

# THE JOURNAL OF PARLIAMENTARY INFORMATION

**ROLE OF PARLIAMENT IN INDIAN POLITICAL SYSTEM**

—Professor Madhu Dandavate

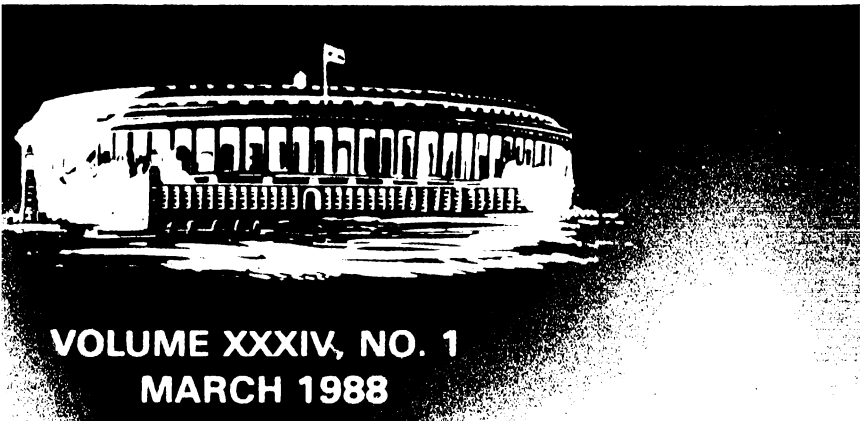
**NEED FOR A NATIONAL-LEVEL OMBUDSMAN  
(LOKADHIKARI) IN INDIA**

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—Dr. Subhash C. Kashyap



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MARCH 1988**

# THE JOURNAL OF PARLIAMENTARY INFORMATION

*Editor* : DR. SUBHASH C. KASHYAP

*The Journal of Parliamentary Information*, a quarterly publication brought out by the Lok Sabha Secretariat, aims at the dissemination of authoritative information about the practices and procedures that are continuously being evolved in Indian and foreign Legislatures. The *Journal* also purports to serve as an authentic recorder of important parliamentary events and activities and provides a useful forum to members of Parliament and State Legislatures and other experts for the expression of their views and opinions thereby contributing to the development and strengthening of parliamentary democracy in the country.

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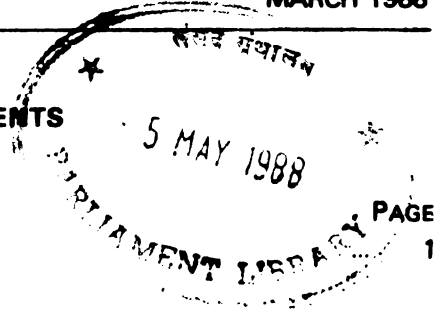
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### *Book Review*

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## EDITORIAL NOTE

This issue of the *Journal* begins with an article on "Role of Parliament in Indian Political System" by Professor Madhu Dandavate, an eminent Parliamentarian and a prominent leader on the Opposition benches. Dwelling at length on the significant and pivotal role of Parliament in Indian polity, the author remarks that the "primacy of Legislature over the Executive is of great importance and has to be scrupulously observed because once the primacy of Legislature is lost and the Executive overpowers the Legislative powers, the very parliamentary structure of democracy would be destroyed." The author feels concerned over a large number of budgetary demands not being scrutinised by the Parliament for want of time and advocates the necessity of having a Standing Finance Committee of Parliament which would scrutinise all the Demands for Grants and make suggestions thereon before they are voted by the Parliament. He contends that of all the systems that are available, the existing parliamentary system, despite its many shortcomings, is by far the best. Professor Dandavate, however, underlines the fact that the most important and precious factor in any system is the human being, whose political consciousness alone can ensure proper accountability and stability.

In the second article on "Need for a National-level Ombudsman (*Lokadhikari*) in India" Shri U.C. Agarwal, Central Vigilance Commissioner, traces the genesis of the institution of *Ombudsman* in Sweden and its adoption by several countries around the world. Recounting the experiences of *Ombudsman* type institutions in certain States of India where they have been established, the author emphasizes the necessity of having at the national level, separate organisations for dealing with public complaints, one involving corruption and another maladministration. He opines that combining of these two functions in one institution, has not made it "popular and effective". According to him, the role of proposed *Lokpal* may be restricted to investigation of complaints of corruption, while the institution of *Lokadhikari* may enquire into cases of maladministration. Outlining in detail the constitutional status, powers, jurisdiction, tenure etc. of the proposed *Lokadhikari*, Shri Agarwal hopes that by investigating complaints regarding lack of sensitivity, efficiency, impartiality and fair play on the part of public officials and Ministers, the institution would go a long way to restore public confidence in administration. He, however, cautions that the success of this institution would ultimately depend on the calibre, character and competence of the persons selected to run it, as over-zealousness, exaggerated sense of self-importance, or an undue fault-finding approach is bound to be fraught with dangers.

The third article on "Private Members' Right to Quote from and Lay Secret Documents on the Table of the House", while citing precedents in Lok Sabha, seeks to clarify the relevant provisions of the Rules of Procedure and Directions by Speaker and conventions developed over the years, in regard to the right of

members of Parliament to quote from and lay secret documents on the Table of the House during a debate. It also stresses the obligations in this regard and consequences of misuse of the right.

A portrait of late Prime Minister Shrimati Indira Gandhi was unveiled by the President, Shri R. Venkataraman in the Central Hall, Parliament House, on her 70th birth anniversary on 19 November 1987. A feature on the event has been included in this issue.

