee on Petitions. Originally the Committee consisted of five members. On the 7th April, 1954, the strength of the Committee was raised¹⁶ to 15 members, with a view to give adequate representation to all Parties and Groups in the House. The Committee examines every petition referred to it and in the case of petitions relating to Bills pending before the House, or other business pending before the House, it generally directs circulation of the petition to the members of the House *in extenso* or in a summary form, as it may con-

sider proper in each case, so that the points put forward in these petitions are known to the Members when the House takes decisions on those matters. In urgent cases, when there is not sufficient time for the Committee to meet and consider a petition, the Speaker may order circulation of petitions to the Members. In the First Lok Sabha, for example, Petition No. 44 on the Finance Bill, Petition No. 47 on the Prize Competitions Bill and Petitions Nos. 50, 51 and 52 on the States Reorganisation Commission Report were circulated¹⁷ on the 19th April, 23rd September and 23rd December, 1955 respectively under orders of the Speaker.

In the case of a petition on a Bill pending before a Select or Joint Committee, the petition is referred¹⁸ to that Committee without being presented to the House and the petitioner informed accordingly.

In the case of other petitions, on matters of general public interest, the Committee examine such evidence as they may consider necessary or call for the facts of the case or comments from the

¹³ Direction 39 of the Directions by the Speaker (Second Edition).

¹⁴ In the House of Commons (U. K.) there have been in the past many cases of withdrawal of petitions. A few instances are given below :—

- (i) In 1838, a petition containing disrespectful language towards the other House of Parliament was withdrawn.
- (ii) On the 8th June, 1874, notice being taken that a petition contained offensive imputations upon the conduct of the Public Petitions Committee, it was ordered to be withdrawn.
- (iii) On the 3rd July, 1874, notice being taken that a petition contained imputations upon the conduct of certain Judges and statements affecting social and legal position of individuals, it was ordered to be withdrawn and printed copies to be cancelled.
- (iv) On the 6th April, 1876, notice being taken that a member's name had been affixed to a petition without his authority, the petition was ordered to be withdrawn.

—May, 16th Edition, pp.840—843.

¹⁵ One of the petitioners, during the First Lok Sabha, represented (*vide* Petition No. 61) that petitions for presentation to Lok Sabha might be permitted to be sent by post at book packet rates. The Committee on Petitions accepted the suggestion and the Government, in pursuance of the Committee's recommendation, have amended the Post Office Rules and the Petitions for presentation to either House of Parliament can now be sent at book packet rates provided a declaration is made on the wrapper that they are petitions for presentation to either House of Parliament under their respective Rules of Procedure.—See Gazette of India, Part II Sec. 3, dated the 8th February, 1956.

¹⁶ The strength of all Parliamentary Committees was similarly increased to 15.

¹⁷ See Lok Sabha Bulletin Part II, dated the 28th April, and 24th December, 1955.

¹⁸ Direction 26 of the Directions by the Speaker (Second Edition.)

Ministries concerned and make their recommendations in the form of a report to the House. The Committee review from time to time action taken by the Ministries in pursuance of the recommendations contained in their report.

Number of petitions presented to Lok Sabha

FIRST LOK SABHA

During the First Lok Sabha, 351 petitions¹⁹ were presented to Lok Sabha. Out of these 351 petitions, 311 were on Bills pending before the House, 6 on the States Reorganisation Commission Report and the rest on matters of general public interest. 317 petitions were circulated to Members and appropriate action taken on the remaining as recommended by the Committee on Petitions. For example, the grant of concession in sending Petitions for presentation to Parliament at book packet rates (already stated above) is the result of Committee's recommendations on one of the petitions. By another petition, a petitioner had made certain suggestions for improvement in the working of the Arms Act and on the recommendations of the Committee on Petitions the Ministry of Home Affairs have recently issued necessary instructions to the State Governments. During the First Lok Sabha, the Committee held 31 sittings and presented 12 reports.

SECOND LOK SABHA

During the four sessions of first year of the Second Lok Sabha, 17 petitions^{19a} were presented to Lok Sabha.

¹⁹ Besides these, 1668 representations addressed to Lok Sabha were received. These mostly comprised of letters and telegrams from individuals or associations voicing their grievances, but which were not, admissible under the Rules of Procedure. These have, however, been considered by the Committee since April, 1956 under Direction 95 of the Directions by the Speaker.

^{19a} Besides these, 1221 representations have been considered by the Committee under Direction 95 of the Directions by the Speaker.

²⁰ See First Report of the Committee on Petitions (Second Lok Sabha).

²¹ Minutes of sittings of most Parliamentary Committees are now laid on the Table.

Out of these 17 petitions, 5 were on Bills and 1 on a private member's resolution before the House; these were circulated *in extenso* to all the Members. The remaining 11 were on matters of general public interest. The Committee felt that no action was necessary in respect of 7 of them while 2 are still under consideration of the Committee. The following recommendations²⁰ of the Committee on the 2 remaining petitions have been implemented by Government and necessary instructions issued to the authorities concerned:—

- (i) Grant of railway concessions at single fares for double journeys to children appearing at examinations for award of Merit Scholarships in Public Schools, whose parents have an income not exceeding Rs. 100 per month.
- (ii) Reservation of Third Class berths and seats at important intermediate stations on Mail and Express trains and prevention of unauthorised sale of seats.

During the four sessions of the Second Lok Sabha, the Committee has held 18 sittings and presented 3 reports. The action taken by the Government in pursuance of the recommendations of the Committee is now incorporated in the Reports of the Committee and the minutes²¹ of the sittings of the Committee held during a session are also laid on the Table of the House during the last week of the session.

Petitions to Lok Sabha

The Committee on Petitions of Lok Sabha thus functions as an important link in bringing specifically to the notice of the House public opinion on several matters of public importance, including Bills.

Position in U. K.

In U.K. according to May²², the right of petitioning the Crown and Parliament for redress of grievances has been acknowledged as a fundamental principle of the Constitution. It has been uninterruptedly exercised from very early times and has had a profound effect in determining the main forms of parliamentary procedure. The petitions to Queen in Parliament were originally directed to judicial rather than legislative remedies and the modern form of petitions to the Commons grew up in the 17th century when Parliament had come to be regarded as a political and legislative body rather than as the highest court of justice. The rights of petitioners and the power of the House to deal with petitions were laid down by the following two resolutions²³ of

the Commons in 1669:

- (i) "That it is the inherent right of every commoner in England to prepare and present petitions to the House of Commons in case of grievance, and the House of Commons to receive the same."
- (ii) "That it is an undoubted right and privilege of the Commons to judge and determine, touching the nature and matter of such petitions, how far they are fit and unfit to be received."

In view, however, of the great increase in the number of petitions, the House of Commons in 1842 adopted a series of Standing Orders relating to public petitions. These Standing Orders were amended in the course of time before they reached the present form as Standing Orders 91 to 95²⁴.

With the development of other forms of parliamentary procedure, development of Courts of Justice and administrative bodies and the growth of Press, the public petitions now no longer play the great

²² May, 16th Edition, p. 836.

²³ *Ibid.*, p. 837.

²⁴ S. Os. Nos. 91 to 95.

S. O. No. 91.—Every Member offering to present a petition to the House, not being a petition for a private bill, or relating to a private bill before the House, shall confine himself to a statement of the parties from whom it comes, the number of signatures attached to it, and the material allegations contained in it, and to reading the prayer of such petition.

S. O. No. 92.—Every such petition not containing matters in breach of the privileges of this House, and which, according to the rules or usual practice of this House, can be received, shall be brought to the Table by the directions of Mr. Speaker, who shall not allow any debate, or any Member to speak upon, or in relation to such petitions; but it may be read by the Clerk if required.

S. O. No. 93.—In the case of such petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such petition may be brought into discussion on the presentation thereof.

S. O. No. 94.—All other such petitions, after they shall have been ordered to lie on the Table, shall stand referred to a committee to be designated the Committee on Public Petitions; but if any such petition relates to any matter or subject with respect to which the Member presenting it has given notice of a motion, and the said petition has not been ordered to be printed by the committee, such Member may, after notice given, move that such petition be printed with the votes.

S. O. No. 95.—Petitions against any resolution or Bill imposing a tax or duty for the current service of the year shall be henceforth received, and the usage under which the House has refused to entertain such petitions shall be discontinued.

part in initiating debates in the House of Commons that they played a century ago. This is reflected in the progressive reduction in the number of petitions presented to the House. For example, the number of petitions fell from 1,01,573 in 1868-1872 to 32 in 1938-42, as will be seen from the following figures²⁵ :—

<i>Years</i>	<i>No. of petitions presented</i>
1868-72	1,01,573
1878-82	72,850
1893-94	33,742
1898-1902	35,646
1913-17	1,332
1918-22	245
1928-32	83
1938-42	32

In accordance with Standing Orders 91 and 92, a Member, on presentation of a petition to the House of Commons, may read the prayer and make a statement as to the parties from whom it comes, the number of its signatures and its material allegations. No debate is allowed thereon but the petition may be read by the Clerk at the Table, if required²⁶ by the Member presenting it. However, by established usage, the Members do not generally insist on it.

An important feature of petitions to the House of Commons is that at least

one signature²⁷ should be on the same sheet upon which the petition is written and if signatures are affixed to more than one sheet, the prayer of the petition must be repeated²⁸ at the head of each sheet.

Further in pursuance of Standing Orders 78 and 81²⁹, no petition praying directly or indirectly for an advance of public money, for compounding or relinquishing any debts due to, or other claims of, Crown or for remission of duties or other charges payable by any person is received unless recommended by the Crown.

It may be interesting to note here that in the House of Commons, U.K., in addition to the formal method of presentation of petitions by Members, there is an informal method of presenting petitions. A Member may present a petition at any time during the sitting of the House by placing it in the petition bag³⁰ kept at the back of the Speaker's chair. Petitions presented before 4 O'clock are entered in the votes of the day on which they are presented; if presented after 4 O'clock, they are entered in the votes of the following day. The Corporation of London³¹ as an exception, has a right to present petitions at the bar³² of the House of Commons by its Sheriffs. The last instance

²⁵ May, 16th Edition, p. 845.

²⁶ See H. C. Deb., (1948-49) 458, C. 1814.

²⁷ May, 16th Edition, p. 838.

²⁸ House of Commons Manual of Procedure.

²⁹ S. O. No. 78.—This House will receive no petition for any sum relating to public service or proceed upon any motion for a grant or charge upon the public revenue, whether payable out of the Consolidated Fund or out of money to be provided by Parliament, unless recommended from the Crown.

S. O. No. 81.—This House will not receive any petition for compounding any sum of money owing to the Crown, upon any branch of the revenue, without a certificate from the proper officer or officers annexed to the said petition, stating the debt, what prosecutions have been made for the recovery of such debt, and setting forth how much the petitioner and his security are able to satisfy thereof.

³⁰ May, 16th Edition, p. 845.

³¹ *Ibid.*, p. 843.

³² In 1813, the Corporation of Dublin was also granted this privilege but in view of the Ireland Act of 1949 it is doubtful if this right would now be conceded.—May, 16th Edition, p. 843.

²³when they did so was on the 16th February, 1948, when they presented at the bar of the House a petition on the Representation of the People Bill, seeking to leave the representation of the city of London undisturbed.

Suggestion for Reforms in Procedure regarding Petitions to Lok Sabha

In U.K. petition for presentation to the House may be sent post-free to members, provided they are sent in open covers²⁴ or without covers and marked "Parliamentary Petitions" and do not weigh more than 2 lbs.

An analysis of the petitions received in the Lok Sabha indicates that quite often they bear signatures of a large number of persons. These signatures appear on sheets which appended to the petition. In order to ensure that the petitions presented to the House are duly authenticated by the signatures of at least one petitioner and that the signatories who append their names on separate sheets enclosed with the petition fully understand the prayer made therein, it appears necessary to provide in the rules that in such cases at least one person should sign, or if illiterate, affix his thumb impression, on the sheet on which the Petition is inscribed and that the prayer of the Petition should be repeated at the head of each sheet containing signatures to the Petition. This procedure is being followed in U.K. and other Commonwealth countries also.

(2) According to Article 117 of the Constitution, recommendation of the President is necessary for—

- (i) the introduction in Lok Sabha of a Bill making provision of any of the matters specified in sub-clauses (a) to (f) of Art. 110 of the Constitution;

- (ii) the consideration of the Bill which if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India.

In view of the above provisions of the Constitution relating to introduction, by members of Financial Bills and Bills involving expenditure from the Consolidated Fund of India, it appears equitable that submission of petitions to Lok Sabha from members of the public dealing with any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 110 or those involving expenditure from the Consolidated Fund of India should be restricted.

This procedure will be in keeping with the procedure obtaining in the House of Commons, U.K. and other Commonwealth countries where petitions for the grant of public money or for compounding any sum of money due to the Crown or for remission of any duty or charges payable by any person cannot be presented to the House directly.

(3) According to present procedure, a petition may be forwarded to Secretary of Lok Sabha and, if it is admissible, he may report it to the House. In the House of Commons (U.K.) and all the other Commonwealth countries (except Pakistan) a petition cannot be presented to the House except through a Member who countersigns the petition. The principle upon which a petition cannot be presented except through a Member is that a representative of the people must take responsibility for the statement made in the petition and also the 'general public interest' aspect of it. It is, therefore, worth consideration whether petitions should be received by the House only if they are countersigned and presented by a Member.

²³ "A Parliamentary Dictionary", by Abraham and Hawtrey, p. 138.
²⁴ May, 16th Ed., p. 844.

Resignation of a Member of the Burmese Chamber of Deputies*

THE question whether a Member of the Chamber of Deputies in Burma could withdraw his resignation once submitted by him to the President was recently referred for opinion by the President of Burma to the Supreme Court of Burma. The occasion arose out of the resignation of U. Ba U, a Member of the Burmese Chamber of Deputies and its subsequent withdrawal by him.

Facts of the Case

U. Ba U, who was a representative of the Maubin North constituency, addressed a letter to the President on 19th May, 1958 through the Speaker 'intimating resignation as Member of Parliament' and sent it on the same day by registered post from the Maubin Post Office. On 21st May, 1958, he sent another letter addressed to the President through the Speaker 'requesting the withdrawal of his letter intimating his resignation' and this letter was sent through some personal messenger. The second letter was delivered by the messenger in the Office of the Speaker at 10 A.M. on 22nd May, 1958, while the first letter reached the Speaker's office through post after two hours of the receipt of the second. However, on the advice tendered by the Attorney-General, the seat of U. Ba U was declared vacant with effect from the 19th May, 1958.

Constitutional and other Provisions

According to Article 73(2) (b) of the Burmese Constitution, "if a Member

by writing under his hand addressed to the President resigns his seat, his seat shall thereupon become vacant". Rule 7(1) and (2) of the Rules of Procedure of the Chamber of Deputies says:—

"7(1). A Member may resign his seat in writing under his hand addressed to the President through the Speaker.

(2) The seat of the Member shall be deemed to have fallen vacant as soon as the President receives the letter of resignation."

Questions at Issue

The questions referred to in this connection by the President to the Supreme Court for consideration and opinion were:

(a) "Whether under the existing law, a Member of the Chamber of Deputies can withdraw his resignation letter which he has sent in writing under his hand and addressed to the President as provided in Article 73(2) (b) of the Constitution; and

(b) if the withdrawal of resignation is not permissible or possible or in case the resignation is not withdrawn, when does the seat of the Member become vacant."

Arguments

It was contended on behalf of U. Ba U that the mere fact that a letter of resignation had been sent to the President was in itself not sufficient, and that the letter should have actually reached the President in the ordinary course, in order to become effective. It was further argued that since both the letters, the

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

Resignation of a Member of the Burmese Chamber of Deputies

one requesting the withdrawal and the earlier resignation letter were received by the President together, it was not necessary to take any action on the first resignation letter. Further, it was said that the words "addressed to the President" used in Article 73(2) (b) in the English version of the Constitution have been used only in a "constitutional" sense, and should not be interpreted to mean "sent", as the manner and method of sending the letter had not been indicated in the Article. The manner and method of sending the letter had been laid down in Rule 7(2) of the Rules of Procedure and the letter of resignation became effective only when the President accepted it.

Court's Opinion

The Supreme Court, however, did not accept the above arguments. It said that according to Article 217 of the Constitution both the English and Burmese versions of the Constitution were 'conclusive evidence of the provisions' and the word "sent" had been used in the Burmese version for the words "addressed to" in the English version, which should therefore be taken to mean as much as "sent" or 'directed'. Further, according to the wording of Article 73 (2) (b), the resignations of Members came into effect from the moment they intimated their resignations and their seats thus became vacant. The President was not vested with any powers for the acceptance or refusal of the resignation of a Member and it was clearly laid down that 'his seat shall become vacant, the moment he resigns his seat'.

The Court further said that the Rules of Procedure which laid down the procedure for the resignation of a Member had been framed in exercise of the powers conferred by Article 80(1) of

the Constitution, and as such they should not contravene the provisions of the Constitution. Further they were made only for the purpose of conducting business in the Chamber. In the circumstances, the words 'addressed to the President through the Speaker' used in Rule 7(1) appeared to restrict the Member's right to address *direct* to the President as provided in Article 73(2) (b). The intention or motive behind the procedure of addressing the letter through the Speaker was perhaps either to give due respect to the President or to make known to the Speaker the fact of resignation. This view of the Court should not, however, be taken to mean that the procedure laid down in Rule 7(1), that is, of addressing the letter through the Speaker contravened the provisions of the Constitution. But it showed that a Member, if he desired, could address direct to the President, as provided in the Constitution, instead of sending it through the Speaker. Article 73(2) (b) categorically stated that the Member's seat became vacant on his resignation, while Rule 7(2) stated that "the seat of the Member shall be deemed to have fallen vacant as soon as the President receives the letter of resignation." This, the Court said, not only contravened the provisions of the Constitution but also went beyond the scope of the rules and procedure of the Chamber of Deputies. The Rules of Procedure of the Chamber of Deputies were meant only for use *within* the Chamber, and therefore had no relation to happenings outside the jurisdiction of the Chamber. The Court was, therefore, of opinion that Rule 7(2) could not be applied.

The Court was of the view that in the above circumstances Article 73(2)(b) should be the basis for considering the issues in question. As provided in that Article, if a Member

desired to resign, he should first of all arrive at a decision to resign. Secondly, he should communicate that decision under his own signature in a letter to the President. It was immaterial when and at what time the letter was received by the President. What was fundamental was the decision to resign, and addressing the letter to the President should be taken as informing him of the fact of resignation. In the present case, the Member, U. Ba U, being a resident of Maubin town registered his letter of resignation at Maubin post office and sent it through the Speaker of the Chamber of Deputies at Rangoon to the President and, therefore, his resignation took effect from the moment he posted his letter of resignation. It also followed that if the resignation was effective from that moment, there was no question of its withdrawal by the Member concerned.

The Court thus held the following views with regard to the two questions referred to it:—

(a) "As provided in Article 73(2)(b) if a Member by writing under his hand addressed to the President resigns his seat, he cannot withdraw his letter of resignation under the provisions of the Constitution; and

(b) the seat of that Member becomes vacant from the moment he posts his letter of resignation."

U. Kyaw Tint's Case

In this connection, the Court also referred to the case of U. Kyaw Tint, another Member of Parliament, which arose in 1954 and was cited in the President's reference. The Court held that the circumstances in that case were different from those of U. Ba U's case, as U. Kyaw Tint's letter of resignation read as follows:

"I most respectfully request you to permit me to resign as Member of the Chamber of Deputies for Thaton North".

In another letter he said:

"I hereby withdraw my application requesting for permission to resign my seat as Member of the Chamber of Deputies."

The Court held that U. Kyaw Tint's letter was not a letter of resignation but only a letter *requesting permission to resign*. Since, under Article 73(2)(b), the President was not vested with powers to grant such permission and the request for permission was also withdrawn in a further letter, no action was to be taken by the President on those letters.

“Working Groups” in Lok Sabha*

A RECENT innovation in the working of Financial Committees in Lok Sabha has been the appointment of “Working Groups”. The Working Group in Lok Sabha is an adaptation of the “Working Party”, a form of committee which has become increasingly popular in the West since the cessation of the Second World War. It will therefore be pertinent to trace the history of “Working Party” in the West.

What is a “Working Party”?

The expression “working party” is one of early origin¹ which a military manual over a hundred years ago defined as “small detachments of men who are employed on fatigues which are not purely of a military nature”.² In course of time the expression appears to have come to signify more generally any body of persons detailed on a special piece of work outside their normal duties. The use, however, of the term with reference to a special form of committee became common only after Sir Stafford Cripps (then President of the Board of Trade in U.K.) appointed in 1945 a number of bodies, which he described as “Working Parties”, for the different industries in Britain.

That these “Working Parties” were not merely the conventional committees or commissions of inquiry under a new name was evident from the beginning. Britain at the end of the Second World War was anxious to reorganise her industries (four-fifths of which lay in private hands) so as to equip them to meet the highly competitive conditions of the post-war market. Government wished to investigate in this connection the conditions in the different industries and be advised on the steps to be taken to achieve the objective in view. These steps had to be taken in large public interest, but to be successful they had to fulfil also two other conditions: they had to be practical *i.e.*, based upon the experience in the industry, and enjoy the support of the interests concerned.³ In other words, the need was for an investigating-cum-negotiating-cum-liaison machinery—a need which the usual committee or commission form of inquiry could hardly fulfil. The solution found was the “Working Party”.

Its Broad Features in U.K.

Some of the broad features of these working parties are mentioned below. In the first place, from the very nature of the task assigned to them the terms of reference of these bodies could not be rigid. In fact, the dozen or more working parties appointed had common

*Prepared by the Committee Co-ordination Branch of the Lok Sabha Secretariat.

¹ The term, according to O.F.D., dated back to the year 1774.

² Stocquer, *Military Encyclopaedia* (1853) quoted by K. C. Wheare in *Government by Committee*, p. 253.

³ These conditions were sought to be fulfilled by the appointment of bodies composed in equal thirds of representatives of employers and workers and of independent members—See 414, H.C. Deb. (1945-46), cc. 692-94. The independent members were sometimes persons from other industries or men with special qualifications such as economists, lawyers etc. The Chairman himself (who was appointed by the President of the Board of Trade) was invariably independent—*Government and Industry*, p. 127.

terms of reference⁴ which were wide enough to embrace any question of industrial efficiency. In the result their inquiries extended over a large field and included such technical matters as process of manufacture, machinery, lay-out of factories etc.⁴

It was perhaps in their methods of work that these bodies presented the clearest contrast to the usual committees. Unlike the latter which functioned under formal rules, the working parties were left free to go on their own. For instance, while a Royal Commission or departmental committee took formal evidence, the working parties went and collected their own material.⁵ The Chairman and three members of the Working Party on Furniture visited the U.S.A. and a sub-group of the same body, Switzerland. The Working Party on Midwives sent out questionnaires, paid visits to many domiciliary midwives in their homes and clinics, and held discussions with officials.

The Working Parties also appointed their own sub-groups and co-opted anybody they thought useful. For instance, the Working Party on Furniture formed itself into a number of sub-groups e.g., Design Sub-Group, Standards Sub-Group, Welfare Sub-Group, Economic Sub-Group etc. On these sub-groups outsiders were also co-opted.

At the end of their labours the Working Parties presented their reports which were mostly unanimous, although any member who disagreed was free to append a memorandum of dissent.⁶

When the working parties had completed their tasks, the results were acclaimed a success. It was pointed out that these bodies had broken entirely fresh ground and had made valuable contribution to the general knowledge of the problems of the various industries as well as their solution.⁷

Continental Examples

Working Groups in NATO and OEEC

Ever since the success achieved by the above British experiment "Working Party" as a machinery appears to have grown popular. The North Atlantic Council, for instance, has been appointing, in addition to a number of standing committees, working groups as may be required.⁸ These are set up on an *ad hoc* basis and dissolved when they have completed their assigned tasks. Likewise, the O.E.E.C. (Organisation for European Economic Co-operation) has since employed "Working Groups" in addition to a number of Technical Committees, a notable example among them being the Overseas Territories Working Group appointed by the Executive Committee of the O.E.E.C.

⁴ These terms of reference were :

"to examine and inquire into the various schemes and suggestions put forward for improvements of organisations, production and distribution methods and processes in the industry and to report as to the steps which should be taken in the national interest to strengthen the industry and render it more stable and more capable of meeting competition in the home and foreign markets."—See 414, H.C. Deb. (1945-46), c. 693.

⁵ *Government and Industry*, p. 127.

⁶ *Cf. Report of the Working Party on Midwives*, p. iv.

⁷ For an extreme example of dissent, see Report of the Working Party on Cotton. Also see K. C. Wheare, *Government by Committee*, p. 58 and *Success of Working Parties in Britain*—article by Robert Plant (BIS Liby.)

⁸ *Cf. Working Parties for Industry*, article by Margaret Stewart (BIS Library).

⁹ NATO—*The First Five Years, 1949—54*, Ismay, p. 60.

The American Parallel

It is interesting to observe the existence of a closely parallel body in the U.S.A. under the name "Task Force"⁹, a recent example of large-scale employment of this machinery being the number of "task forces" appointed by the Commission on Organisation of the Executive Branch of the Government (Hoover Commission) to assist the Commission in its study of the different departments of public administration in the U.S.A. Like their British counterparts, these task forces also enjoyed complete freedom in their methods of work which included 'on-the-ground' studies, questionnaires, interviews, public hearings, study of past records, and in short, every method necessary to obtain the information wanted. They even employed professional men as Consultants or on their secretariat.¹⁰ Like Working Groups, they appointed sub-groups called "Task Groups". These task forces presented their reports to the Hoover Commission (by whom they were appointed), which in turn submitted them, along with independent reports of the Commission, to the U.S. Congress.

From the above account of the Working Party in Britain and elsewhere, and of its counterpart in the U.S.A. the main features of the system should be clear. The essence of the Working Party is that it 'works'. It is more dynamic and flexible than a mere formal Committee appointed to consider or inquire: it has to collect its own material, study and complete the task assigned to it. It is employed when the task is of a technical nature or demands an informal approach for which formal

committees functioning under strait-jacket rules would be unsuited.

Working Groups in Lok Sabha

Working Groups in Public Accounts Committee.

It was with a view to introduce this element of flexibility in the working of the Financial Committees that the idea of "Working Groups" was germinated in 1957¹¹ in the Public Accounts Committee of Lok Sabha. These Working Groups are appointed by the Chairman of the Public Accounts Committee in consultation with the Committee. The membership of these Groups, which is confined to the members of the Committee, is chosen by the Chairman having regard as far as possible to the known aptitude of the members and other factors.

A number of Working Groups are appointed for the different Accounts, such as Civil, Defence, Railways, Posts & Telegraphs etc. Sometimes Accounts of two or more organizations have also been entrusted to the same Group.

There are no specified terms of reference for these bodies, but certain common items of work are assigned to them which each one of them performs in respect of the Accounts entrusted to it. For example, every Working Group makes preliminary examination of the Audit Reports relating to the Accounts with which it is concerned, to sift out the important points so that witnesses may be subjected to proper and relevant questions. In such cases, the members of the Group take leading part at the time of examination of the witnesses by the Committee. Each Working Group

⁹ Curiously enough 'Task Force' is also a military term which is applied to a 'temporary technical grouping formed to carry out a specific task or mission'—*The American People's Encyclopedia*.

¹⁰ See Task Force Report on Water Resources and Power—Vol. I, p. v.

¹¹ See Financial Committee—A Review (1957-58).

is also responsible for the examination of the state of outstanding recommendations to sort out the items on which further examination of the Ministry would be necessary. The Working Group also scrutinises the draft report of the Committee and suggests changes or corrections, where necessary, before it is considered by the Committee. Working purely in an informal manner, these bodies, however, do not present any reports of their own to the Committee.

Study Groups in Estimates Committee

Bodies similar to the Working Groups of the Public Accounts Committee have been functioning in the Estimates Committee also since July last under the name of "Study Groups". These Study Groups—which are distinct from Sub-Committees¹²—are appointed by the Committee. The Chairman is authorised by the Committee to nominate the members, which he does after ascertaining the preferences of individual members to serve on particular Groups. The Chairman also nominates a Convenor for each Group.

The same informality of procedure which characterises the functioning of the Working Groups in the Public Accounts Committee also permeates the procedure of these Study Groups in the Estimates Committee. Certain broad items of work are allotted to these Groups. One of the key Groups, called Study Group 'K' on procedure, draws up the programme of work for the Committee, considers procedural matters before they are placed before the Committee, and in general co-ordinates the work for the Committee.

In addition, there are a number of Study Groups (six in 1958-59) each one

of which is entrusted with the study of particular subjects pertaining to the Ministries whose estimates are under the examination of the Committee. These Groups go through the memoranda and other material furnished by the Ministry on the subjects and prepare questionnaires for eliciting further information from the Ministry. These questionnaires are issued after approval by the Chairman. They further undertake study tours and circulate notes of their impressions to the members of the Committee. These Groups also meet to indicate the broad points on which the report of the Committee to the House may be drafted by the Secretariat, and at such sittings members of the Committee who are not members of the Group are also invited. The draft reports are discussed by the Groups, if they so desire, before they are circulated to the main Committee for their consideration and adoption.

Besides the above, there are a number of Study Groups (three in 1958-59) which scrutinise replies received from the Government in regard to implementation of the recommendations contained in the earlier reports of the Committee. After such scrutiny, the Groups indicate the points on which the Secretariat may draft the reports and also discuss the draft reports before they are circulated to the main Committee.

The experiment with this new machinery in the Financial Committees of Lok Sabha points to its usefulness. These new bodies have ensured speedier transaction of business in the Committee, specialisation of particular members in particular subjects, better and more co-ordinated examination of witnesses and quicker consideration of draft Reports by the Committee.

¹² Sub-Committees are appointed by a Parliamentary Committee under rule 263 of the Rules of Procedure of Lok Sabha and possess all the powers of the undivided Committee.

The Watch and Ward in Lok Sabha*

FOR the uninterrupted transaction of business on the floor of its House, Parliament requires complete freedom and protection from external disturbance of any kind. The responsibility of providing this freedom and protection by guarding the Parliamentary precincts, when the Lok Sabha is sitting, is discharged by the Watch and Ward Staff, appointed by and functioning directly under the control of the Speaker.

Historical Background

There is a historical background to the appointment of the Watch and Ward Staff. In 1929, a dispute arose as to who should be in charge of the security arrangements of the Parliamentary precincts—the presiding officer or the Executive Government. Before 1929, admission into the Council House (now Parliament House) and into the Visitors' Gallery was controlled by the police, who had instructions to admit only those who were in possession of visitors' cards or official passes. Official passes used to be issued for Government officials and visitors' cards to members of the public.

After the bomb incident in the Chamber in 1929, the question of modifying the system of check over admission of visitors and issue of admission cards to the public to witness the proceedings was taken up by the Hon'ble Shri V. J. Patel, President of the Central Legislative Assembly. To put the security arrangements on a firm footing the President

appointed a committee of nine members** for the purpose of, *inter alia*,

“considering and recommending whether the time had arrived for the Assembly to entertain its own staff for the purpose of guarding the floor, the Galleries, the Lobbies as also for regulating the admission of visitors and to leave it to the police, under the order of the President, to guard other parts of the Assembly building, and if so, what should be the number of door-keepers and messengers required.....”

While the matter was still under consideration, the Government made certain re-arrangements of security postings. They, however, did it on their own discretion and the President pointed out that whatever happened inside the precincts of the House, should and must necessarily be under the authority of the Speaker. It was for the Government, as advisers in security matters, to submit their proposals to the President, but those proposals, the President contended, should not be implemented unless the President, who was solely and exclusively responsible for everything that happened in the Parliament House, had given his final approval to those proposals. The Government of the day dissented from that view. They contended that in matters relating to the security of the House they were the best judges, because the President would not be in a position to know exactly what security arrangements should be put into operation at a particular time.

On 20th January 1930, the President, not accepting the Government's view of

*Prepared by the Watch & Ward Office, Lok Sabha Secretariat.

**Vide statement by the Hon'ble President to the Central Legislative Assembly, on 3rd September, 1929; L. A. Deb. Vol. IV (1929), dated 3rd September, 1929.

the security arrangements, made a declaration that the differences between him and the Government being unresolved, it was his imperative duty as the custodian of the dignity of the House and the authority of the Speaker, to order the galleries to be closed till such time as a settlement was arrived at. There were conversations between the President and the then Viceroy, Lord Irwin. It took exactly a month to settle the matter, and an agreement was arrived at. That agreement laid the foundation of the Watch and Ward Staff of Parliament. To this day, that agreement subsists.

The Watch and Ward Committee appointed by the President had in the meantime submitted its report to the President on the 4th December, 1929, and *inter alia*, it recommended:—

"That the Assembly sector should be divided into two distinct portions:

(a) the inner precincts, which include the floor of the Chamber itself, the lobbies and the galleries; and

(b) the outer precincts, which comprise the entrances to the Assembly Sector, the outer corridor and approaches to the inner precincts.

"In regard to the inner precincts, a separate Assembly Establishment of Door-Keepers and Messengers should be entertained for the purpose of checking admission, controlling the ingress and egress of the visitors to the Galleries, showing them to their seats and dealing with minor forms of disorder. About 20 to 22 men should be required for this purpose."

"General control of the outer precincts and the roof should be vested in the police, who would intervene in matters relating to the inner precincts only when requested to do so by the President, Legislative Assembly."

Effect was given to this new arrangement commencing from the Delhi session of 1930. The services of a Watch and Ward Officer, not below the rank of a Deputy Superintendent of Police, were obtained by the Ministry of Home Affairs from the Police Department at the instance of the Legislative Assembly Department. The Watch and Ward Officer was to act under the directions of, and be responsible to, the Speaker. Ten Door-Keepers (later known as Watch & Ward Assistants) were appointed and they worked under the Watch and Ward Officer.