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

We extend our heartiest felicitations to Sarvashri P.G. Marbaniang and Jyotirmay Nath on their election as Speaker of Meghalaya and Tripura Legislative Assemblies, respectively. We also congratulate Shri A.C. Chongsen on his re-election as Speaker of the Nagaland Legislative Assembly.

We are constantly endeavouring to make this *Journal* more useful and informative, and would always welcome suggestions for further improvements.

—*Subhash C. Kashyap*

## ROLE OF PARLIAMENT IN INDIAN POLITICAL SYSTEM\*

MADHU DANDAVATE

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The founding fathers of our Constitution, after great deliberation, accepted the pattern of parliamentary democracy to be followed in India in preference to the presidential form of government. It was not merely an accident that this particular system was accepted. There were certain merits in the context of Indian situation which impelled the founding fathers of our Constitution select the parliamentary form of Government.

There are certain merits and demerits in both the systems. In parliamentary democracy, there is more accountability to the Parliament; but may be, less stability. In a presidential form of government, probably, there can be more stability but less accountability to the Parliament. The people of India value accountability more than stability since instability can gradually disappear or can be converted into stability. But once the accountability to Parliament is destroyed, the very soul of democracy is destroyed. Therefore, we have laid great emphasis on accountability and that is why we accepted the parliamentary form of government.

The role of Parliament in our political system is very significant and pivotal. For parliamentary democracy to succeed, there must be four important checks and balances. One of them is the vigilant Parliament. The second is an impartial Judiciary. The third, a fearless Press. And, last but not the least, the built-in devices in our Constitution which do prevent even certain unforeseen crises or the collapse of the democratic structure. There also, Parliament has to play a considerable role.

The primacy of Legislature over Executive and separation of the Judiciary and the Executive are the most important principles on the basis of which the role of Parliament in the present political system would have to be examined. Primacy of Legislature over the Executive is of great importance and has to be scrupulously observed because once the primacy of Legislature is lost and the Executive overpowers the Legislative powers, the very parliamentary structure of

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\*Adapted from the talk by the author to the participants in the Third Parliamentary Internship Programme for Foreign parliamentary officials, under the auspices of the Bureau of Parliamentary Studies and Training, Lok Sabha Secretariat on 15 September 1987.

democracy would be destroyed. There have been instances in our country as well as in the UK where the primacy of Legislature over the Executive and even over the constitutional head has been demonstrated and ably accepted.

Before independence of our country, the Parliament was called the Central Legislative Assembly. The manner in which its Speaker (then called President), Shri Vithalbhair Patel tried to maintain the dignity of the Legislature and its independence from the Executive, was something exemplary. When the Public Safety Bill was being discussed in the Assembly, there was tremendous opposition to the Bill because it tried to throttle the voice of the people and provided for their detention for a long period. While the debate was on, an old revolutionary, Sardar Bhagat Singh, who was sitting in the Visitors' Gallery of this very Parliament House, threw a fake bomb into the well of the House. In those days of the British rule, he was arrested, and later on sentenced and hanged on some other ground. While throwing the bomb, he also threw a leaflet saying that he wanted to demonstrate to the Parliament people's opposition to the Public Safety Bill. After that episode, the President, Shri Vithalbhair Patel adjourned the House. When the House reassembled on the next working day, the President found a police officer in uniform who was an Englishman, sitting in the Visitors' Gallery. From the Chair itself, Shri Patel shouted, "How dare this officer come to the Gallery without my permission!" and noted that the Executive could not supersede the powers of the Legislature. Those were the days when we had not achieved Independence. The Home Member who was an Englishman got up and shouted that the policeman came with his permission. Shri Vithalbhair Patel shouted back in a resolute voice and said, "Mr. Minister, hold your tongue and restrain yourself and take your seat. Otherwise, I will have to drive you out of the House." As soon as he uttered those words, the policeman who was sitting in the Visitors' Gallery fled away never to return. And the Home Member too did not have the courage to challenge the voice of the Speaker. That was how he maintained the independence of the Legislature. Not only that, Shri Vithalbhair went a step further. While the debate on Public Safety Bill was continuing in the Assembly, some of the patriots were being tried at the same time in a court of law for their alleged involvement in the Meerut Conspiracy Case. At one stage during the debate, Shri Vithalbhair Patel who was in the Chair, got up and said, "I have carefully gone through the issues that are being discussed in this debate. These issues which we are debating are the same, which are also being considered in the Court where the patriots are being tried, and they may even be hanged. I do not want the proceedings of the Court to be affected by the debate in this Parliament on this particular issue. Therefore, I am adjourning the debate *sine die*." The Home Member who was an Englishman, objected to this. President Patel overruled the objection saying that his decision in the House was final.

This clearly demonstrates how the presiding authority becomes a very important factor. In this connection, an extreme example of an incident may be cited which took place in the House of Commons in 1642 when Charles I had issued instructions for the arrest of some members of the House of Commons alleged to

be guilty of treason. A rumour was spread in the Parliament that the King was likely to enter the House with his army men to arrest those members of Parliament. The House of Commons requested the members concerned to leave the House in order to avoid an ugly scene. After some time, the King came along with the army men and went straight to the podium of the Speaker, and requested him to identify the members whom he wanted to arrest and hand them over to him. The Speaker thereupon stood up and fearlessly said, "Your Majesty, in this House, when I function as the Speaker, I have no eyes to see and I have no ears to hear. I am the servant of this House and I see with the eyes of this House and I hear with the ears of this House. Your Majesty, I cannot oblige you." And when the King was leaving along with his army men humiliated, the members of the House of Commons, shouted at the King, "Your Majesty, Breach of Privilege, Breach of Privilege." In this manner the Parliament had asserted its voice even against the King. May be the Speaker would have been slaughtered by the army men, but even at the cost of threat to his life, he established the supremacy of the Parliament.

So far as Parliament is concerned, there is another extremely important device in our political system, that is, the privileges of Parliament. Very often, when discussions on privilege issues took place in the Parliament, whether it was the House of Commons or our Parliament or any other Parliament of the world, some felt that the question of privileges was only a question of academic right of the members of Parliament and of Parliament as a whole. But it is not so. There are a number of consequences of privileges; they are very important. The Parliament in the existing political system has to protect its own privileges as well as those of its members not only as some academic right of the members but because there are social and economic consequences.

In our Parliament, in the Fifth Lok Sabha, once I had raised a question of privilege. It is a very interesting example. It pertained to the MRTP Commission which exists in India for prevention of concentration of economic power in the hands of a few. Section 62 of the MRTP Act prescribes that whenever any case of any company or industrial house is referred by the Government to the MRTP Commission for investigation and the Commission submits a report to the Government, within six months of the submission of such a report, the same alongwith the report on action taken by the Government, has to be laid on the Table of both the Houses of Parliament. I wanted to know what had happened to the report in the case of one particular monopoly house. I knew that the issue had been referred to the Commission. So, I went to the Library. To my shock and surprise I found that for a number of years the reports of the MRTP Commission submitted to the Government were not laid on the Table of the House as required under section 62 of the MRTP Act. So, I raised a question of privilege against the Law Minister. He observed that no doubt section 62 demanded that those reports should be laid on the Table of the House, but that was not a mandatory provision. I then requested him to consult the Attorney-General and check up the legal position. After it was confirmed from the Attorney-General that section 62 was a mandatory provision and it was violated, the Minister tendered

unqualified apology for having failed to place MRTP Commission's reports before the House, and assured that such violation would not be committed in future. One may call it only a technical violation; but it is not so, because if the report submitted by the Commission regarding monopoly houses to the Government is not laid on the Table of the House, it cannot be discussed and, consequently, one does not know what action has been taken. Therefore, the monopoly houses may go completely scot-free from the clutches of the Government against the recommendations of the Commission. There might also be disastrous consequences since malpractices of a particular monopoly house may continue and to that extent the economy of the country might suffer.

There are Tariff Commission reports also which are to be laid on the Table of the House in Parliament in time, and if they are not laid, the economy of the country is bound to suffer, since in the meantime the concerned businessman or the industrialist who comes to know about certain aberrations pointed out or certain changes suggested by the Tariff Commission, might manipulate his accounts and results. So, the privilege devices in the Parliament are very important to see that no crisis takes place in the system, as far as economic life is concerned.

Another aspect of the Parliament which can adversely affect the entire political system pertains to the Money Bill, financial propositions before the House, budgetary provisions, budgetary demands etc. In our country, however, not many Money Bills are now subjected to proper scrutiny. Take, for instance, the presentation of the Budget in the Indian Parliament for the last several years. One may find that sometimes a large number of the Demands for Grants are not scrutinised by the Parliament for want of time. After some Demands are discussed, others are just guillotined; they are taken as adopted without discussion. It is, therefore, very necessary that if the role of the Parliament in our political and economic system has to become very effective, we must evolve a methodology by which none of the economic aspects of the Budget would go unscrutinised by the Parliament.

In this connection, I would suggest that there should be a Standing Finance Committee of representations of both the Houses of Parliament. Under this system, as soon as the Finance Minister presents the Budget to the Parliament, the entire budget with its demands for grants would be sent to the Standing Finance Committee of the House which will discuss the demands of all the Ministries and scrutinise them. The Committee being a compact one, each member of the Committee would get enough opportunity to express his or her views. By this method, all the demands, allocations, expenditures etc. of each Ministry could be discussed and debated; and after proper scrutiny of the budgetary demands, the Committee would formulate their report on the Budget; which along with the suggestions made by the Committee would come for general discussion before the Parliament. So, even if the Parliament is not able to discuss all the aspects on the floor of Parliament, at the Committee level, every

aspect of the Budget would undergo a thorough scrutiny and no Ministry of the Government of India would go unscrutinised.

I also propose that as a convention all the Money Bills or every Bill that has got financial implications, should be sent to the Standing Finance Committee (which would be a sort of a Select Committee), and only when it is scrutinised by them, the Money Bill should come back before the Parliament for general discussion with the report as well as suggestions of the Standing Finance Committee. The advantage at the Committee level would be that every aspect could be scrutinised in depth. Although the Parliament is supposed to act upon certain provisions of the Constitution, they are sometimes totally ignored, for example, article 119 of our Constitution, which says: "The Parliament shall enact laws and rules to regulate the financial business". Even 37 years after the Constitution came into operation, no laws and rules have been framed to regulate the financial business of the Parliament, as required by article 119 of the Constitution. Guillotining goes on indiscriminately just by the voice vote of the Parliament. If the regulation of financial business is governed not by majority in the House but by certain rules, then the majority cannot suppress the voice of minority in the financial matters. Then, guillotining cannot be ruthlessly resorted to. A notice already given by me for framing of such rules has been accepted and the Rules Committee would now examine the proposal to frame definite rules to ensure that guillotining or regulation of the financial business would be subject to certain rules.