The above arrangements have continued, with only variations in regard to the strength of the Watch and Ward staff from time to time according to changing needs. All matters relating to the safety and security of the Parliament Chamber within the inner precincts are regulated by the Watch and Ward Officer, functioning under the control of the Speaker through the Secretary of the Lok Sabha Secretariat.

From January 1952, the security responsibilities of the Watch and Ward were extended to the outer precincts also, in so far as operational control was concerned, the personnel guarding the outer precincts, however belonging to the police department. During sessions, there is a member of the Watch and Ward guarding every strategic point in the inner precincts, while the police look after the outer precincts.

Organisation and Functions

All the time on their feet, the Watch and Ward are specially trained to be alert and vigilant. Among their several duties is the specially difficult one of instantaneously recognising more than 500 members of the Lok Sabha. While on duty, the staff have to be not merely vigilant, but tactful and at the same

The Watch and Ward in Lok Sabha

time firm. Calm under all circumstances, ready to provide information when asked for, they have to possess a fund of common sense.

The present set-up of the Watch and Ward Staff in Lok Sabha is as follows:

Watch and Ward Officer	1
Assistant Watch & Ward Officer	1
Senior Watch & Ward Assistants	6
Junior Watch & Ward Assistants	25

The Watch and Ward Officer who was formerly appointed only during sessions is now a whole-time officer.

Apart from the Watch and Ward duties proper, the Watch and Ward Staff perform certain other useful functions, some of which are as follows:

- (i) Providing security to and safe conduct of Ministers, V.I.Ps. and other eminent visitors who come from abroad and visit Parliament.
- (ii) Acting as guides to the general public who come to see Parliament House.
- (iii) To ensure that no government property is taken out of Parliament House without a proper permit.
- (iv) To see that official records are not seen by unauthorised persons.
- (v) To investigate petty cases of theft.
- (vi) To perform welfare duties, as and when called upon, such as visiting the homes of sick members of the staff of the Lok Sabha Secretariat.

(vii) To search lost personal property of visitors, office staff and Members of Parliament.

(viii) To assist on the occasion of important events like addresses to M.P.s by distinguished visitors, unveiling of the portraits of eminent Indians in the Central Hall, the funeral of a Member, etc.

A recent addition to the charge of the Watch and Ward Staff is the Door-Keepers' Service, which performs round-the-clock duties of guarding the entrances to Parliament House at strategic points, checks the entry of unauthorised persons into the Lok Sabha sector of Parliament House and looks to the safety of Government property in that sector.

To ensure that the Watch and Ward Staff are agile, physically fit, mentally alert and above all, function as a disciplined body of men, special training is given to them at regular intervals. Under the supervision of a Drill Instructor, the Watch and Ward Staff and the Door-Keepers do physical training, drill and parade, in addition to playing games. Lectures are also given to them on Watch and Ward duties, besides subjects like general knowledge, first-aid, fire-fighting and cleanliness.

During session, special traffic police are detailed for duty to direct and control the traffic through the Parliament Estate and keep the approaches to Parliament House clear of stationary cars, cycles etc. Only vehicles bearing M.P. park labels issued by the Secretariat of either House of Parliament are permitted to enter the Parliament House Estate and all other vehicular traffic is diverted by way of the adjacent roads. The traffic arrangements, while they remain

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under the direct control of a Traffic Inspector of Police, are under the operational control of the Watch and Ward Officer. An adjunct to the traffic arrangements is the posting of an officer belonging to the traffic staff at the Members' Gate for 'calling' duty. Cars are summoned on demand by Members, Ministers etc. by calling out their numbers through a loudspeaker.

The Watch and Ward Service has also

under its control and supervision the Messenger service of the Lok Sabha Secretariat and the sanitation staff. To maintain the efficiency of the Messenger Service and to make the messengers thoroughly conversant with their duties, regular lectures are delivered to them. The sanitation staff, in addition to being in charge of sanitation and cleanliness of the Lok Sabha Sector, is responsible for the opening and closing of office rooms.

....If politics are conceived in terms of a battle, the rules of battle must be held to apply. Loyalty to the leader must take precedence over any conflicting loyalty and to oppose him at a difficult moment is as great an act of treachery as to shoot the Colonel in the back as he leads the troops into action.

NIGEL NICOLSON in People and Parliament, p. 19.

Some Parliamentary Activities at a Glance

PROCEDURAL MATTERS

Lok Sabha: Estate Duty (Amendment) Bill: Interpretation of Article 252*: Objection that Bill cannot be proceeded with in the absence of Resolutions passed by State Legislatures overcome.

On the 25th April, 1958, during discussion on the motion for reference of the Estate Duty (Amendment) Bill ** to a Select Committee, a point of order was raised by Shri K. Periaswami Gounder that as the Bill affected "Estate Duty in respect of agricultural land" which was a State subject (item 48 of List II of the Seventh Schedule to the Constitution), Parliament could proceed in the matter only after resolution under article 252(2) had been passed by two or more State Legislatures, and, as this had not been done, Parliament had no jurisdiction to proceed with the Bill. The point of order was upheld by the Speaker. He, however, suggested that the Bill might be referred to the Select Committee, and in the meanwhile, resolutions might be passed by State Legislatures. The Bill was accordingly referred to the Select Committee.

On the 28th August, 1958, while moving the motion that the Bill, as reported by the Select Committee, be taken into consideration, the Minister of Revenue and Civil Expenditure (Shri B. Gopala Reddy) explained to the House the changes made in the Bill by the Select Committee in order to obviate the necessity of passing of resolutions under article 252 (2) by State Legislatures, as follows:—

"As hon. Members are aware, during the discussion on the motion for reference to the Select Committee, a point of order was raised in this House by Shri K. Periaswami Gounder that Parliament was not competent to consider the Bill in the absence of resolutions passed by the Legislatures of at least two States, as envisaged in clause (2) of article 252 of the Constitution. After a full discussion of the constitutional position, you, Sir, ruled that clause (2) of article 252 of the Constitution applied, but that it did not act as a bar to the consideration of the Bill by the House and its reference to a Select Committee. The Bill was, accordingly, referred to the Select Committee and, in the meanwhile we also consulted the Attorney-General as to the further procedure to be followed, and in particular, the form of the resolutions which should be passed by the State Legislatures. Following his advice,

*Article 252 of the Constitution states :

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

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

**Vide Journal of Parliamentary Information Vol. IV No. 2 (October 1958 issue), pp. 142—144.

a new clause* has been added to the amendment Bill by the Select Committee in order to make it clear that the provisions of this Bill do not apply to the levy of estate duty on any estate which consists wholly or in part of agricultural land. Clause (1)** of the Amendment Bill has also been amended so as to make it possible for the Central Government to bring the Act into force from a suitable date to be notified by Government, instead of from 1st April, 1958. The intention is that after this Bill is passed in its present form by Parliament, steps will be taken to consult the State Governments with a view to get resolutions passed by the State Legislatures, requesting the application of the amending Act to agricultural land in their States. After the resolutions are passed by the State Legislatures, Government will again bring before this House a short Bill, which would make the amending Act applicable to estate duty on agricultural land in the States concerned. It is only thereafter that the amendment Act will be brought into force for non-agricultural property as well as agricultural property in the States which pass the resolutions. I hope this procedure that has been suggested by the Select Committee will not only solve the practical difficulties but also remove the doubts expressed by the Members of this House on the last occasion. This procedure will also ensure that the State Legislatures know definitely what changes in the principal Act they are being asked to agree to, and there would be no possibility of different States suggesting the adoption of varying

and possibly contradictory amendments."

The Bill as reported by the Select Committee was considered and passed by Lok Sabha on the 1st September, 1958.

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Lok Sabha: U.P.S.C. Regulations laid on Table: Motions for modification of Regulations taken up in the next session.

The Union Public Service Commission (Consultation) Regulations, 1958, were laid on the Table of the House on the 11th September, 1958. They were required to be laid on the Table for fourteen days and were subject to modification by both the Houses during that session only (*viz.*, the fifth session of the second Lok Sabha), as provided in Article 320(5) of the Constitution.† Notices of motions for the modification of these Regulations were given by some Members during the period of 14 days. The consideration of these motions for modification was included in the List of Business for the 27th September, 1958, but when, due to want of time, there

*30. *Act not to apply to agricultural land*.—For the removal of doubts it is hereby declared that nothing contained in this Act shall have effect in respect of any matter enumerated in entry 48 of List II in the Seventh Schedule to the Constitution, and estate duty in respect of any estate which consists wholly or in part of agricultural land situate in the territories which immediately before the 1st day of November, 1956, were comprised in the States specified in the First Schedule to the principal Act shall continue to be governed by the principal Act as if this Act had not been passed.

**1. *Short title and commencement*.—

(1) This Act may be called the Estate Duty (Amendment) Act, 1958.

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

†Article 320(3) proviso :—

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor as respects other services and posts in connection with the affairs of a State, make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

320(5). All regulations made under the proviso to clause (3) by the President or the Governor of a State shall be laid for not less than 14 days before each House of Parliament or the House or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the Session in which they are so laid.

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was no likelihood of their being taken up in the House, a point was raised by a Member on the 27th September (the last day of the session) that the regulations might be returned to Government for being re-laid during the next session. In this connection, the Home Minister suggested that if Members wanted to make any recommendations or move any resolutions regarding this, he would have no objection to their doing so in the next Session or any session they liked.

The Speaker, thereafter, observed:

"The hon. Home Minister says that even though statutorily they might become rules at the end of 14 days, if per chance a resolution is framed suitably and discussed and passed by this House during the next session, he is willing to consider that. The discussion can be carried over to the next session. He will then see the opinions expressed in the House and take some steps to modify the rules. Therefore, I will allow hon. Members to move their motions and they will stand over till next session. The hon. Home Minister has given assurance that in the light of the opinions expressed here on such resolutions he will modify the rules."

Eight motions for modification of these Regulations were then moved on the 27th September, 1958.

Further consideration of the motions was taken up in the Lok Sabha on the 18th November 1958 (sixth session of the second Lok Sabha). On a point raised by a Member that in the form of a resolution the effect of these motions was only recommendatory and not as an amendment of the Regulations, the Speaker observed:

"This is an extra-ordinary case. I suggested and the hon. Home Minister agreed, that if a resolution is passed he will try not to stick to the technical objection that within 14 days the amendments have not been passed. I am sure that he would adopt whatever resolutions are passed by the House and then try to modify the rules. So far as the present case is concerned, there is no other alternative. In future, sufficient time

will be given to the House to consider the Regulations."

When a Member pointed out that these Regulations could be repealed or amended only in the manner prescribed in the Constitution, and at that stage it might not be competent for Government to modify the Regulations, the Speaker observed:

"Whoever passes a law can modify it. These Regulations are not passed by this House. The Regulations are passed by the Government. Therefore, whoever passes a Regulation, is entitled to modify it. If it is an Act of Parliament, the Parliament alone can modify it. The Regulations are voted. Of course, the House is entitled to modify the Regulations."

Lok Sabha: Speaker has no jurisdiction to sit in judgment over the action of the Speaker of a State Assembly.

It was reported in the press that on the 8th September 1958, the Speaker of the Legislative Assembly in Uttar Pradesh called in the Armed Constabulary for the forcible removal from the House of a Member who refused to leave the House when named by the Speaker.

On the 9th September, 1958, three adjournment motions were given notice of by some Members of the Lok Sabha alleging failure of Parliamentary democracy in Uttar Pradesh on account of the incidents in the State Legislative Assembly on the previous day.

Withholding his consent to the three adjournment motions, the Speaker observed:

"We are working under a Federal Constitution. Each State has got an Assembly which is supreme in its own sphere. It is not as if this House is supreme or sovereign as in the case of the House of Commons in England, where there is a unitary government and hence the House of Commons is supreme. I have no right to impose my will upon any other Speaker. Each Speaker is entitled to decide matters that arise

fore him. I have no jurisdiction to allow a discussion on whatever happened in another Legislature."

it or not; it cannot be taken to pieces, because in that case, it does not mean anything".

Lok Sabha: Amendments to the Schedule of a Bill confirming an International Agreement are out of order.

On the 24th September, 1958, during the clause-by-clause consideration of the International Finance Corporation (Status, Immunities and Privileges) Bill, 1958,* a Member (Shri Naushir Bharucha) sought to move 12 of his amendments to the Schedule of the Bill.

The Deputy Speaker, who was in the Chair, observed:

"I might say that all the amendments to the Schedule are out of order. The reason is, when the Bill is brought to confirm** an agreement, either it stands or falls out altogether. We cannot split it into pieces. 55 countries have given their consent to it. It is not a unilateral thing so that the House could adopt it with any modification. It was in clause 3† that the House could say that it is not going to ratify it. This Parliament has ample authority and it can say that it would not have the force of law. But now we cannot split it up and say that some portion would remain there and the others would not. It should be taken as a whole, whether this Parliament accepts

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

The Estate Duty Act, 1953 provided for the levy of Estate Duty on all estates, the value of which exceeded Rupees 100,000. The Estate Duty (Amendment) Bill, 1958 sought to bring down the exemption limit from Rs. 100,000 to Rs. 50,000.

On 1st September 1958, when the Bill was taken up for consideration, Shri M. R. Masani sought to move an amendment for restoring the exemption limit to Rs. 100,000 as provided in the original Act.

The Deputy Speaker ruled out the amendment on the ground that it required the President's recommendation under article 274 (1) of the Constitution††, as it sought to vary the tax proposed in the Bill.

*The object of the International Finance Corporation (Status, Immunities and Privileges) Bill, 1958 was to enact legislation to give effect to the provisions of article VI of the International Agreement (to which India was a signatory) providing for the granting to the Corporation and its officials and employees certain status, immunities and privileges in the territories of each member-country. The Schedule to the Bill contained provisions of the Agreement which would have force of law by virtue of clause 3 of the Bill.

**"Bill to confirm agreement.—When a Bill is introduced to give effect to an agreement or to confirm a scheme and the agreement or scheme is scheduled to the Bill as a completed document, amendments cannot be made to the schedule, but an amendment to the clauses of the Bill for the purpose of withholding legislative effect from the document contained in the schedule is in order, as are also amendments to those clauses which deal with matters not determined by the document contained in the schedule." (*May's Parliamentary Practice*, 16th Ed., p. 557.)

† Clause of the International Finance Corporation Bill.

Notwithstanding anything to the contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India.

‡ Article 274 (1) of the Constitution reads :—

No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

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Shri Masani stated that under Article 274 (1) only a Bill or amendment seeking to impose or vary a tax in which the States were interested required the recommendation of the President. He contended that his amendment merely sought to continue the existing exemption limit of Rs. 100,000, as provided in the original Act, and as such there was no variation of tax for which the recommendation of the President was necessary.

The Deputy Speaker thereupon observed:

"The hon. member has referred to the provisions of the Act and said that he is not varying anything so far as the contents of the original Act are concerned. We have not to look into the contents of the original Act, but of the Bill as introduced, because the recommendation of the President has been obtained so far as the provisions in the Bill are concerned. Certain duties are proposed to be levied for which sanction has been obtained. He wants variation so far as those proposals in the Bill are concerned, not in the Act. From that point of view his amendment would vary the tax that would be realised if these provisions are enforced."

The Deputy Speaker then quoted from an earlier ruling given on 3rd September 1957 in connection with the Expenditure Tax Bill and said:

"In this case the Select Committee had made certain variations (in the original Bill) and amendments were moved to restore the original provision in the Bill as it was introduced. The question was whether that required fresh recommendation of the President or not. It was ruled then that this did not require any fresh recommendation, because the attempt was to restore the provisions of the Bill in the form in which it was introduced. The provisions of the Bill as introduced are to be taken into consideration, not those of the original Act."

* * * *

Lok Sabha: If Select Committee on an Amending Bill goes beyond the scope of the Bill and deletes a Section of the principal Act the House may restore the *status quo* by an amendment.

Clause 15 of the Representation of the People (Amendment) Bill, 1958, sought to amend Section 7(d) of the Representation of the People Act, 1951. When the Bill was referred to the Select Committee, it amended clause 15, which had the effect of deleting Section 7(d) altogether from the principal Act.

On the 20th December, 1958, when clause 15 of the Representation of the People (Amendment) Bill as reported by the Select Committee, came up for discussion, a Member (Shri Easwara Iyer) raised an objection that the Select Committee had exceeded its powers in deleting Section 7(d) of the principal Act, which was only sought to be amended by the Bill as introduced. The Member sought a ruling from the Chair if the Committee was justified to omit a provision from the principal Act when the amending Bill never intended it.

The Deputy Speaker thereupon observed:

"When a decision has been taken by the Select Committee, it is not for the Chair here to decide that the Committee had gone outside the scope. It is for the House to decide. . . . If the House thinks that this was not within the scope of the Committee, then the only remedy is that an amendment could be brought here so that the House could decide that the original position should stand."

At the conclusion of the debate on clause 15, the Minister of Law, Shri A. K. Sen moved an amendment to restore

the provision of the original Bill. The amendment was put to vote and adopted by the House.