In our democratic Constitution, there are built-in devices which create certain safeguards for the effective functioning of the political system and prevent it from acting in a manner that would be harmful to the system. For example, in the Constitution, there is an article for the declaration of Emergency in the country. Once the Emergency is declared, the fundamental rights of the citizens are suspended and they can be detained without trial. They cannot even seek the remedy. The founding fathers of the Indian Constitution had envisaged the situations under which Proclamation of an Emergency could be declared. According to the original provisions, Emergency would be declared when there was a threat to the security of India or any of its territory by war on external aggression or internal disturbance. The threat of internal disturbance could, however, be so widely interpreted that even a democratic agitation may be considered a threat of internal disturbance, and Emergency could be promulgated and people locked up in prisons and their fundamental rights suspended. In 1977, by an amendment to the Constitution, the constitutional provisions regarding Proclamation of Emergency were amended. According to the amended Constitution the situations in which the Government could request the President to proclaim Emergency, was when there was a threat to the national security by war, external aggression or armed rebellion in the country. The words, "internal disturbance" were specifically substituted by "armed rebellion", thereby leaving no scope to proclaim Emergency in case of some trade union agitation, peasants struggle or some students movement. This instance indicates how certain built-in devices in the Constitution, which if properly



amended and framed, can safeguard the parliamentary structure, and the fundamental rights under the Constitution, and thus ensure that the political system is not allowed to be subverted and the soul of the democratic system is not destroyed.

In this process, the Judiciary also comes to the help of Parliament and even sometimes restrains the Parliament. For example, article 368 of our Constitution, defines the power of Parliament to amend the Constitution. Originally, according to article 368, the Parliament could amend the Constitution by two-thirds majority of the members present and voting in both the Houses of Parliament. So, a party with two-thirds majority in the Parliament, could amend any part of the Constitution, even if it related to the fundamental rights or the directive principles of the State policy. Originally, there was also a lot of difference of opinion in the Judiciary about interpretation of article 13(2). There had been certain important Supreme Court judgements regarding the ambit and scope of these articles. The first one was on *Shankari Prasad vs. Union of India* case in 1951. The second was on *Sajjan Singh vs. State of Rajasthan* case in 1965. The third and fourth cases were *Golaknath vs. State of Punjab* in 1967 and *Kesavananda Bharati vs. State of Kerala* in 1973 respectively. The pivotal point in the judgements of the Supreme Court was that the big landlords who were opposed to certain land reforms in various States where the concerned State Governments wanted to take over their surplus lands and distribute them to the poor peasants, felt that it was a violation of the fundamental "Right to Property" enshrined in the Constitution. The Right to Property was, unfortunately, clubbed originally by the founding fathers along with the Right to Freedom etc. Therefore, some landlords approached the Supreme Court on the ground that any legislation for redistribution of land, attracted the provision of article 13(2) of the Constitution, which provided that "the State shall not make any law which takes away or abridges the rights conferred by this Part\* and any law made in contravention of this clause shall, to the extent of the contravention, be void." Since, originally the Right to Property was considered as a fundamental right, taking away the landlords' lands and distributing them to the poor meant encroaching on their fundamental right to property. Some landlords, therefore, said that no amendment could be made in the Constitution which would validate that particular legislation. Then, consistent with the interpretation of the constitutional law and ordinary law by Frankfurt and others, the Supreme Court, consecutively held on two occasions\*\* that article 13(2) was not the controlling clause for article 368, since an amendment to the Constitution could be made under the constitutional law and article 13(2) referred only to the ordinary laws passed by the Parliament and as such article 13(2) did not control the amending power given by article 368. In *Golaknath* case, however, the Supreme Court ruled that article 13(2) controlled article 368 and, therefore, those parts of the Constitution which actually touched upon the right to property could not even be amended.

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\* Part III of the Constitution, which pertains to "Fundamental Rights".

\*\* *Sajjan Singh* case, and *Shankari Prasad* case.

In 1973, a very important judgement delivered by the Supreme Court regarding power of the Parliament to amend the Constitution was the saving grace for two extreme points of view. One extreme point of view was that the Parliament was supreme and it could amend anything. As somebody has said, the British Parliament can do everything except converting a man into a woman and a woman into a man. Such is the supremacy of the British Parliament. So, one school of thought believed that any part of the Constitution could be amended under article 368 by a two-thirds majority in the Parliament. The second extreme view was that Parliament was not supreme; instead the Constitution and the Judiciary were supreme. Both the extreme viewpoints, in my view, were wrong and the saving grace was the judgement of the Supreme Court in *Kesavananda Bharati* case in which a very fine legal argument was brought forward. Because, the Supreme Court in that case upheld the right of the Parliament under article 368 to amend any part of the Constitution, stating that the title of article 368 of the Constitution was, *Amendment of the Constitution*, and that amending the Constitution was one thing and destroying the Constitution was another. The Judges observed that if by the two-thirds majority, the Parliament decided that there would be no parliamentary democracy, nor the adult franchise, nor the secular character of the State, and no separation of Judiciary and the Executive; then the democratic Constitution will not be amended but destroyed. If the very soul of democratic life was destroyed by just having a majority of two-thirds in the Parliament, the basic document of democracy, *i.e.* the Constitution, will be used to destroy the Constitution itself. So, the Judges introduced a very novel and ingenious idea. According to them, under article 368, any part of the Constitution could be amended by two-thirds majority of the Parliament, but the basic features of the Constitution could not be changed at all. For instance, if one goes to a tailor with a bush-shirt which is properly stitched but somewhere it needs minor repairs; and the tailor starts destroying the entire bush-shirt, then he is not doing the job of repairs which he has been asked to do. Therefore, the Judges held that while amending the Constitution, making changes here and there was a different thing, but the destruction of the very democratic structure of the Constitution was not permissible. Unfortunately, during the Emergency, a constitutional amendment adopted in the Rajya Sabha sought to give to the Prime Minister, President, Vice-President and the Speaker of the Lok Sabha, immunity from criminal prosecution in ordinary court of law. In simple words, it meant that even if the Prime Minister had murdered a citizen, he would not be tried in an ordinary court of law. Despite the Bill already having been adopted in the Rajya Sabha, the burden of the sin was so heavy that the same was not brought forward in the Lok Sabha and it died its own death. But, had the Bill been enacted, it would have meant giving immunity from criminal prosecution to some of the dignitaries of the country. Many such measures were adopted by Forty-Second amendment of our Constitution. Of course, the latter Parliament repealed most of such measures with the consent of those who had formerly approved the constitutional amendment. Even if that was not done, and if all those amendments made during the Emergency were tested for legal scrutiny, they would have perhaps been held void, because they violated the judgement in the *Kesavananda* case that the basic democratic structure could not be touched.