* * * *

Speaker's Direction for giving time to draft Reports of Committees and Bills after Committee stage.

A slight change in the procedure for the consideration of a Report by a Select/Joint Committee on Bills has been made, as a result of the following suggestion made by the All-India Legal Draftsmen's Conference held on the 1st and 2nd February 1958:

"At present, the draftsmen at the Centre are given very little time for finalising a Bill as amended by the Select Committee, because the Select Committee invariably sits till the day preceding the presentation of the report. . . . It would be helpful to the draftsmen, if there is a gap of a few days between the last meeting of a Select or Joint Committee and the presentation of the report, to enable the draftsmen to bring the Bill into proper shape."

The difficulty of non-availability of adequate time for the preparation of the draft report of a Select/Joint Committee was also being felt by the Lok Sabha Secretariat. To obviate this difficulty, the Speaker issued a direction to the Chairmen of Select Committees that they should fix the sitting of the Committee for the consideration of the draft Report not earlier than three days after the clause-by-clause consideration of the Bill, unless a shorter period was fixed by the Committee by a unanimous vote.

* * * *

Joint Committee: Association of an M.P. who is not a Member of the Committee in its deliberations.

In connection with the deliberations of the Joint Committee on the Mer-

chant Shipping Bill in April 1958, a question arose as to whether a Member of Parliament, who was not a Member of the Joint Committee, could be invited to attend the sittings of the Committee, so that the Committee could benefit by the expert knowledge possessed by the Member on the subject. The Speaker, on the matter being referred to him, decided that under the Rules of Procedure, the Joint Committee could call the Member only as an expert witness, but could not otherwise associate him in their deliberations.

* * * *

Lok Sabha: Speaker may rescind his order naming a Member and allow the Member to attend the House.

On the 1st April 1959, the Speaker, Lok Sabha, named a Member who was interrupting the proceedings and asked him to withdraw from the House. After the Member had left the Chamber, some Members appealed to the Speaker to rescind his order on the ground that the Member meant no disrespect to the Chair.

The Speaker thereupon revoked his order and permitted the Member to return to the House.

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Punjab Vidhan Sabha: Observations of the Speaker on the citing of documents which are not before the House.

On the 27th March 1958, when a Member of the Punjab Vidhan Sabha wanted to know the procedure regarding the citing of documents which are not before the House, the Speaker observed as follows:—

"We have to follow strictly the Rules of Procedure in the House. Wherever

Some Parliamentary Activities at a Glance

the rules are silent, we have to follow the conventions established in the House of Commons. There is a mention about the point "Citing documents not before the House at page 460 of May's *Parliamentary Practice*. It is stated therein—

"A Minister of the Crown is not at liberty to read or quote from a despatch or other state paper not before the House, unless he be prepared to lay it upon the Table. This restraint is similar to the rule of evidence in courts of law, which prevents counsel from citing documents, which have not been produced in evidence. The principle is so reasonable that it has not been contested; and when the objection has been made in time, it has been generally acquiesced in. It has also been admitted that a document which has been cited ought to be laid upon the Table of the House, if it can be done without injury to the public interests."

There are two kinds of documents—one official and public and the other private. Many official and public documents are quoted in the House. Where a public or official document is cited by a Minister or a Member, it is necessary that the original or its authenticated copy be laid on the Table of the House."

Mysore Vidhan Sabha: Speaker's Ruling on the desirability of Ministers making important statements in the House.

On the 6th March 1958, a Member of the Mysore Vidhan Sabha raised a question about the desirability of Ministers making important statements in the House rather than at press conferences outside. The Speaker observed:—

"I find no instance where any convention has been asserted or any principle laid down that invariably all ministerial statements should be made in the House. It is desirable that as far as possible ministerial statements in respect of important matters involving a change in policy should be made in the House when the House is in session, since this will enable the matter to be brought to the notice of the Legislature, which ultimately controls the policy of the Gov-

ernment.....Generally speaking, this rule should be followed but cannot be claimed as a matter of convention. The matter assumes a different character when the Assembly is not in session. In such a case, it may be necessary for a statement to be made immediately and cannot wait for the next session of the Assembly."

PARLIAMENTARY QUESTIONS

Lok Sabha

Answering a question in the Lok Sabha on the 20th February 1959 regarding proposals for the reduction of expenses in connection with the holding of elections in future, the Minister of Law, Shri A. K. Sen said that the Election Commission had under consideration several measures for effecting a reduction in expenditure. The possibility of greater utilisation of agencies like Gram Panchayats in rural areas, the printing of the electoral rolls by some cheaper process of multigraphing, reduction of expenditure in the setting up of polling stations, reduction in the number of persons employed actually for the conduct of the elections and reduction in the cost of transport of personnel and material were some of the measures under consideration, he added.

The Deputy Minister of Finance, Shri B. R. Bhagat told the Lok Sabha on the 20th February, 1959 in answer to another question asking for the total annual expenditure incurred by the Government of India in answering questions in Parliament, that it was, very difficult to give even approximate figure of the annual expenditure, as no staff was solely employed on the work connected with questions. He referred to a reply given on an earlier occasion in 1950 to a similar question, according to which Rs. 60 was a very rough but conservative estimate of the

expenditure per question. He pointed out that it was possible that the cost was now somewhat higher, as many questions were now asked in Hindi and the preparation of replies in Hindi and their translation into English meant extra expenditure. However, on the basis of an expenditure of Rs. 60 for every admitted question and Rs. 15 for every question that lapsed or was disallowed, the average annual expenditure for the three years 1956, 1957 and 1958 would be of the order of Rs. 10 lakhs approximately, the Minister added.

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COMMITTEES AT WORK

Report of the Law Commission on Delegated Legislation

The fourteenth Report of the Law Commission of India which was laid on the Table of the Lok Sabha on the 25th February, 1959, *inter alia* refers to delegated legislation and the necessity for prior scrutiny of such legislation before its promulgation, in the following words:—

"17. As an inevitable consequence of the increasing amount of legislation, the legislatures have found it necessary to confer upon specified authorities the power to make rules, regulations or bye-laws for the purpose of carrying out the object of the enactments. Such delegated legislation largely exceeds in quantity the amount of direct legislation and is necessary for conserving parliamentary time for the discussion of matters of principle and importance leaving the making of

detailed regulations to the departments concerned. In framing these regulations, very wide and general powers are exercised by the departments; the only restraint on the discretion of the department in framing them is that they should not be *ultra vires* the parent Act. No adequate machinery is, however, provided for the scrutiny of the regulations so framed nor is sufficient care bestowed on their drafting.

18. Not a few of the petitions filed under Article 226 of the Constitution in the High Courts have raised the question of the *vires* of such rules. Frequently, the High Courts have been called upon to pronounce judicially upon the validity of subordinate legislation and a great deal of their time is taken up in determining its validity and even its scope. It is obvious, therefore, that a great amount of judicial time can be saved if delegated legislation made by these subordinate authorities were made subject to an independent and expert scrutiny before it is permitted to take effect."*

The Commission, referring to the Parliamentary scrutiny given to the Rules, Regulations, etc. when they are laid on the Table of the House, states:—

"22. There is no doubt that the Committee constituted by the rules of the Lok Sabha has performed and is performing very useful functions and keeps subordinate legislation under control. The activities of the Committee have earned the commendation of Sir Cecil Carr, an authority on subordinate legislation, who has described its work as that of 'a rigorous and independent body'. Committees on similar lines have been constituted by several of the State Legislatures. We recommend the establishment of a similar Committee by all the State Legislatures."**

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* (Pp. 704-5 of the Law Commission Report).

** (Page 706 of the Report).

Decisions from the Chair

Adjournment Motion

An adjournment motion to discuss the call of the armed forces in aid of civil authority in a State is inadmissible, being a matter of law and order in the State.

(L.S. Deb. Pt. II, 12-8-58)

Bills

Amendments to Bills seeking to vary a tax which affects the interests of the States cannot be moved without the recommendation of the President (L.S. Deb. Pt. II, 27-8-58)

If, in a Bill, any clause or clauses contravene the provisions of the Constitution but are not inextricably connected with the other parts of the Bill, the other

portions of the Bill may be considered, provided the mover undertakes not to press those clauses. (L.S. Deb. Pt. II, 5-9-58)

Amendments to re-commit a Bill to the same Joint Committee or to a new Committee are dilatory and out of order (L.S. Deb. Pt. II, 21-11-58)

Rulings

The rulings of the Chair cannot be discussed in the House (L.S. Deb. Pt. II, 3-12-58)

Papers laid on the Table

A Member cannot lay a document on the Table as a matter of right (L.S. Deb. Pt. II, 27-11-58).

Privilege Issues

LOK SABHA

Privilege Case against Chief Minister of Kerala

On the 23rd September 1958, Shri M. R. Masani, a member of the Lok Sabha sought to raise a motion of privilege in the House on a matter relating to newspaper reports of a telegram alleged to have been sent by the Chief Minister of Kerala to the Union Minister of Home Affairs on the 20th September 1958, in which the Chief Minister was stated to have "attributed the motive of slander to some hon. Members" of the Lok Sabha. On the 27th September 1958, the Speaker gave his consent for the matter to be raised in the House and the Member moved the following motion, by the leave of the House:—

"That the attention of the House having been drawn by an hon. Member on September 23 to the telegram sent by Mr. E. M. S. Namboodripad, Chief Minister of Kerala, to Pandit G. B. Pant, Home Minister, extracts from which are contained in a report, based allegedly on official sources, issued by the *Press Trust of India*, Trivandrum, on September 20, and published by the *Times of India*, Delhi, and the *Amrit Bazar Patrika*, Calcutta, on September 21, in the course of which Mr. Namboodripad has attributed the motive of slander to some hon. Members of this House;

and having taken note of the subsequent telegram of 23rd September 1958 from Mr. Namboodripad to Pandit G. B. Pant, which was read to this House by the hon. Speaker on September 23;

this House resolves that the matter be referred to the Committee of Privileges for investigation as to whether a breach of privilege of the House and of the hon. Members concerned has been committed;

and whether any contempt of the House thus committed has been adequately

purged; and that the Committee be requested to present its report and recommendations for appropriate action at the first day's sitting of the next session of the Lok Sabha".

Thereupon, a Member (Shri V. P. Nayar) on a point of order raised the following objections:—

(a) That the House had no jurisdiction to consider the matter as the mandatory requirements of Rule 223 of the Rules of Procedure had not been complied with. Rule 223 required that if the question raised was based on a document, the notice should be accompanied by the document. As in the present case, the motion was based on a mere press report and the original telegram had not been produced, the matter could not be raised in the House;

(b) The document consisted of a telegram sent in official confidence by the Chief Minister of a State to the Union Minister of Home Affairs, and in view of the oath of secrecy, the Minister of Home Affairs could not disclose it to the House;

(c) The telegram sent by the Chief Minister to the Union Home Minister was a document with a constitutional, statutory and conventional obligation within the meaning of Rule 41 (2) (XX) of the Rules of Procedure and could not be disclosed.

(d) Under Rule 42 of the Rules of Procedure in matters which are or have been the subject of correspondence between the Government of India and the Government of a State, no question shall be asked except as to matters of fact.

After hearing the views from all sides of the House, the Speaker ruled out the point of order and observed:—

"So far as the point of order is concerned, Shri V. P. Nayar referred to Rule 223, which requires that when a question raised is based on a document the document should be produced. In the absence of the original documents, there can be secondary evidence. So far as this case is concerned, the document on which this

Privilege Issues

motion of privilege has been brought is the report of the Times of India. Shri Masani has filed that document. It is one thing to say that it is not a document; it is another thing to say that it is not a document which we can take as pukka, good proof of the original itself. That is another matter. But so far as the document is concerned, I feel that the requirements of Rule 223 have been satisfied. When once the matter goes to the Committee of Privileges or even when it is discussed, the procedure as laid down in Rule 270 is to be adopted. Rule 270 says:—

'A Committee shall have power to send for persons, papers and records;

Provided that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State'.

When the matter goes before the Privileges Committee, that Committee will decide whether it comes under the 'safety or public interest of the State' and the Government may then adduce its arguments whether the original document (telegram) can be produced or not.

Rules 41 and 42 relate to questions. Rule 41 (2) (XX) says:—

"It shall not ask for information regarding Cabinet discussions, or advice given to the President in relation to any matter in respect of which there is a constitutional, statutory or conventional obligation not to disclose the information."

This is not a Cabinet discussion. So far as advice to the President is concerned, that ought to be kept a secret; no question shall be asked here as to what kind of advice has been given by the Cabinet to the President. A letter written by a State Government to the Central Government is not advice that is given to the President. Rule 42 says:—

'In matters which are or have been the subject of correspondence between the Government of India and the Government of a State, no question shall be asked except as to matters of fact and the answer shall be confined to a statement of fact.'

Of course, this is a subject of correspondence between the Government of India and the Government of Kerala. Whether the word 'slander' has been used in that correspondence or not is a matter of fact. If the hon. Home Minister is asked whether it is not a fact that this alleged word has been used in the correspondence (telegram) as reported in the Press, I do not know what he can say and what he can withhold. A position relating to a matter of fact can be disclosed. The question is whether that portion of the telegram can or cannot be given as a matter of fact. If he gives that and if it supports this motion or tallies with this allegation, that is a point on which Shri Masani can come to this House.

Under these circumstances, I do not find that there is any point of order."

The matter was thereupon referred to the Committee of Privileges. The Committee felt that for a proper investigation of the case, the text of the telegram sent by the Chief Minister of Kerala to the Union Home Minister on the 20th September 1958 might first be obtained and examined. They also felt that according to the terms of their reference "as mentioned in the last portion of the first paragraph" of the motion, their scope was limited only to that portion of the telegram which was referred to in the news reports and not to any other portion and that they were to investigate whether the Chief Minister of Kerala had in *that portion* of his telegram "attributed the motive of slander to some hon. Members" of the Lok Sabha. The portion of the telegram which was referred to in the news reports read as follows:—

"Pray persuade Hon'ble Speaker that State subject may not fairly be discussed in Parliament without State getting opportunity because explanation of Member become mere slander on State Government."

The news report issued by the Press Trust of India on the 20th September

1958, as published in the *Times of India*, Delhi, and the *Amrit Bazar Patrika*, Calcutta, on the 21st September, 1958, which allegedly contained the extract from the above telegram read as follows:—

"The telegram, the sources said, contended that a State subject could not be discussed in Parliament without the concerned State getting an opportunity to explain its position especially when some Members of Parliament who raised the question tried to slander the State Government in the name of explanation."

On comparing the two texts, the Committee found that although the word, 'slander' occurred in both the texts, the following statement occurring in the news report did not appear in the telegram:—

".....some members of Parliament who raised the question 'tried to slander the State Government in the name of explanation'."

They felt that a reasonable construction of the relevant sentence occurring in the telegram should be as follows:—

"State subject may not fairly be discussed in Parliament without State getting opportunity otherwise explanation of member may become mere slander on State Government."

They also took into consideration the subsequent telegram sent by the Chief Minister of Kerala to the Union Home Minister on the 23rd September 1958, which read as follows:—

"Never intended cast aspersions or reflection on any member of Parliament or his conduct or proceedings of House. Context makes clear my meaning that if State not allowed to present correct facts an one sided version from a member may appear as slander on Kerala Government."

The Committee, therefore, came to the conclusion that the Chief Minister of Kerala had not attributed the motive of

slander to any Member of the House and also drew attention in this connection to the following passage in the Prime Minister's speech in the Lok Sabha on the 27th September 1958:—

"There are things said, often enough, which are not desirable and things said in the heat of the moment which, a person thinking more coolly would not have said.

.....if it was a deliberate flouting of the dignity of Parliament or of any individual member of Parliament, then, of course, there can be no doubt that that challenge has to be met. But where in other contexts, in the heat of the moment or in a controversy something is said, I would personally prefer this House not to take too much notice of it."

The Committee endorsed the above observations and also expressed the opinion, that the matter did not involve any breach of privilege. They, therefore, recommended that no further action be taken in the case.

The Report of the Committee was presented to the Lok Sabha on the 20th February 1959. On the 24th February 1959, when the House took up the Report for consideration, a member, Shri Asoka Mehta stated that the House had no opportunity to see the full text of the telegram at the time when the motion was adopted on the 27th September 1958 and until the Report of the Committee had been placed on the Table of the House, that the Committee had considered only a portion of the telegram which was referred to in the news reports and that the House should therefore be given another opportunity to consider the full text of the telegram, which in its other portions contained objectionable phrases. Shri Naushir Barucha, another Member, then moved the following motion:—

"While adopting the Eighth Report of the Committee of Privileges presented to

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the House on 20th February 1959 and recommending that no further action be taken in the case, this House regrets that unfortunate expressions such as 'hitting below the belt' and 'political propagandist hoax' should have been used in the telegram dated 20th September 1958 in connection with the legitimate expression of views by some hon. Members of this House."