These illustrations indicate how built-in devices in the Constitution can be utilised to defend and strengthen the Parliament, democracy, and the Constitution.

There are other important provisions also in our Constitution, like articles 74 and 78. Article 74 of the Constitution provides that there shall be a Council of Ministers headed by the Prime Minister, to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice. The latter part of this article says whether and what advice was tendered by the Ministers to the President shall not be questioned in any court of law. It does not say anything about Parliament. However, my interpretation is that though the advice given by the Cabinet to the President, cannot be questioned in any court of law, but it can, however, be enquired into by the Parliament, because the Constitution is silent on this aspect.

There is another safety valve, that is article 78 according to which all Cabinet decisions relating to administration of the affairs of the Union, proposals for legislation, and any such information sought by the President, whenever it is called for, would be provided to him, by the Prime Minister, who is obliged to do so. Last year, however, there was a controversy. If the Prime Minister says that he has fulfilled his constitutional obligation and the members of Parliament feel otherwise, can the Parliament debate or discuss it? On this point the Constitution of India is silent. I had, then, given a notice for amendment of the Constitution that the Parliament must have such right because if the Constitution has provided for the relationship between the Prime Minister and the President and if any member of Parliament felt that either of them has not performed his stipulated duties, he should have the right to enquire into the matter since no article in the Constitution can be free from any remedy. One can go to the Supreme Court in case of violation of any constitutional provisions, except articles 74 and 78, for which the doors of the Court cannot be knocked. In such a situation, there must be a remedy. Therefore, my contention is that, by implication, today also that remedy is available in the Parliament. But if some interpret that it is not available because of the Constitution being silent on the issue, I would propose that a definite provision be made in the Constitution saying that if the 'aid and advice' is not given by the Council of Ministers to the President and that if the duties to be performed by the Prime Minister towards the President are not at all fulfilled, then it could be enquired into by the Parliament.

As far as the parliamentary democratic system is concerned, there might be many aberrations and shortcomings. But, of all the systems that are available, the existing parliamentary system, in which there is a collective responsibility of the Cabinet and accountability of the Government to the Parliament, is by far the best system. In fact, those who have a grouse against the parliamentary system have no grouse against the parliamentary form of Government as such but against the electoral system. According to them, the Parliament in India has been paradoxically the one in which a party can rule even with a minority vote. That is not the defect of the parliamentary system, but that of the electoral

system. Therefore, electoral reforms are necessary to make the Parliament more vital, more effective and more representative of the people, and thus, along with more responsibility and accountability, excellence can be achieved in the functioning of parliamentary democracy.

The paradox in the electoral system in India has been that in almost all the general elections right from 1952 up to 1984, any ruling party which has ruled at the Centre had minority vote but majority of seats. It has happened because of the existence of a large number of parties as a result of vote against the ruling party is divided among a large number of Opposition parties. Therefore, even with 40 per cent votes a party can rule.

Secondly, sometimes the right type of persons do not get elected to the Parliament. One might be popular but not competent. How then will it be possible to weld together ability and representation in Parliament? For that purpose, the West German electoral system, which is partly like the Indian pattern and partly the list system, is preferable. Half the members of Parliament for the West German Parliament are directly elected from a single-member constituency as in India and an equal number selected from the lists supplied by political parties under the 'List System' prevalent there on the basis of percentage of votes secured by parties. But in India, where 100 per cent members are directly elected and there are a large number of political parties among which vote is divided, a party may not even win a single seat despite having a good number of votes. To avoid that, I suggest the West German pattern to be adopted in India.

Suppose, my party (*i.e.* Janata Party) gets 25 persons elected to the Parliament from various single member constituencies as at present and gets about 20 per cent votes throughout India. If the Parliament by law decides that one per cent vote will qualify for one additional seat for that party, then my party gets 20 additional seats. How shall my party get those 20 seats? Under the revised system, every party would have to give to the Election Commission a list of about 70 members in order of preference. In addition to directly elected members, the Election Commission will allot seats in the order of preference from the list to that party in proportion to their percentage of votes. Those people from the list would not actually go through the humdrum of elections, spend money and go round for campaigning. Then the parties can choose some of the best among the economists, educationists, agriculturists, industrialists, trade unionists etc. and put them in their lists. Now, by the method of List System, if the elected members sit on the Opposition benches, the calibre of the Opposition will improve and if they belong to the ruling party, the administrative talent of that party will improve. The overall performance of the Parliament will thus improve in general.

Secondly, because of the additional seats given to every party, the present disparity between the votes and the seats would be reduced.

Thirdly, if there is state funding of election as in West Germany, the role of money would be abolished. In India, there are many parties. There is family

planning for population control. But there is no family planning of political parties. Now, what should be the method of funding by the State? In West Germany, the Government gives assistance to all parties for elections. Hundreds of parties and an equal number of independent candidates might be there. But all of them are not entitled to financial assistance. They have fixed a minimum percentage of votes in the previous election. Only those parties which exceeded that percentage are entitled for financial assistance. This resulted in the process of consolidation of parties automatically and now hardly three important parties are there.

In India, if the State starts financing elections, then a minimum percentage of votes throughout India can be fixed and in that case the small splinter groups which get only a small percentage of votes will have the tendency to merge with the nearest mainstream party. Therefore, there will be more and more political consolidation and less division of votes among the Opposition. Thus rule by a party with minority vote can be prevented.

We can have a very vigilant Parliament, an ideal Constitution, an impartial Judiciary and a fearless Press as the checks and balances of our democracy, but still the most important and precious entity is the human being. As someone has rightly said:

Liberty lives in the hearts of men and women and when it dies there, no Parliament, no Judiciary, no Constitution, can save the country.

In the final analysis, it is the political education of the people who have to make the final choice of their representatives. Such education does not mean classroom education or the study classes conducted in the schools or colleges. A person gets politically conscious by democratic movements, democratic education, etc. A person with high academic qualifications might not necessarily have political consciousness. On the contrary, illiterate peasants and workers who, because of their participation in their movements, might have acquired a sharp political consciousness. So, formal education is not necessarily co-terminus with political consciousness. Political consciousness grows out of the campaigns and political training, through struggles, through constructive activities and through induction of ideas among the masses by the political parties. That ultimately is the final infrastructure of Parliament and of democracy and to the extent we are able to strengthen. Parliament, duly elected by the people, conscious of principles, policies and programmes, would be able to give better accountability and stability to our political system.

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## NEED FOR A NATIONAL-LEVEL OMBUDSMAN (LOKADHIKARI) IN INDIA

U.C. AGARWAL

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Neither anarchy with total lack of political order nor an absolute State with dictatorial powers is to man's liking. By nature, man is a social animal, tolerant of reasonable restrictions but averse to excessive State control and restrictions. In the process of political evolution, when anarchy or the state of lawlessness was replaced by the absolute monarchy, man was none too happy. He felt suffocated and chained. Political thinkers of the time championed the cause of freedom and hastened the fall of dictatorial regimes through their writings. Locke and Rousseau were among the spiritual fathers of the French Revolution (1789) which, with its slogans of liberty, equality and fraternity, beheaded the absolute monarchy not only in France but prompted its rapid collapse in other countries as well. The new era of republicanism and representative governments took birth and in most of the cases their founding fathers influenced by the writings of Montesquieu, provided for separation of powers among the Legislature, the Executive and the Judiciary in the new constitutional arrangements. This device was considered necessary to safeguard the rights of the citizens against arbitrariness or abuse of power by any State agency as also to prevent re-emergence of dictatorship. The Swedish Constitution of 1809 also provided for a unique institution of *Ombudsman* to protect the citizens against administrative injustice or abuse of power by any public official. The word, *Ombud* refers to a person who acts as a spokesman or the representative of another person. The *Ombudsman* in Sweden is appointed by the Parliament to supervise, as an independent authority, the functioning of all public officials.

Under the Swedish Constitution, Parliament (*Riksdag*) has to elect one or more *Ombudsman*. Now there are four of them— one of whom is designated as Chief Administrator or Chief *Ombudsman*. Each of them has a demarcated functional area to look after.

Article 6 under Chapter 12, entitled "Power of Control", of the Constitution<sup>1</sup> lays down that—

The Riksdag shall elect one or more Ombudsmen for the purpose of supervising, under instructions determined by the Riksdag, the application in public service of laws and other statutes..... An Ombudsman may be present at the

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1. *Constitutional Documents of Sweden*, 1981, p. 72.

deliberations of a court or an administrative authority and shall have access to the minutes and other documents of any such court or authority.

Article 8 under Chapter 12 of the Constitution<sup>2</sup> provides that—

Proceedings under penal law on account of a criminal act committed in the exercise of the official functions of a member of the Supreme Court or the Supreme Administrative Court shall be brought before the Supreme Court by an Ombudsman of the Riksdag or by the Attorney General.

Some provisions of the Act of Instructions to the parliamentary *Ombudsmen* laying down their powers and functions are—

*Section 1*—The Parliamentary Ombudsmen shall ... supervise the observance of laws and other statutes by those exercising public activity and that they in all respects properly fulfil their obligations.

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*Section 3*—It is the particular duty of the Ombudsman to ensure that courts of law and administrative authorities observe the provisions of the Instrument of Government concerning objectivity and impartiality and that the fundamental rights and freedoms of citizens are not encroached upon in the process of public administration.

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*Section 6*—Should an Ombudsman deem it necessary for the official to be dismissed or debarred from performing his duties on account of criminal act or grave or repeated negligence of duty, he may make a report thereon to the person or body which has the authority to decide on such measures.

It may be seen from the above constitutional and statutory provisions that an *Ombudsman* in Sweden has very wide powers of supervision over all public officials. Even courts and judicial officers are not excluded from his purview. He can remain present during deliberations of an administrative authority or in a court of law and has access to all official records. He is to generally ensure that administration is carried on in accordance with laws and statutes; that public authorities do not exceed or abuse their powers; that justice is rendered fairly and impartially; and that the rights and freedoms of the citizens are not violated. An *Ombudsman* has also been given the power to prosecute any erring public official or recommend departmental action for his removal or dismissal for any grave negligence in the performance of his duties. Even judges of the Supreme Court can be prosecuted by him. He is indeed a very powerful parliamentary official appointed to protect the citizens against injustice, abuse of power or any other act of maladministration which he may himself consider to be such.