Speaking on the motion, Shri Bharucha said that these expressions had been used by the Chief Minister of Kerala in the other portions of the telegram, which the Committee had not considered in view of the limited scope of their terms of reference, and that the House should therefore consider the whole telegram once again. But the Speaker held the latter part of Shri Bharucha's motion out of order, on the ground that the original motion adopted by the House on the 27th September 1958 referred only to a particular portion of the telegram relating to slander, which was referred to the Privileges Committee and on which the Committee had reported. He said that the House could not, therefore, while considering the report of the Committee, take up any other portion of the telegram, which had not been included in the original motion and referred to the Committee. If, however, any Member took exception to these portions and wanted the matter to be considered again, he should table another separate motion similar to the one adopted on the 27th September 1958, the Speaker added. He also held that an amendment to the present motion referring

back the matter to the Committee once again would be out of order, as according to Rule 315 (3) of the Rules of Procedure,* the House could only agree, or disagree or agree with amendments to the recommendations made by the Committee.

The House thereafter adopted the following motion:—

"That after taking into consideration the Eighth Report of the Committee of Privileges the House is of opinion that the matter may not be proceeded with."

Punjab Vidhan Sabha

Motion against the conduct of certain Members who created rowdy scenes to prevent the Governor from delivering his Address: Report of the ad hoc Committee.

On the 11th February 1958, Sardar Bhupinder Singh Mann, a Member of the Punjab Vidhan Sabha, sought leave to move the following privilege motion:

"That this House strongly disapproves of the conduct of certain Members who on 10-2-1958** when Members of both the Houses were assembled together, just before the Governor rose to address them in pursuance of the Constitutional obligation cast on him under Article 178(1)† created a rowdy scene and made an effort to prevent him from speaking, and thereby committed a gross breach of privilege in preventing the normal functions of the Legislature, which consists of the Governor and both Houses, being performed."

The Speaker reserved his ruling.

*Rule 315 (1) & (3) of the Rules of Procedure :—

315-(1) After the report has been presented the Chairman or any member of the Committee or any other member may move that the report be taken into consideration, whereupon the Speaker may put the question to the House.

(3) After the motion made under sub-rule (1) is agreed to, the Chairman or any member of the Committee or any other member, as the case may be, may move that the House agree, or disagree or agree with amendments, with the recommendations contained in the report.

** On the 10th February 1958, when the Governor rose to address a Joint session of both the Houses, some Members created an uproar and were asked to leave the Chamber.

† Article 176(1).—At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

On the 14th March, 1958, Sardar Bhupinder Singh Mann sought leave to withdraw his earlier motion, as he wanted to move a substantive motion so that the House might be able to give a decision thereon. This was objected to by some Members on the ground that the matter which was under the consideration of the Speaker and on which the Chair had reserved its ruling could not be withdrawn. The Speaker, however, ruled that a Member had the right to withdraw his earlier motion and give another one. The question was then put and the earlier motion was, by leave, withdrawn. Sardar Bhupinder Singh Mann then sought leave to move the following motion:

"That a Committee of.....(seven) Members of this House be appointed to examine the conduct of certain Members who on 10th February 1958, when the Members of both the Houses were assembled together just before the Governor rose to address them in pursuance of the Constitutional obligation devolving on him under Article 176(1) created a rowdy scene and made an effort to prevent him from speaking, and thereby committed an unconstitutional act, and report what action, if any, should be taken against them, by the 31st March 1958."

Debate on the Motion

Sardar Bhupinder Singh Mann stated that under Article 168(1)* of the Constitution, the Legislature consisted of the Governor and the two Houses, and further under Article 176(1) the Governor had the unfettered right to address the Legislature at the commencement of the first session after each general election and at the commencement of the first session of each

year. Under Rule 17** of the Rules of Procedure no Member could raise any point of order, debate or discussion immediately preceding, during or immediately following the Governor's special address under Article 176(1) of the Constitution. The Member further said that he had not been able to locate a single instance where, in the House of Commons, the King or the Queen was given affront or rowdy scenes were created at the time of his or her Address.

The Speaker thereupon observed as follows:

"The Governor symbolises the constitutional authority of the State and he comes here to this House as a part of this House to perform those duties. He has to discharge his duties under the Constitution and an affront to the Governor is an affront to the Constitution, because when a Member swears, he swears that he will abide by the Constitution.

"Another matter raised is that walk-outs by Members may be permissible. I beg to differ in that respect. The question of walk-outs was discussed at the Presiding Officers' Conference in detail. It was decided that walk-outs were not proper and were, as a matter of fact, unconstitutional. The Governor is the Constitutional Head of the State and does not belong to any party. He comes here to perform his constitutional duty. If the Members have any grievances to ventilate, they can do so when the Governor is performing his Executive duties outside the Legislature. When he comes in the Legislature, he comes as a part of the Legislature to perform his constitutional duty."

The Speaker added that he had no objection to the question being looked into by a special committee of the

* Article 168 (1).—For every State there shall be a Legislature which shall consist of the Governor, and (a) in the States of Bihar, Bombay, Madhya Pradesh, Madras, Mysore, Punjab, Uttar Pradesh and West Bengal two Houses; (b) in other States one House.

** Rule 17.—No member shall raise any point of order, debate or discussion immediately preceding, during or immediately following the Governor's special Address under Article 176(1) of the Constitution.

House and the House could then discuss the report of the Committee.

Pandit Shri Ram Sharma, Leader of the Opposition, opposing the motion, said that bringing the motion in the House in that manner amounted to disrespect to the Chair. He denied the allegation that the members had obstructed the Governor in delivering the Address. He added that the motion was not only vague but also objectionable, since it sought to pick out a few Members of the House and enquire into their conduct. He further said that the Members, alleged to have made an effort to prevent the Governor from speaking in the House, might also include Members of the other House and that Rule 17 of the Rules of Procedure of the Assembly applied only when the *Assembly* was sitting and did not apply to a joint sitting of both the Houses.

Shri Sharma added that two courses were open for penalising the Members responsible for creating rowdy scenes. If it was a matter of obstructing the business of the House, the Speaker could ask the Member to withdraw from the House for that day. If it was a case of persistent rowdyism and the Member was adamant, the Speaker could name him and suspend him from the House for the entire session. Concluding Shri Sharma said that if the intention of the motion was to establish a good convention or a rule in this regard, he had no objection, but if the intention was to penalise some Members, he was not prepared to accept it.

The Speaker assured the House that the motion was not directed against any individual Member. He had allowed the motion because it raised several constitutional issues which deserved to

be decided. He suggested that the words "examine all its constitutional and procedural issues and report, if necessary" might be added in the motion.

Sardar Pratap Singh Kairon, the Chief Minister said that the motion merely sought to set up healthy conventions for occasions like the Governor's Address and there was no intention to penalise any Member. He suggested that the Report of the Committee might be presented sometime in the September session instead of on 31st March 1958 as proposed in the motion.

On a suggestion made by another Member that the matter should have been referred to the Committee of Privileges instead of to a special Committee, the Speaker said that all the members of the Privileges Committee, of which more than half were already on the proposed committee, might be associated with the special committee so that they might also have the opportunity to express their views.

These suggestions were accepted and incorporated in the motion, which was adopted by the House.

Discussions with the Speaker, Lok Sabha

The Speaker of the Punjab Vidhan Sabha, as Chairman of the Committee, discussed the matter with the Speaker, Lok Sabha, on 21-2-58. Subsequently a sub-committee of the Committee was also constituted to meet the Speaker of the Lok Sabha and discuss with him the constitutional and procedural aspects involved in the motion. The Committee further consulted the proceedings of the Conference of Presiding Officers of the Legislative Bodies in India held in Srinagar in 1954, where

the question of walk-outs at the time of the Governor's Address was discussed.

Findings of the Committee

The Committee analysed the implications involved in the motion into the following parts:—

(a) whether the assemblage of Members of both the Houses of the State Legislature to listen to the Governor's Address is a regular meeting and whether it is necessary under the law and convention of Parliament to preserve order therein and how?

(b) if any misbehaviour occurs at such an assemblage, is any Parliamentary law or convention infringed?

(c) Is it open to either House on a day subsequent to that on which the Governor addresses the Members of the two Houses assembled together to take cognisance of the incidents which take place on the day of the Address and punish the person who, in its opinion, has infringed the Parliamentary law or convention or done something to lower the dignity of the House?

(d) How is it to be established that an infringement has taken place or dignity touched, when the incident has not taken place at a meeting of the House itself, and who is competent to decide what punishment should be awarded?

As regards point (a) above, the Committee felt that it was a difficult question and could not be answered simply. It said:

"The matter is one not free from a good deal of doubt, because in the case of States, where there are two Houses of the Legislature, the Constitution makes no provision for joint sittings, from which one might have drawn some analogy. Nevertheless, the Committee were quite clear in their view that although the assemblage of Members of both the Houses to listen to the Governor's Address under Article 178 is a meeting neither of one House nor of the other, it is the Governor's meeting summoned by him under a constitutional obligation devolving on him. That being the view of the Committee it does not feel that there is any constitutional

lacuna, as is sometimes suggested by some people, for it cannot comprehend how a lacuna in this respect could have been allowed to remain in the Constitution when it deals with all matters, with which it concerns itself, in meticulous detail. In so far as the question of enforcing discipline at such a meeting is concerned, the Committee definitely recommend that the solution lies in the Speaker, as the Presiding Officer of a much larger, directly and popularly elected House, being delegated by the Governor the necessary authority to do so. At the same time, the Committee cannot but express its hope that the need for enforcing discipline will not arise in the future, as it is fully confident that the Members of the Legislature, imbued with a deep sense of responsibility, will develop those healthy conventions and traditions which distinguish and enlighten the life of older democracies elsewhere."

As regards points (b), (c) and (d) the Committee stated:—

"Rowdiness at the assemblage convened to listen to the Governor's Address, by no casuistry, can be described as anything but a Parliamentary offence, notwithstanding the fact that our Constitution has not given it the status of a meeting of the Legislature. The Governor's Address is unmistakably the business of each House individually, for it is made the subject of discussion there under a Constitutional provision, which states that the Rules of Business of each House shall provide for debating it. Therefore, if even one Member is prevented from hearing the Address, he can rightly complain that his privileges as a Member have been infringed. While it is true that he may not be able to raise the question of his privilege at what the Committee have called, the Governor's meeting, he is fully competent to raise it in his own House when it meets as such on a subsequent occasion. In fact, Rule 17 of the Rules of Procedure and Conduct of Business in the Punjab Legislative Assembly is there to cover such a contingency."

Regarding the practice in U.K. the Committee observed:—

"The Speaker, Punjab Vidhan Sabha, when he was in the U.K. was informed by the authorities there that a rowdy scene at the time of the Sovereign's Address was absolutely unthinkable. It is unthinkable because the Head of the

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State is above all political prejudices unaffected by the breezes and storms of politics. Therefore any kind of a constitutional protest, such as walk-outs and the like, in his presence, has no constitutional meaning. On the other hand, it is unmistakably an affront to him, an affront which constitutionally, politically or morally has no justification. In the United Kingdom the Sovereign informs Parliament of the causes of its summons on each occasion by virtue of a very old convention. In India, at the Centre and in the States, the President and the Governors respectively, address the Parliament and the Legislatures in the first session of the year, in pursuance of statutory provisions. That being so, in our case, an affront to the Head of the State is an affront to the Constitution itself, which we have all sworn to abide by, as well as an affront to the State in which we live, and which the Head of the State symbolises in himself. Not only that, on the practical side, a protest such as the one we are considering has no meaning because the Governor is only a constitutional Head.

The Committee, therefore, regret, deplore and disapprove the conduct of Members who created a rowdy scene on the 10th February 1958 at the time of the Governor's Address."

The Committee did not make any recommendations regarding the punishment that might be given to those res-

ponsible for creating the rowdy scene on the 10th February 1958, for it did not examine the question either from the point of view of fixing responsibility on any one in that connection or from the point of view of the quantum of punishment. It primarily concerned itself with the constitutional and procedural implications of the said incident.

The Committee however, recommended that the Speaker should take it upon himself to impress upon the leaders of different political parties and groups the desirability and necessity of maintaining discipline and showing due respect to the Head of the State, when he came in their midst in pursuance of his constitutional duties, so that it might not be said of them by the future generations of legislators that they only toyed with the highest and noblest form of political organisation, namely democracy.

The Report of the *Ad hoc* Committee was presented to the House on the 24th September 1958 and adopted by it.

Constitutional Developments

CONSTITUTION OF THE FRENCH FIFTH REPUBLIC

[*The Constitution of the French Fifth Republic was drawn up by a Consultative Committee set up by the French Government (Premier-General de Gaulle's Government) under the Constitutional Reform Act passed by the French Parliament on June 2-3, 1958. The Committee submitted its report to the Government on 14th August, 1958 and the text of the draft Constitution was published on September 4, 1958, after the Government had considered and approved it. The draft was submitted to a national referendum throughout metropolitan France, Algeria and all the overseas departments and territories on September 28, 1958, and approved by the people. The Constitution was promulgated on October 4, 1958.*

Important provisions of the Constitution are reproduced below).

Preamble

Article 1.—The Republic and the peoples of the Overseas Territories who, by an act of free determination, adopt the present Constitution thereby institute a Community.

The Community shall be based on the equality and the solidarity of the peoples composing it.

The President of the Republic

Article 5.—The President of the Republic shall see that the Constitution is respected. He shall ensure, by his arbitration, the regular functioning of

the public powers as well as the continuity of the State.

He shall be the guarantor of national independence, of the integrity of the territory, and of respect for Community agreements and for treaties.

Article 6.—The President of the Republic shall be elected for seven years by an electoral college comprising the members of Parliament, of the General Councils and of the Assemblies of the Overseas Territories as well as the elected representatives of the municipal councils.

Article 7.—The President of the Republic shall be elected by an absolute majority on the first ballot. If this is not obtained the President of the Republic shall be elected on a second ballot by a relative majority.

Article 8.—The President of the Republic shall appoint the Premier. He shall terminate the functions of the Premier when the latter presents the resignation of the Government.

On the recommendations of the Premier, he shall appoint the other members of the Government and shall terminate their functions.

Article 9.—The President of the Republic shall preside over the Council of Ministers.

Article 10.—The President of the Republic shall promulgate the laws within fifteen days following the transmission to the Government of the finally adopted law.

He may, before the expiration of this time limit, ask Parliament for a reconsideration of the law or of certain of its articles. This reconsideration may not be refused.

Article 11.—The President of the Republic on the proposal of the Government during [Parliamentary] sessions, or on joint motion of the two Assemblies published in the *Journal Officiel*, may submit to a referendum, any bill dealing with the organization of the public powers, entailing approval of a Community agreement, or providing for authorization to ratify a treaty that, without being contrary to the Constitution, might affect the functioning of the institutions.

When the referendum decides in favour of the bill, the President of the Republic shall promulgate it within the time limit stipulated in the preceding article.

Article 12.—The President of the Republic may, after consultation with the Premier and the Presidents of the Assemblies, declare the dissolution of the National Assembly.

General elections shall take place twenty days at the least and forty days at the most after the dissolution.

The National Assembly shall convene by right on the second Thursday following its election. If this meeting takes place between the periods provided for ordinary sessions, a session shall, by right, be opened for a fifteen day period.

There may be no further dissolution within a year following these elections.

Article 15.—The President of the Republic shall be the commander of

the armed forces. He shall preside over the higher councils and committees of national defence.

Article 17.—The President of the Republic shall have the right of pardon.

Article 18.—The President of the Republic shall communicate with the two Assemblies of Parliament by means of messages, which he shall cause to be read, and which shall not be the occasion for any debate.

Between sessions, the Parliament shall be specially convened for this purpose.

The Government

Article 20.—The Government shall determine and conduct the policy of the nation.

It shall have at its disposal the administration and the armed forces.

It shall be responsible to the Parliament under the conditions and according to the procedures stipulated in Articles 49 and 50.

The Premier shall replace, should the occasion arise, the President of the Republic as the Chairman of the councils and committees provided for under Article 15.

He may, in exceptional instances, replace him as the chairman of a meeting of the Council of Ministers by virtue of an explicit delegation and for a specific agenda.

Article 23.—The functions of member of the Government shall be incompatible with the exercise of any parliamentary mandate, with the holding of any office, at the national level in busi-

ness, professional or labour organizations, and with any public employment or professional activity.

The Parliament

Article 24.—The Parliament shall comprise the National Assembly and the Senate.

The deputies to the National Assembly shall be elected by direct suffrage.

The Senate shall be elected by indirect suffrage. It shall ensure the representation of the territorial units of the Republic. Frenchmen living outside France shall be represented in the Senate.

Article 25.—An organic law shall determine the term for which each Assembly is elected, the number of its members, their emoluments, the conditions of eligibility, and the system of ineligibilities and incompatibilities.

Article 26.—No member of Parliament may be prosecuted, sought, arrested, detained or tried as a result of the opinions or votes expressed by him in the exercise of his functions.

No member of Parliament may, during parliamentary session, be prosecuted or arrested for criminal or minor offences without the authorization of the Assembly of which he is a member except in the case of *flagrante delicto*.

When Parliament is not in session, no member of Parliament may be arrested without the authorization of the Secretariat of the Assembly of which he is a member, except in the case of *flagrante delicto*, of authorized prosecution or of final conviction.

The detention or prosecution of a member of Parliament shall be suspend-

ed if the Assembly of which he is a member so demands.

Article 27.—Any compulsory vote shall be null and void.

The right to vote of the members of Parliament shall be personal.

The organic law may, under exceptional circumstances, authorize the delegation of a vote. In this case, no member may be delegated more than one vote.

Article 28.—Parliament shall convene by right in two ordinary sessions a year.

The first session shall begin on the first Tuesday of October and shall end on the third Friday of December.

The second session shall open on the last Tuesday of April; it may not last longer than three months.

Article 29.—Parliament shall convene in extraordinary session at the request of the Premier or of the majority of the members comprising the National Assembly, to consider a specific agenda.

Article 30.—Apart from cases in which Parliament meets by right, extraordinary sessions shall be opened and closed by decree of the President of the Republic.

Article 31.—The members of the Government shall have access to the two Assemblies. They shall be heard when they so request.

Article 32.—The President of the National Assembly shall be elected for the duration of the legislature. The President of the Senate shall be elected after each partial re-election [of the Senat:].

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Article 33.—The meetings of the two Assemblies shall be public. A verbatim report of the debates shall be published in the *Journal Officiel*.

Each Assembly may sit in secret committee at the request of the Premier or of one-tenth of its members.

On the relations between Parliament and the Government

Article 34.—The law shall be voted by Parliament.

Article 35.—Parliament shall authorize the declaration of war.

Article 36.—Martial law shall be decreed at a meeting of the Council of Ministers.

Its prorogation beyond twelve days may be authorized only by Parliament.

Article 38.—The Government may, in order to carry out its programme, ask Parliament for authorization to take, through ordinances, during a limited period, measures that are normally within the domain of law.

The ordinances shall be enacted in meetings of Ministers after consultation with the Council of State. They shall come into force upon their publication but shall become null and void if the bill for their ratification is not submitted to Parliament before the date set by the enabling act.

At the expiration of the time limit referred to in the first paragraph of the present article, the ordinances may be modified only by the law in those matters which are within the legislative domain.

Article 39.—The premier and the members of Parliament alike shall have the right to initiate legislation.

Government bills shall be discussed in the Council of Ministers after consultation with the Council of State and shall be filed with the Secretariate of one of the two Assemblies. Finance bills shall be submitted first to the National Assembly.

Article 43.—Government and Parliamentary bills shall, at the request of the Government or of the Assembly concerned, be sent for study to committees specially designated for this purpose.

Government and Parliamentary bills for which such a request has not been made shall be sent to one of the permanent committees, the number of which is limited to six in each Assembly.

Article 45.—Every Government or Parliamentary bill shall be examined successively in the two Assemblies of Parliament with a view to the adoption of an identical text.

When, as a result of disagreement between the two Assemblies, it has been impossible to adopt a Government or Parliamentary bill after two readings by each Assembly, or, if the Government has declared the matter urgent, after a single reading by each of them, the Premier shall have the right to bring about a meeting of a joint committee composed of an equal number from both Assemblies charged with the task of proposing a text on the matters still under discussion.

The text elaborated by the joint committee may be submitted by the Gov-

ernment for approval of the two Assemblies. No amendment shall be admissible except by agreement with the Government.

If the joint committee does not succeed in adopting a common text, or if this text is not adopted under the conditions set forth in the preceding paragraph the Government may, after a new reading by the National Assembly and by the Senate, ask the National Assembly to rule definitively. In this case, the National Assembly may reconsider either the text elaborated by the joint committee, or the last text voted by it, modified when circumstances so require by one or several of the amendments adopted by the Senate.

Article 46.—The laws that the Constitution characterizes as organic shall be passed and amended under the following conditions:

A Government or Parliamentary bill shall be submitted to the deliberation and to the vote of the first Assembly notified only at the expiration of a period of fifteen days following its introduction.

The procedure of Article 45 shall be applicable. Nevertheless, lacking an agreement between the two Assemblies, the text may be adopted by the National Assembly on final reading only by an absolute majority of its members.

The organic laws relative to the Senate must be passed in the same manner by the two Assemblies.

The organic laws may be promulgated only after a declaration by the Constitutional Council on their constitutionality.

Article 47.—The Parliament shall pass finance bills under the conditions to be stipulated by an organic law.

Should the National Assembly fail to reach a decision on first reading within a time limit of forty days after a bill has been filed, the Government shall refer it to the Senate, which must rule within a time limit of fifteen days. The procedure set forth in Article 45 shall then be followed.

Should Parliament fail to reach a decision within a time limit of seventy days, the provisions of the bill may be enforced by ordinance.

Article 48.—The discussion of the bills filed or agreed upon by the Government shall have priority on the agenda of the Assemblies in the order determined by the Government.

One meeting a week shall be reserved, by priority, for questions asked by members of Parliament and for answers by the Government.

Article 49.—The Premier, after deliberation by the Council of Ministers, shall make the Government responsible, before the National Assembly, for its programme or, should the occasion arise, for a declaration of general policy.

When the National Assembly adopts a motion of censure, the responsibility of the Government shall thereby be questioned. Such a motion is admissible only if it is signed by at least one-tenth of the members of the National Assembly.

Article 50.—When the National Assembly adopts a motion of censure, or when it disapproves the programme or a declaration of general policy of the Government, the Premier must hand the

Constitutional Developments

resignation of the Government to the President of the Republic.

The Constitutional Council

Article 56.—The Constitutional Council shall consist of nine members, whose mandates shall last nine years and shall not be renewable. One-third of the membership of the Constitutional Council shall be renewed every three years. Three of its members shall be appointed by the President of the Republic, three by the President of the National Assembly, three by the President of the Senate.

In addition to the nine members provided for above, former Presidents of the Republic shall be members *ex-officio* for the life of the Constitutional Council.

Article 58.—The Constitutional Council shall ensure the regularity of the election of the President of the Republic.

It shall examine complaints and shall announce the results of the vote.

Article 59.—The Constitutional Council shall give a ruling, in the case of disagreement, on the regularity of the election of deputies and senators.

Article 60.—The Constitutional Council shall ensure the regularity of the referendum procedure and shall announce the results thereof.

Article 61.—Organic laws, before their promulgation, and regulations of the parliamentary Assemblies, before they come into application must be submitted to the Constitutional Council, which shall give its ruling on their constitutionality.

To the same end, laws may be submitted to the Constitutional Council, before their promulgation, by the President of the Republic, the Premier or the President of one or the other Assembly.

Article 62.—A provision declared unconstitutional may not be promulgated or implemented.

The decisions of the Constitutional Council are not subject to appeal to any jurisdiction whatsoever. They must be recognized by the public powers and by all administrative and judicial authorities.

On the Judicial Authority

Article 64.—The President of Republic shall be the guarantor of the independence of the judicial authority.

He shall be assisted by the High Council of the Judiciary.

Magistrates may not be removed from office.

The High Council of the Judiciary shall present nominations for judges of the Court of Cassation (Supreme Court of Appeal) and for First Presidents of courts of appeal. It shall give its opinion under the conditions to be determined by an organic law on proposals of the Minister of Justice relative to the nominations of the other judges. It shall be consulted on questions of pardon under conditions to be determined by an organic law.

The High Council of the Judiciary shall act as a disciplinary council for judges. In such cases, it shall be presided over by the First President of the Court of Cassation.

Article 66.—No one may be arbitrarily detained.

The High Court of Justice

Article 67.—A High Court of Justice shall be instituted.

It shall be composed, in equal numbers, of members elected from among their membership by the National Assembly and by the Senate after each general or partial election to these Assemblies. It shall elect its President from among its members.

Article 68.—The President of the Republic shall not be held accountable for actions performed in the exercise of his office, except in the case of high treason. He may be indicted only by the two Assemblies ruling by identical vote in open balloting and by an absolute majority of the members of the said Assemblies. He shall be tried by the High Court of Justice.

The members of the Government shall be criminally liable for actions performed in the exercise of their office and rated as crimes or misdemeanours at the time they were committed. The procedure defined above shall be applied to them, as well as to their accomplices, in case of a conspiracy against the security of the State.

The Economic & Social Council

Article 69.—The Economic and Social Council upon reference by the Government shall give its opinion on the Government bills, ordinances and decrees, as well as on the Parliamentary bills submitted to it.

Article 70.—The Economic and Social Council may likewise be consulted by the Government on any problem of an economic or social character of interest to the Republic or to the Com-

munity. Any plan, or any bill dealing with a plan of an economic or social character shall be submitted to it for its advice.

On Territorial Units

Article 76.—The Overseas Territories may retain their status within the Republic.

If they express the desire to do so by decision of their Territorial Assemblies they shall become either Overseas Departments of the Republic or, organized into groups among themselves or singly, member States of the Community.

On the Community

Article 77.—In the Community instituted by the present Constitution, the States shall enjoy autonomy; they shall administer themselves and, democratically and freely, manage their own affairs.

There shall be only one citizenship in the Community.

Article 78.—The Community shall have jurisdiction over foreign policy, defence, the monetary system, common economic and financial policy, as well as the policy on strategic raw materials.

In addition, except by special agreement, control of justice, higher education, the general organization of external and common transport, and telecommunications shall be within its jurisdiction.

Article 80.—The President of the Republic shall preside over and represent the Community.

The Community shall have as organs, an Executive Council, a Senate and a Court of Arbitration.

Constitutional Developments

Article 82.—The Executive Council of the Community shall be presided over by the President of the Community. It shall consist of the Premier of the Republic, the heads of Government of each of the member States of the Community, and of the ministers responsible for the common affairs of the Community.

The Executive Council shall organize the co-operation of members of the Community at Government and administrative levels.

Article 83.—The Senate of the Community shall be composed of delegates whom the Parliament of the Republic and the legislative assemblies of the other members of the Community shall choose from among their own membership.

The Senate of the Community shall hold two sessions a year, which shall be opened and closed by the President of the Community and may not last more than one month each.

The Senate of the Community, upon reference by the President of the Community, shall deliberate on the common economic and financial policy.

The Senate of the Community, shall take enforceable decisions in the domains in which it has received delegation of power from the legislative assemblies of the members of the Community. These decisions shall be promulgated in the same form as the law in the territory of each of the States concerned.

Article 84.—A Court of Arbitration of the Community shall rule on litigations occurring among members of the Community.

Article 86.—A change of status of a member State of the Community may be requested either by the Republic, or by a resolution of the legislative assembly of the State concerned confirmed by a local referendum, the organization and supervision of which shall be ensured by the institutions of the Community.

Under the same conditions, a member State of the Community may become independent. It shall thereby cease to belong to the Community.

On Amendment

Article 89.—The initiative for amending the Constitution shall belong both to the President of the Republic on the proposal of the Premier and to the members of Parliament.

The Government or Parliamentary bill for amendment must be passed by the two Assemblies in identical terms. The amendment shall become definitive after approval by a referendum.

Nevertheless, the proposed amendment shall not be submitted to a referendum when the President of the Republic decides to submit it to Parliament convened in Congress; in this case, the proposed amendment shall be approved only if it is accepted by a three-fifths majority of the votes cast. The Secretariat of the Congress shall be that of the National Assembly.

No amendment procedure may be undertaken or followed if it is prejudicial to the integrity of the territory.

The republican form of government shall not be the object of an amendment.

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SECOND CONFERENCE OF CHAIRMEN OF PUBLIC ACCOUNTS COMMITTEES

The Second Conference of Chairmen, Public Accounts Committees of Parliament and the State Legislatures in India was inaugurated on the 14th March, 1959 in Parliament House, New Delhi, by Shri M. Ananthasayanam Ayyangar, Speaker of the Lok Sabha. The Chairmen of the Public Accounts Committees of eleven State Legislatures participated. The Deputy Speaker of Lok Sabha and the Chairman, Estimates Committee of Lok Sabha were also present. The Chairman, Public Accounts Committee of Parliament who presided over the Conference and the Chairman, Estimates Committee of Lok Sabha also addressed the Conference.

The Prime Minister, Shri Nehru, addressed the Conference on the 15th March, 1959.

The Conference came to the following conclusions:—

1. What should be the term of Office of the Chairman and Members of the Committee?

(i) CHAIRMANSHIP

This Conference have given its careful consideration to the suggestion made by the Speaker, Lok Sabha, that the tenure of the Chairman of the Public Accounts Committee should be co-terminus with that of the Legislature concerned, with a view to ensuring a sufficient degree of experience and also of continuity, and the non-official members

of this Conference recommend that the tenure of the Chairman be made co-terminus with the life of the legislature concerned.

(ii) MEMBERSHIP

The Conference recommend that in the matter of election of Members of the Legislature to the Public Accounts Committee a convention might be established that not more than one-third of the Members might retire every year from the Committee so as to ensure the presence of an experienced core of Members at any time, the retiring Members being eligible for re-election.

2. What should be the minimum strength of the Committee in the States?

The Conference are of the opinion that the membership of the Committee should be not less than nine to facilitate the observance of the convention mentioned in paragraph 1(ii) above.

3. Whether the Public Accounts Committee can examine any matter which is not mentioned in the Appropriation Accounts and Audit Report thereon?

(i) The Conference are of the view that the Public Accounts Committee can scrutinise and report upon matters relating to Public Accounts included in the Appropriation Accounts or other Accounts laid on the Table of the House even though such matters may not be mentioned in the Audit Report.

*Address of the Speaker has been printed separately in this issue of the Journal.

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(ii) The Conference further recommend that irregularities in respect of which remedial measures including disciplinary action, where necessary, have been taken by Government, and which are at present excluded by the Comptroller and Auditor-General from his Audit Reports, should be included in the Audit Report in a separate section detailing the action taken by Government so that the Public Accounts Committee and the Legislature may satisfy themselves that the action taken in those cases was appropriate and adequate.

4. Question of scrutiny of the receipts of the Union or the States by the Accountants-General with the object of enabling the Public Accounts Committees to probe into the receipts of the Union/States.

The Conference are of the opinion that on the lines of the agreement recently arrived at between the Comptroller and Auditor-General and the Union Ministry of Finance to introduce progressively an audit of Income-Tax receipts, the Committee in each State may suggest to the State Government to examine the feasibility of audit of the receipts coming within their jurisdiction e.g., Sales Tax, Agricultural Income-Tax, Land Revenue, Excise Duty etc., by the Accountant General of the State.

5. Extension of the scrutiny of Public Accounts Committee to the Accounts of certain concerns to which the State Government give financial assistance.

The Conference are in favour of scrutiny by the Public Accounts Committee of the Accounts of the concerns to which the State Governments give substantial financial assistance wherever such scrutiny is permissible under the law or under the agreement.

6. What should be the procedure for examination by the Public Accounts Committees of State Legislatures of the Accounts of a Joint River Valley Project, the expenditure on which is shared by more than one State?

The Conference re-affirm the view held by the first Conference of Chairmen, Public Accounts Committees (1955) that the scope of examination and sphere of jurisdiction of the Public Accounts Committees of the respective Legislatures of the participating States over the Accounts could be demarcated by a discussion between the Chairmen of the concerned Committees in order to avoid any conflict. The Chairmen should come to an agreement and arrive at a settlement on border-line issues. Each Committee must, however, report to their respective Legislatures and it is always open to them to present identical reports. This might be the guiding principle in deciding such cases.

Further in the case of River Valley or other Projects, the appropriations for which are sanctioned by a State Legislature but funds for which are provided out of loans from the Central Government and executed through the Central Agency, the Conference are of the opinion that whenever the Accounts of such a Project are examined by the Central Public Accounts Committee, the representatives of the State Public Accounts Committee concerned might be invited to attend their sittings.

7. What action can the Public Accounts Committee take if no reply is received to a questionnaire which has been issued by it to a Department of the Government?

The Conference consider that it is always open to the Committee to send for the departmental representatives and

apart from asking for their explanations for the delays involved in the submission of the information to the Committee, record their evidence and then come to their conclusions and present a Report thereon to the House.

8. **If the Public Accounts Committee is not satisfied with the reasons given for any excess expenditure over Grant and does not recommend its regularisation, what is the effect? What action is the Public Accounts Committee competent to recommend through the House in such case?**

The Conference consider that whenever the Public Accounts Committee are unable to recommend the regularisation of excess, the question has to be finally decided by the Legislature concerned.

9. **Is it desirable that private individuals may be called for by the Public Accounts Committee as witnesses if and when considered necessary?**

The Conference are of opinion that a convention might be established in the light of the advice given by the Speaker, Lok Sabha, that when the working of any agreement entered into by Government with a private party came up for examination by the Public Accounts Committee, the Committee may, if they deem fit and necessary, summon or give an opportunity to the representatives of the party concerned to appear before them and to give evidence on any points arising therefrom which would enable the Committee to come to a correct decision.