An important feature of this Swedish institution, however, is that the *Ombudsman* himself cannot punish an official but can only report to the higher authori-

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2. *Ibid.*, p. 73.

ties for taking necessary departmental or other action. He can prosecute an official in a court of law but punishment will depend on the court's decision. He cannot also reverse or amend a decision already taken by any official, but he can recommend or advise for modification or even cancellation of any faulty order or decision to the competent higher authority. He is neither a super-administrator nor a super-judge but as a constitutional supervisory official over all other public officials, if he comes across any fault, deficiency or shortcoming in their work or decisions, he is to report to the appropriate higher authorities for corrective action and, where necessary, for initiating suitable penal or departmental action against the erring official. He has, however, the power to admonish or criticize an official. He has the power, not only to recommend correction of individual defects, but also to suggest amendment of laws, rules, procedures and practices if any of these are found to be faulty or injurious to public interest. He is thus a standing administrative reforms Commissioner. The advice and recommendations of the *Ombudsmen* are generally accepted by virtue of the power and prestige attached to the office.

The *Ombudsman* can initiate action either on the basis of an individual complaint, or *suo motu*. He can also dismiss a complaint summarily if he finds it unfounded, vexatious or trivial. With regard to the courts, his role is primarily to ensure that cases are tried and judgements delivered without delay and there is no abuse of power or breach of duties on the part of Judges. Normally, he does not interfere with the merits of any judgement unless it is grossly violative of justice, in which case he writes to the appropriate appellate court.

Strangely, although the Judiciary comes within the purview of the *Ombudsman*, members of Parliament and Cabinet Ministers have been excluded. This, it appears, was done to make the institution non-political and non-controversial and also due to the fact that in Sweden, Ministers cannot give administrative officials binding orders when dealing with individual cases. Officials have only to follow the laws; they are as independent as the courts in deciding specific cases. The Government has the power to issue general orders and lay down policies for implementation by officials. Even though there is no bar to investigate complaints involving corruption on the part of public officials, cases of this type taken up by the *Ombudsman* are few. Presumably, the level of corruption in Swedish administration is low and hence, the number of cases prosecuted constitutes a very small fraction of the total number of cases handled in a year by the *Ombudsman*. The main activities of the *Ombudsman* have been to deal with complaints of citizens involving maladministration like delay, negligence, improper or misapplication of laws and rules, harsh or unjust decisions, etc.

The *Ombudsman* is independent of the Legislature as well as the Executive and the Judiciary. None of these agencies have the power to interfere in his day-to-day work. He is appointed for a fixed term of four years and can be removed only by the Parliament if he loses its confidence. In his annual report required to be submitted to the Parliament, he indicates the important cases.



investigated, faults, deficiencies or shortcomings noticed and recommendations made to different authorities for remedial action. He has also the power to submit special report on any such important case where his advice was not accepted. The annual report and special reports, if any, submitted by him, are examined and discussed in one of the committees of the Parliament.

The Press is an important ally of the *Ombudsman* as fear of adverse publicity makes officials more careful and cooperative. All important decisions of the *Ombudsman* are well reported and commented upon in the Press. Sometimes, even the *Ombudsman* is criticized if his handling of a case proves defective. This ensures his own objectivity and impartiality. Under the Swedish law, all official records are accessible to the public, except a few which are declared to be secret.

The experience of Sweden over a period of more than one and half century is reported to be that the institution of *Ombudsman* has proved to be an effective guardian of the rights and interests of the citizens against maladministration. In this institution, Swedish people have found an informal, impartial, powerful, inexpensive and speedy parliamentary agency to investigate complaints against all categories of public officials. Complaints could be made by simply writing a letter. The institution also acts as a friend of officials when it clears them after investigation of any false complaint or unfounded criticism in the Press. There is no penalty laid down for any false complaint.

For more than 100 years, this institution of Sweden remained unnoticed by outsiders. But during the fifties and sixties of this century, the institution attracted world-wide attention. Following the Second World War, the need for large socio-economic development programmes arose to revive the war-devastated economies and to improve the conditions of the people in many countries. Consequently, there was enlargement of governmental functions and machinery. As a result of this, people also had greater inter-action with public officials. Their complaints and grievances regarding injustice, malpractice and mal-administration on the part of public officials also increased. For many of such complaints, they found the traditional complaint handling arrangements like the higher administrative bodies, administrative and other quasi-judicial tribunals, Parliament and their committees as also the judicial courts, were either not available or too inadequate, formal, costly and time-consuming. The need was, therefore, strongly felt for a less costly, less formal, cheaper but effective machinery which would be impartial and inspire confidence. The *Ombudsmen* Plan of Sweden satisfied all those requirements to a large extent and, therefore, caught the attention of the constitutional experts and policy-makers in many democratic countries. Consequently, this institution got installed rapidly in many countries, and is under consideration for adoption by many more. The Swedish institution, however, has not been adopted as such *in toto* but with such modifications and changes as were necessary to suit the peculiar social, political and administrative structures and traditions of the countries of its adoption.

By 1983, more than 35 countries around the world had adopted the *Ombudsman* system. Some of these countries are Australia, Denmark, Finland, France, New Zealand, Norway, the United Kingdom, etc. In Canada and the United States, establishment of *Ombudsman* at the national level is under discussion, but many of their States have got state-level *Ombudsmen*. Some of the developing countries like Fiji, Guinea, Mauritius, Jamaica, Ghana, Zambia, Nigeria and Pakistan have also appointed their own *Ombudsmen*. The Pakistani *Ombudsman* is designated as *Wafaqi Mohtasib*.