10. **Whether a stranger who wishes to attend the meeting of the Public Accounts Committee to study the procedure can be admitted to the meetings of the Committee?**

The Conference are of opinion that the following categories of persons may

be admitted to watch the proceedings of Committee (when taking evidence) with the prior approval of the Chairman:

I. In the case of Central P.A.C.:

- (i) Members of Parliament who are not members of the Committee;
- (ii) Chairmen and Members of State P.A.Cs. and State Legislatures;
- (iii) Officers of State Legislatures specially deputed for the purpose.

II. In the case of State P.A.Cs.:

- (i) Members of State Legislatures who are not Members of the P.A.C.;
 - (ii) Chairmen and Members of P.A.Cs. of other State Legislatures;
 - (iii) Officers of State Legislatures deputed for the purpose;
 - (iv) Chairman and Members of Central P.A.C.;
 - (v) Members of Parliament;
 - (vi) Officers of Lok Sabha Secretariat.
11. **Under what circumstances, a recommendation made by the Public Accounts Committee may be reconsidered by it and in what manner and at whose instance the matter may be recommended to the Committee?**

The Conference agree that the practice followed at the Centre *viz.*, that in cases where Government are not in a position to implement a recommendation made by the Public Accounts Committee and Government have reason to disagree with it, the Ministry concerned place its views before the Committee which may,

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if they think fit, present a further report to the House after considering the views of Government in the matter, may be accepted by the State Committees as well.

12. Whether interesting points emerging out of the discussion at the Conference of Chairmen of Public Accounts Committees should be published for the information of other members of State Legislatures?

The Conference recommend that the printed copies of the Proceedings of the Conference of Chairmen of Public Accounts Committees might be made available to such of the Members of the State Legislatures, who may be interested in the matter, through their respective Legislature Secretariats. The Proceedings should, however, be treated as confidential.

13. Is it desirable that the accounts of private concerns, the bulk of whose capital is comprised of loans or grants given by the Government, should be subject to audit by the Comptroller and Auditor-General and incorporated in the Appropriation Accounts and Audit Reports thereon?

The Conference are in favour of the introduction of test audit by the Comptroller and Auditor-General of the Accounts of non-Government bodies and organisations etc. which receive grants-in-aid from the Government.

14. To what extent may the Public Accounts Committee ask for the help and guidance of the Finance Department in regard to its examination of the administrative Departments?

The Conference note that generally the Finance Ministry or Department is represented at the sittings of the Public

Accounts Committee either by the Secretary or any other senior officer not lower than the rank of Deputy Secretary in the case of States deputed in this behalf. They trust that this practice would continue.

15. How far can Departments claim privilege in furnishing information from Government files etc.?

The Conference consider that whenever the Secretary of a Department feels that information from a Government file should not be divulged to the Committee, he should produce before the Committee a certificate from the Minister concerned that the disclosure of the information would be prejudicial to the safety or interest of the State. In all other cases, the Secretary should make available to the Chairman of the Committee confidentially the relevant documents.

16. Whether it would not be possible for the Comptroller and Auditor-General of India to attend the meetings of the Public Accounts Committees by rotation?

The Conference feel that whenever the presence of the Comptroller and Auditor-General is considered necessary at the sittings of the State Public Accounts Committees, their programmes should be forwarded to him sufficiently in advance and he be requested to make it convenient to be present at such sittings.

17. Whether some method should be devised for bringing about coordination between Public Accounts Committee and the Estimates Committee?

The Conference are of opinion that as at the Centre, meetings between the Chairmen of the two Financial Committees viz., Public Accounts Com-

mittee and Estimates Committee, might be held to ensure coordination besides the exchange of material obtained by each of these Committees on certain matters which are of common interest or are under examination by them simultaneously. Further, the Chairman of either of the two Committees may nominate two or more Members thereof to attend the sittings of the other Committee.

18. Is it not necessary that the Secretaries to Government should themselves attend the meetings of the Public Accounts Committee for explaining the position of the Government?

The Conference are of opinion that as a rule the Secretary of the Department should appear before the Public Accounts Committee and if, for any reason, he is unable to do so, he should communicate the reason therefor to the Chairman of the Committee in writing in advance, and seek his permission to the Department being represented by the next senior officer(s).

19. Secretariat Functions of the Committee

The Conference are of opinion that in those States where the Secretariat functions of the Committee still continue to be discharged by the Finance or other Department of the State concerned, these should be transferred to the Secretariat of the respective Legislatures along with the posts sanctioned for this work.

20. Fixation of individual responsibility

The Conference recommend that the Public Accounts Committees at the Centre and in the States should give special consideration to the present practice of issuing sanctions in respect of various decisions taken at different levels in the Government Departments, and in consultation with the Comptroller and Auditor-General and the Departments concerned, report to their respective Legislatures as to the steps to be taken in the matter in order that individual responsibility for any decision, if required, can be squarely fixed.

21. Early presentation of the Appropriation Accounts and Audit Reports thereon

(i) The Conference recommend that appropriate steps may be taken to ensure the publication and presentation to the Legislatures of the Audit Reports at the earliest possible moment and pending the enactment of Legislation in this behalf, the Legislatures may fix the dates on or before which the Accounts and Audit Report thereon should be prepared and placed before them.

(ii) The Conference also recommend that following the practice obtaining at the Centre, the State Public Accounts Committees may ask their respective Accountants-General to make available immediately to the State Legislature the Reports dealing with important financial irregularities noticed in the course of audit of the accounts of the year without waiting for the compilation and presentation of the Appropriation Accounts relating thereto in the usual manner.

Editorial Note

WITH this issue, the Journal enters the fifth year of its publication. It is a matter of satisfaction to us that during these four years we have been able to establish the Journal on a firm footing, largely with the valuable co-operation extended to us by the State Legislatures. We note with pleasure that this co-operation will be available to us in an increasing in the coming years, as the State Legislatures have volunteered to make a greater contribution to the Journal in the form of articles and notes of procedural interest.

This issue contains two leading articles—one, a speech delivered by the Speaker, Lok Sabha, at the inauguration of the Second Conference of Chairmen of Public Accounts Committees of the Lok Sabha and State Legislatures held in March, 1959, and the other, a thought-provoking speech by the Prime Minister while inaugurating the symposium organised by the Indian Bureau of Parliamentary Studies, in December, 1958. We are grateful to the Bureau for their kind permission to publish the speech in the Journal.

The issue contains an article on the Speakership in Canada and Australia. The author has given an interesting account of the evolution of Speakership in these two Dominions.

The article "Resolutions and their Effect" describes the development of procedure in Parliament in so far as

resolutions are concerned, and makes a comparative study in this respect in the Indian and British Parliaments.

The article on "Petitions to Lok Sabha" traces the origin and development of the practice of petitioning the Lok Sabha side by side with the U.K. practice, and gives an account of the work done by the Committee on Petitions during the period of the first and second Lok Sabha.

The resignation of his seat by a Member of the Burmese Chamber of Deputies is discussed in another article. The article on "Working Groups" describes the development of Working Parties in the U.K., U.S.A., and organisations like the NATO and OEEC, and also gives an account of the organisation and methods of work of the Working Groups of the Public Accounts Committee and Study Groups of the Estimates Committee of the Lok Sabha. The last article in the Journal acquaints the reader with the growth and functions of the Watch and Ward in the Lok Sabha.

The issue also contains, as usual, notes of procedural interest, among which may be mentioned the one relating to the recent privilege issue against the Chief Minister of Kerala and the other relating to the observations of the Speaker of the Mysore Assembly on statements by Ministers on their resignation from Government.

Book Reviews

People and Parliament by Nigel Nicolson (Weidenfeld and Nicolson, 7, Cork Street, London, W.I., 1958, 18 sh.)

Mr. Nigel Nicolson discusses in 'People and Parliament' the problem as to whether a Member of Parliament should be a 'representative' of the people or merely a 'delegate', and whether he should vote in Parliament according to his own reasoned judgment or follow the party-line. The author, himself a Member of the British Parliament representing the Bournemouth East and Christchurch constituency as a Conservative, was faced with this problem on two recent occasions—once during the controversy over the abolition of capital punishment and again when the Suez Crisis was debated in the House. On both the occasions, he took a line different from that of his party, for which his local party association not only expressed its want of confidence in him but also adopted a different candidate to be put up at the next general election.

The author takes the above two controversies as test-cases, and in the first three chapters of the book analyses the various issues involved. According to him, these two cases illustrate "nearly all the aspects of the relationship between a Member, his constituents and his party". In his opinion, the relationship between a Member and his constituents is "so subtle that it could never be defined" and Burke's dictum that a Member of Parliament should be a representative and not a delegate is equally applicable to day, in view of the complicated nature of present day politics and

the functioning of political parties. The vote given by the people at the time of the election is "never intended to operate continuously by keeping Members of Parliament on a tight leash between elections". If, however, the Member's freedom is restricted and he is to act only according to the wishes of his constituency or party even in matters of principle or national importance, "a commercial relationship between the Member and his constituents would arise" and he would not be able to act as a check on the executive, when his own party happens to be in power. A limitation on the Member's right to say what he thinks would also "diminish both the authority of Parliament and the vigour of parties".

The author devotes the second chapter to the relationship between a Member and his local party organisation and refers in this connection to the autonomous character of the local party association and its manner of selecting the party candidate for the parliamentary election. The present drawbacks in the selection of candidates and the methods by which they could be remedied are also mentioned. Particular attention is drawn to the party manager's role at the time of the election and the various methods by which a prospective candidate or Member should 'nurse' his constituency.

The different kinds of pressure exerted on a Member both inside and outside Parliament are referred to in the third chapter. Describing how Parliament

acts as a great deterrent on the susceptibility of Members to any undue influence or pressure, the author says:

"Generally speaking, his (Member's) attitude is determined by what he hears publicly and privately in the House. In the great majority of cases, he follows the lead given by the leaders of his parliamentary party. It is only when a topic arises of overwhelming importance to the country, or of which the Member can claim to have made a special study, or which closely affects his constituency that he begins to consider his duty as a Member of Parliament in addition to his duty as a member of his party."

According to the author, the Member should have the freedom of voting in such instances, as otherwise "the whole purpose of Parliament will be defeated." A Member "represents his constituency" but is also at the same time "one of a large body chosen to represent the nation." He should therefore "try to fuse his constituents' interests with the national interest" and should have "the moral courage to say what he thinks right" whenever he finds himself in disagreement with his party leaders. If, however, he considers party loyalty to be the highest of political virtues, Parliament itself would lose its value as the chief forum of the nation.

The book is a valuable contribution to current political practice and deserves study by all those who are interested in the subject.

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Parliamentary Procedure in India by
A. R. Mukherjea (Oxford University
Press, Bombay, 1958, pp. 363 Rs. 25)

On attaining independence India adopted the Parliamentary form of Government as obtaining in England and the Legislatures both at the Centre and in the States were modelled on the British Parliament. The Constitution of India

provided that the powers, privileges and immunities of these Legislatures were to be similar to those of the British House of Commons and the rules of procedure framed for the conduct of their business were also largely based on the procedures and practices obtaining in that House. These procedures were evolved by the British Parliament in the course of its long history as also of the actual working of democracy, and have been recorded by Erskine May in his treatise "The Law, Privileges, Proceedings and Usage of Parliament." The Indian Legislatures, therefore, refer to May constantly for guidance on matters of detail in the day-to-day conduct of their business.

There are, however, several details of procedure, both in the Central Parliament and in the State Legislatures of India, which are different not only from those of the British House of Commons but also from those of each other. These variations have grown or have been adopted by them in order to suit their local conditions or special circumstances. A student of Parliamentary procedure in India has, therefore, to consult, besides other literature, the Rules of Procedure obtaining in all the Legislatures, if he desires to have a comparative and comprehensive view of the subject.

Shri A. R. Mukherjea, Secretary of the West Bengal Legislature, has made such a comparative study and his book "Parliamentary Procedure in India" gives a comprehensive view of the procedures obtaining in the Indian Parliament as well as the various State Legislatures. He has also explained them in the context of the procedures obtaining in the House of Commons, in order to show how far they have been derived from the latter and how and in what details, if any, they vary from the British practice and from each other. Besides, he has

traced the development of procedures, specially in the case of the British Parliament and the Indian Parliament, by describing the historical and constitutional background and showing how they have come to be adopted in their present form today.

The subject begins with a short introduction giving the landmarks in the development of procedure in the Indian Legislature prior to the advent of freedom. The author thereafter describes the composition of Parliament and the State Legislatures and the qualifications and disqualifications for membership. He discusses the question of office of profit in this connection and gives the position as it obtains to day in England as well as in India.

The next chapter deals with the summoning of the Legislatures, the seating of Members and the administration of oath or affirmation. The question whether a date once fixed for the summoning of the Legislature could be postponed is also discussed. The party affiliations of the Speaker, the powers of the Deputy Speaker, the opening of Parliament in England and India, the scope of the Address to Parliament by the Head of the State, the practice in Britain and India with regard to the adjournment of the House, etc. are also dealt with here.

The various kinds of business transacted by the Legislature are then mentioned and each one of them is dealt with separately and in detail. While dealing with Questions the author also refers to the French method of 'interpellation' and the practice in England with regard to the asking of questions on matters relating to public corporations and nationalised industries. The different kinds of motions and the rules of debate as they are in vogue in different Legislatures are then described.

The chapter on legislation explains in detail the various stages in the passing of a Bill, the appointment and procedure of Select Committees and the restrictions as to money and financial Bills. The fundamental principles relating to the raising of revenue and expenditure are stated in connection with financial procedure and the various stages of the Budget debate and its scope are also mentioned therein. The financial committees of Parliament are dealt with separately and the author has referred in this connection to the origin of the Estimates Committee in England. He has devoted a separate chapter to the office of the Comptroller and Auditor General wherein he describes the different angles from which the appropriation accounts have to be scrutinised. He also gives a description of the Finance Department, its functions and its importance as well as its control over estimates and expenditure.

The question of Parliamentary privilege is dealt with in the last chapter. The position of privileges in the British Parliament and the general principles governing them are outlined in brief, apart from the history of privilege in the Indian Parliament under the 1919 and 1935 Reforms as well as under the present Constitution. The author further describes the different kinds of breach of privilege and contempt of the House illustrating them, wherever necessary, from British and Indian cases.

The book contains four appendices, the first three of which give the texts of the various articles of the Indian Constitution referred to by the author, and the Seventh and the First Schedules to the Constitution. The fourth appendix explains the procedure of election by proportional representation through the method of single transferable vote.

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In the words of Sir Edward Fellowes, Clerk of the House of Commons in Britain, who has written a foreword to the book "should prove most useful not only to members of the parliaments of India and to their officials but to all who are interested in parliamentary democracy throughout the world."

Anonymous Empire: A Study of the Lobby in Great Britain by S. E. Finer. (The Pall Mall Press Ltd., London, 1958, pp. 133)

This is a first-hand study of the lobby in Great Britain and the influence it exerts over the Government, the Parliament and the political parties. The author defines the lobby as "the sum of organisations, in so far as they are occupied at any point of time in trying to influence the policy of public bodies in their own chosen direction; though (unlike political parties) never themselves prepared to undertake the direct government of the country." He classifies the lobby into several groups, such as that which represents the business and industrial organisations, the labour lobby, the Cooperative Union, the professions such as the Civil Service, teachers and doctors, and the Civic Groups which includes associations like the temperance societies and the National Council of Social Service.

The various methods by which the different lobbies try to influence Parliament, the Government and the political parties are then described. According to the author, the influence of the lobbies begins even when the political parties frame their policies and programmes. They supply detailed information and material to the political parties to which they are aligned, on those subjects in which their interests are concerned. They are also consulted by the Minister

in the Government before a Bill is prepared, and they try to influence the speeches of Members in Parliament, through briefs and through the Press. Even after a Bill is enacted, the lobbies keep continuous contact with Government Departments, and by interviews, deputation, letter and telephone they influence the Department in administering the Acts and framing rules and orders under those Acts. Many lobbies thus enjoy close, confidential and, by and large, friendly contact with the civil service, and their representatives even sit with civil servants on a host of official committees.

In Parliament, the lobbies are active at most or all stages of a Bill, and even resolutions and questions may sometimes reflect their influence. Many of them maintain a 'parliamentary panel' (a panel of M.P.s who would speak for them) and make strenuous efforts to get direct representation in Parliament. As several rival interests thus get represented in Parliament, the Parliament often serves as a cockpit for their battles.

Sometimes, the lobbies may take their case over the heads of M.P.s and appeal to their constituents. This is called in America "grass-roots lobbying". Although the lobbies mostly seek to get their way by persuasion and advice, they sometimes employ techniques involving lesser or greater degrees of 'pressure' and extending even to an economic or administrative boycott. When they try to influence the electorate, they launch campaigns through all sorts of publicity, although such campaigns are much rarer and less high-powered than in America.

In conclusion, the author says that the lobbies pervade the whole of British political life, although there are other institutions such as the Government Departments, the ministers, the political parties,

the Parliament and Press which "counter their centrifugal demands and domesticate them". The lobby is useful, he says, as it bridges the gap between the Government and the electorate during the period between one election and the next, by providing for continuous consultation between the government and the governed. The author is also conscious of the defects of the lobby but does not consider them to be of an overwhelming nature, although, according to him, the lobbies tend to be, as far as the general public is concerned, 'faceless, unidentifiable and, in brief, anonymous'.

THE BOOK MAKES INTERESTING
READING AND GIVES MUCH
VALUABLE INFORMATION ON
THE SUBJECT DEALT WITH.

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Modern Governments by Harold Zink
(D. Van Nostrand Co. Inc. Princeton,
New Jersey, 1958, pp. 804)

The book contains a comparative study of modern governments and is designed for the use of students of political science in universities and colleges. It deals with the Governments of Great Britain, France, Germany, Norway, Sweden and the Soviet Union in Europe. Canada and the Latin American countries in the Western Hemisphere and India and Japan in Asia. The European Governments have been dealt with in somewhat greater detail as, according to the author, Europe has been the pioneer in the development of modern political institutions and her political experience and practices have exercised a great influence on other countries. The importance of recent political and constitutional developments in the other parts of the world, particularly in Asia, is, however recognised by the author, who has therefore included the governments of India and Japan, besides those of the

Latin American countries, in the present study.

The book follows the traditional pattern of dealing with the countries one by one, but it also makes a comparative study of the different governments, comparing them not only with each other but also with that of the United States.

The Government of Great Britain is described more elaborately than the others as, in the view of the author, it was in that country that the Western democratic institutions had their nurture and development before they spread to other countries. The author, therefore, describes in detail the growth of the British Constitution from the early Anglo-Saxon times to the present day and then gives an account of its salient features as it obtains to-day. He also takes up the various British political institutions such as the Monarchy, the Privy Council, the Cabinet and Parliament one by one, and describes their evolution and role in British history and their present position and functioning. In connection with the House of Commons he refers *inter alia* to the evolution of the office of the Speaker, the position of individual Members and their salaries and the committee system in Parliament, while in the case of the House of Lords, he mentions the Parliament Acts of 1911 and 1949 and the reform proposals of 1957. The procedure of the House of Commons for conducting its business, its sessions and sittings, introduction and passage of Bills etc. find a place in a separate chapter. The author has also described the administrative aspect of the Government particularly the internal organisation of the various Ministries and departments, besides the growth of the Civil Service and its machinery. The growth of the British political parties, their organisation in and out of

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Parliament, their techniques and finances are described in a subsequent chapter, as also the question of public corporations and the nationalisation of industries. A short account of the governments in the Commonwealth countries and in the colonies and dependencies is given at the end.

In the case of France, the author traces the development of the Constitution from the days of the French Revolution upto the Fourth Republic. He makes a rapid survey of the constitutional experiments during the days of the Revolution, the third Republic and the Vichy regime and then gives a detailed account of the governmental set-up under the Constitution of the Fourth Republic. The position and role of the President, the Premier and other Ministers under the Fourth Republic, the powers of the National Assembly and its procedure, the existence of the multi-party system and its weaknesses are referred to in adequate detail, in addition to the system of administrative law and administrative courts which are peculiar to France. A description of the French Union and the government of the overseas territories is included in the last chapter.

The section relating to Germany begins with the rise of Prussia, the consolidation of Germany under Bismarck and the establishment of the German Empire before World War I. The chief characteristics of the imperial constitution and of the Weimar Republic are mentioned. There is also an account of the Nazi regime and its impact on the political and social life of Germany. This is followed by a description of the Allied Occupation, the rebuilding of West Germany and the Bonn Basic Law leading to the Constitution of the West German Federal Republic. The author

has omitted the Government of East Germany from his purview and has confined himself to a sketch of the West German Government only. He has, however, referred to the problems of Berlin and German re-unification.

The Governments of Norway and Sweden have been dealt with together in a small chapter, and only the broad features of their constitutions and governments have been touched upon. The Government of the U.S.S.R. is, however, given elaborate treatment in view of its importance in the present day world. The author refers to the political condition of Russia before and after the Revolution of 1917 and then describes the chief characteristics of the Soviet system, the general character of the Communist Party, its instruments and organisation and its relationship to government departments. He also gives a sketch of the Government machinery and its institutions, the planning agencies and the activities of the 'party-state'.

In the Western Hemisphere, the author has chosen the governments of Canada and the twenty Latin American countries for treatment. The Government of Canada has been treated in sufficient detail, but the Latin American countries have all been dealt with together in one chapter, which brings out only certain broad features which are common to all of them.

In Asia, the Constitutions of Japan and India have been chosen. In both cases, a description of the present Constitution is preceded by an account of the conditions obtaining before the War. A review of the constitutional developments in India from the days of the East India Company upto 1947 provides the necessary background to the account of the present Constitution which brings out its salient features, such as its quasi-federal character, its Bill of Rights and

Directive Principles of States Policy, its organisation for elections and parliamentary democracy. While referring to the Parliament of India, the author quotes a report of the *Manchester Guardian* of 5th June 1954 to the effect that the "Parliament in Delhi is the only institution of its kind (in Asia) which is working in an exemplary way". (p. 755). Some of his other remarks about the old Indian Civil Service (p. 740) the grant of independence to India (p. 747) and the personality of the Prime

Minister (p. 754) are also noteworthy.

The book achieves a good balance in treatment by paying equal attention to the historical aspect of the development of a Constitution and its present structure and functioning. A number of charts, maps diagrams etc. which have been included in the text, serve to clarify and illustrate the subject matter, while the select bibliography at the end of each section helps the reader to make further extensive study on the subject.

The Civil Servant's function is to advise, to warn, to draft memoranda and speeches in which the Government's policy is expressed and explained, to draw attention to difficulties which are arising or are likely to arise through the execution of policy, and generally to see that the process of Government is carried on in conformity with the policy laid down."

—Sir IVOR JENNINGS in "Cabinet Government"
(p. 116).

APPENDIX I

Statement showing the activities of the Houses of Parliament/State Legislatures in India during the period 1st July, 1958 to 31st December, 1958

Name of the House/Legislature	Session during the period	Legislation		Questions					Committees		Points of order	
		No. of bills passed	Government Members	Starred	Unstarred	Short Notice	Names	No. of Members				
1	2	3	4	5	6	7	8	9	10	11	12	13
8 Lok Sabha	Two Sessions. (I) from 11-8-58 to 27-9-58. (15 sittings) (II) From 17-11-58 to 20-12-58 (26 sittings)	39		16,778	2938	1782	5193	321%	28			
										Business Advisory Committee [*]	15	
										Committee of Privileges	15	
										Committee on absence of Members from the sittings of the House	15	
										Committee on Estimates	30	
										Committee on Government Assurances	15	
										Committee on Petitions	15	
										Committee on Private Members' Bills and Resolutions	15	
										Committee on Public Accounts	22	
										Committee on Subordinate Legislation	15	
										General Purposes Committee	21	
										House Committee	12	
										Joint Committee on Salaries and Allowances of Members of Parliament	15	
										Rules Committee	15	

*. Includes starred questions as admitted unstarred.

Appendices

Andhra Pradesh Legislative Council	One Session From 7-7-58 still continuing (28 sittings during the period under review)	34	..	467	408	11	11	63	57	9	Privileges Committee of Procedure and Conduct of Business
Assam Legislative Assembly	One Session From 18-8-58 to 1-9-58 (11 sittings)	8	..	230	222	449	416	12	..	5	Committee on Petitions House Committee Committee on Privileges Business Advisory Committee Committee on Subordinate Legislation Committee on Public Accounts Committee on Estimates Select Committee on Bills ^(a)
Bihar Vidhan Sabha	One Session From 13-11-58 to 19-12-58 (21 sittings)	14	..	2286	1077	399	385	276	152	11	Business Advisory Committee Public Accounts Committee Committee on Estimates Library Committee House Committee Committee on Subordinate Legislation Committee of Privileges Committee on Government Assurances Select Committee on Rules
Bihar Vidhan Parishad	One Session From 13-11-58 to 23-12-58 (26 sittings)	14	..	670	628	378	368	23	19	15	Library Committee House Committee Privileges Committee
Bombay Legislative Assembly	One Session From 18-8-58 to 24-10-58 (41 sittings)	35	..	3131	2272	11	10	299	82	27	Public Accounts Committee Estimates Committee Privileges Committee Assembly Rules Committee

^(a) The Minister-in-charge and the Member who introduces the Bill are Members of the Committee and other Members are named in the Motion proposing references to the committee and their appointment is subject to the vote of the Assembly.

^(b) Includes 420 starred questions admitted as Unstarred Questions.

^(c) Includes 2 questions split up into 5 questions.

^(d) Includes one Short Notice Question treated as starred question.

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

										Committee on Petitions	7
										Business Advisory Committee	9
										Subordinate Legislation Committee	19
										Select Committee on Bombay (Irrigation Projects) Displaced Agriculturists' Resettlement Bill 1958	15
										Committee on Private Members' Bills and Resolutions	13
										Library Committee	20
										Committee on Petitions	8
										Business Advisory Committee	8
										Committee on Private Members' Bills and Resolutions	5
										Committee on Government Assurances.	7
										Committee on Subordinate Legislation.	7
										Committee on Private Members' Bills and Resolutions.	7
										Rules Committee	11
										Business Advisory Committee	9
										Committee on Government Assurances	5
										House Committee	9
										Estimates Committee	15
										Committee of Privileges	10
										Public Accounts Committee	10
										Rules Committee	15
										Business Advisory Committee	15
										Committee on Petitions	7
										Business Advisory Committee	9
										Subordinate Legislation Committee	19
										Select Committee on Bombay (Irrigation Projects) Displaced Agriculturists' Resettlement Bill 1958	15
										Committee on Private Members' Bills and Resolutions	13
										Library Committee	20
										Committee on Petitions	8
										Business Advisory Committee	8
										Committee on Private Members' Bills and Resolutions	5
										Committee on Government Assurances.	7
										Committee on Subordinate Legislation.	7
										Committee on Private Members' Bills and Resolutions.	7
										Rules Committee	11
										Business Advisory Committee	9
										Committee on Government Assurances	5
										House Committee	9
										Estimates Committee	15
										Committee of Privileges	10
										Public Accounts Committee	10
										Rules Committee	15
										Business Advisory Committee	15
										Committee on Petitions	7
										Business Advisory Committee	9
										Subordinate Legislation Committee	19
										Select Committee on Bombay (Irrigation Projects) Displaced Agriculturists' Resettlement Bill 1958	15
										Committee on Private Members' Bills and Resolutions	13
										Library Committee	20
										Committee on Petitions	8
										Business Advisory Committee	8
										Committee on Private Members' Bills and Resolutions	5
										Committee on Government Assurances.	7
										Committee on Subordinate Legislation.	7
										Committee on Private Members' Bills and Resolutions.	7
										Rules Committee	11
										Business Advisory Committee	9
										Committee on Government Assurances	5
										House Committee	9
										Estimates Committee	15
										Committee of Privileges	10
										Public Accounts Committee	10
										Rules Committee	15
										Business Advisory Committee	15
										Committee on Petitions	7
										Business Advisory Committee	9
										Subordinate Legislation Committee	19
										Select Committee on Bombay (Irrigation Projects) Displaced Agriculturists' Resettlement Bill 1958	15
										Committee on Private Members' Bills and Resolutions	13
										Library Committee	20
										Committee on Petitions	8
										Business Advisory Committee	8
										Committee on Private Members' Bills and Resolutions	5
										Committee on Government Assurances.	7
										Committee on Subordinate Legislation.	7
										Committee on Private Members' Bills and Resolutions.	7
										Rules Committee	11
										Business Advisory Committee	9
										Committee on Government Assurances	5
										House Committee	9
										Estimates Committee	15
										Committee of Privileges	10
										Public Accounts Committee	10
										Rules Committee	15
										Business Advisory Committee	15

Appendices

Library Committee	12
House Committee	10
Petitions Committee	5
Committee on Delegated Legislation	10
Committee on Government Assurances	10

Myers Legislative Assembly	One Session From 29-10-58 to 2-12-58 (25 sittings)	17	..	..	..	51	20	Committee on Government Assurances. Business Advisory Committee	8
Myers Legislative Council	One Session From 5-11-58 to 5-12-58 (72 sittings)	16	..	97	91	76	72	17	9
Orms Legislative Assembly	One Session From 25-8-58 to 26-9-58 and 1-12-58 to 12-12-58 (30 sittings)	14	..	..	3182*	2251*	..	..	..

Estimates Committee	9
Committee on Public Accounts	7
Committee on Government Assurances	5
Committee to consider and decide as to the action to be taken under article 187 and article 194 of the Constitution and in all matters connected therewith	7
Business Advisory Committee	8
House Committee	9
Library Committee	3
Rules Committee	7
The Advisory Committee	7
Committee of Privileges	5
Committee on Estimates	9
House Committee	5
Committee on Petitions	5
Joint Select Committee on Punjab Village Common Lands (Regulations) Bill, 1958	27

Prashad Vaidya Sabha	Two Sessions (i) From 10-9-58 to 24-9-58 (12 sittings)	15	..	1162	762	537	400	15	3	Committee on Estimates	9
	(ii) From 22-12-58 to 31-12-58 (7 sittings.)									House Committee	5
										Committee on Petitions	5

*Includes unstarred questions also—break-up figures are not available.
 *Figures represent total numbers of questions received and admitted. Break-up figures are not available.

U. P. Legislative Council	One Session From 20-7-58 still continuing (59 sittings)	28	..	2936	1988	136	97	304	54	Rules Revision Committee	11	House Committee	5
										Committee of Privileges	11	Business Advisory Committee	5
										Business Advisory Committee	11		
										Committee of Petitions	11		
										Committee on Assurances	11		
										House Committee	11		
U. P. Legislative Assembly	One Session From 21-7-58 to 16-12-58 (56 sittings)	27		4527	3287½	110	63	2948	161	Committee on Privileges	10		
										Estimates Committee	26		
										Committee on Assurances	16		
										Delegated Legislation Committee	15		

† Includes 7 starred questions admitted as unstarred questions.

* Adjourned but not terminated.

‡ Includes a number of Short Notice Questions treated as starred questions.

APPENDIX II

List of Bills passed by the Houses of Parliament and assented to by the President during the period 1st July to 31st December, 1958

Sl. No.	Title of the Bill	Date of assent by the President
1	2	3
1	The Appropriation (Railways) No. 3 Bill, 1958	28-8-58
2	The Ancient Monuments and Archaeological Sites and Remains Bill, 1958	28-8-58
3	The All India Services (Amendment) Bill, 1958	3-9-58
4	The Code of Criminal Procedure (Amendment) Bill, 1958	3-9-58
5	The Mineral Oils (Additional Duties of Excise and Customs) Bill, 1958	4-9-58
6	The Armed Forces (Assam and Manipur) Special Powers Bill, 1958	11-9-58
7	The Working Journalists (Fixation of Rates of Wages) Bill, 1958	16-9-58
8	The Sugar Export Promotion Bill, 1958	16-9-58
9	The Central Sales Tax (Second Amendment) Bill, 1958	16-9-58
10	The Public Premises (Eviction of Unauthorised Occupants) Bill, 1958	16-9-58
11	The Estate Duty (Amendment) Bill, 1958	19-9-58
12	The Banaras Hindu University (Amendment) Bill, 1958	20-9-58
13	The Manipur and Tripura (Repeal of Laws) Bill, 1958	6-10-58
14	The Indian Medical Council (Amendment) Bill, 1958	6-10-58
15	The Rajghat Samadhi (Amendment) Bill, 1958	6-10-58
16	The Industrial Disputes (Banking Companies) Bill, 1958	6-10-58
17	The Sea Customs (Amendment) Bill, 1958	6-10-58
18	The Appropriation (No. 4) Bill, 1958	6-10-58
19	The Supreme Court Judges (Conditions of Service) Bill, 1958	17-10-58
20	The International Finance Corporation (Status, Immunities and Privileges) Bill, 1958	17-10-58
21	The Trade and Merchandise Marks Bill, 1958	17-10-58
22	The Merchant Shipping Bill, 1958	30-10-58
23	The Tea (Alteration in Duties of Customs and Excise) Bill, 1958	25-11-58
24	The High Court Judges (Conditions of Service) Amendment Bill, 1958	17-12-58
25	The Poisons (Amendment) Bill, 1958	17-12-58
26	The Assam Rifles (Amendment) Bill, 1958	26-12-58
27	The Appropriation (Railways) No. 4 Bill, 1958	26-12-58
28	The Appropriation (Railways) No. 5 Bill, 1958	26-12-58
29	The Appropriation (No. 5) Bill, 1958	26-12-58
30	The Indian Tariff (Amendment) Bill, 1958	26-12-58
31	The Foreign Exchange Regulation (Amendment) Bill, 1958	27-12-58
32	The Prevention of Disqualification (Amendment) Bill, 1958	27-12-58
33	The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1958	30-12-58

Appendices

1	2	3
34	The Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Bill, 1958	30-12-58
35	The Orissa Weights and Measures (Delhi Repeal) Bill, 1958	30-12-58
36	The Representation of the People (Amendment) Bill, 1958	30-12-58
37	The Delhi Rent Control Bill, 1958	31-12-58