In the United Kingdom, in addition to the Parliamentary Commissioner for Administration (*Ombudsman*), there is a separate *Ombudsman* (National Health Service Commissioner) to deal with complaints relating to local administration and health services. In some other countries also, particularly, Canada, there are specialised *Ombudsmen* to deal with specific areas of administration. Even some city administrations and local bodies have set up independent *Ombudsman* type bodies to handle complaints and grievances of the affected parties. The *Ombudsmen* institutions established in most other countries outside Sweden, however, do not have full equal powers, functions and effectiveness as that of the Swedish institution which is now generally described as the "classical" *Ombudsman*. The powers and functions of *Ombudsmen* elsewhere have been somewhat restricted. But even so they are independent of the Executive, the Legislature and the Judiciary. By and large, they report to the Parliament directly. For example, the *Ombudsman* in Denmark has no jurisdiction over the courts but has jurisdiction over Ministers. Like his Swedish counterpart, the *Ombudsman* in Denmark is required under the law "to supervise the civil and military administration of the state". The law further empowers him "to keep himself informed as to whether any person under his jurisdiction pursues unlawful ends, makes arbitrary or unreasonable decisions or otherwise commits mistakes or acts of negligence in the discharge of his duties." The law thus gives him a free hand in examining cases of unlawful or arbitrary use of power, mistakes, negligence or delay in handling public business. The Danish *Ombudsman*, however, cannot prosecute any erring official himself but has to ask the Public Prosecutor to do so. He can also recommend departmental action against erring officials to higher authorities. In case of a Minister, the *Ombudsman* is required to submit his recommendation regarding civil or criminal action to be taken against him, to the parliamentary Committee on the Parliamentary *Ombudsman*. The Norwegian *Ombudsman* has powers similar to that of Denmark. The courts are excluded but Ministers are included in his jurisdiction. New Zealand was the first country outside the Scandinavian countries to adopt the *Ombudsman* system in 1962. Here, the *Ombudsman* (one or more) is appointed by the Governor-General on the recommendations of the Parliament. His jurisdiction covers all public officials including Ministers but excluding courts of law or

officials of the Judiciary. His functions as laid down under section 13(1) of the Ombudsman Act of 1975, are—

to investigate any decision or recommendation made, or any act done or omitted...relating to a matter of administration and affecting any person or body of persons in his or its personal capacity...by any officer, employee or member of any such Department or organisation in his capacity as such officer, employee or member.

The expression relating to "a matter of administration" has not been defined. This gives the *Ombudsman* a free hand to deal with any acts of commission or omission, on the part of public officials, which, according to him, are unjust, unfair or discriminatory. Service matters of public officials are, however, excluded from his jurisdiction. The *Ombudsman* in New Zealand, like in Denmark, has no power himself to take any action against a defaulting official but can report any such matter to the appropriate higher authority where he has noticed "significant breach of duty or misconduct". If no action is taken on his recommendation by the competent higher authority, then the *Ombudsman* can bring it to the notice of the Prime Minister, and later to that of the Parliament. Like the *Ombudsmen* elsewhere, he cannot himself reverse or modify any decision of an official but can only recommend for the same to the higher authorities. He has also the power to suggest improvements in administrative procedures or practices or even amendment to laws and rules in order to secure justice and fairness to the people. He can act on the basis of complaints as well as *suo motu*. A complainant should, however, have sufficient personal interest in the complaint to merit investigation. Any committee of the Lower House can also refer any petition pending before it for investigation by the *Ombudsman*. The Prime Minister also can refer any matter with the consent of the Chief *Ombudsman* for investigation by the *Ombudsman*.

The New Zealand model, in preference to the Scandinavian models, has been adopted by many countries. The institution of Parliamentary Commissioner for Administration in the United Kingdom set up in 1967 is more or less based on the New Zealand model but with somewhat restricted jurisdiction. He is empowered to investigate complaints from any member of the public who claims to have sustained "injustice in consequence of maladministration" as a result of "any action taken by or on behalf of a Government Department or other authority" covered under the Parliamentary Commissioner Act of 1967. The expression "maladministration" has not been defined. A complainant can however, approach the *Ombudsman* through a member of Parliament and not directly. The investigation report of the *Ombudsman* is only sent to such member of Parliament who may, in turn, inform the complainant suitably. His investigation cannot question the merits of any law, rule or policy. He can only go into the implementation aspect, *i.e.* delay, negligence, arbitrariness, incorrect, improper or unfair application of any law, etc. He cannot take up investigation of any matter *suo motu*. These restrictions on the British *Ombudsman* have been justified to reduce the load on him as well as to make the system palatable to the members of Parliament who feared loss of contact with their constituents if the aggrieved parties could directly approach the Parliamentary Commissioner. His jurisdiction is also barred with regard to matters for which there are remedies in

the normal courts, tribunals, etc. unless he is satisfied that "in the particular circumstances" of any case, exception is to be made. He also cannot investigate into service matters of civilian or defence forces and any action taken for the purpose of investigating crime or for the security of the State. Some sections of the British Press have described the British *Ombudsman* as "a muzzled watchdog" or "a crusader without a sword", while others sarcastically laid emphasis on the date when the British Parliamentary Commissioner took over his office, i.e. 1st of April in 1967. The British Parliamentary Commissioner can, however, report to the Parliament if any case of injustice or maladministration has been established after his investigation and he feels that such "injustice has not been or will not be remedied". He has himself no power to prosecute or recommend departmental action, admonish or criticize any official or reverse any decision or action. Discretionary matters are also outside his jurisdiction unless any guidelines have been violated in taking decisions.

The Administrative Reforms Commission (ARC) in India which had examined in 1966 the question of establishing the *Ombudsman* type institutions in India to deal with public complaints, came to the following conclusions—

Our study of the institution of Ombudsman in Scandinavian countries and of the Parliamentary Commissioner in New Zealand and of the working of these functionaries convinces us that we can suitably adapt these institutions for our needs. These institutions are, generally, a supplement to the Parliamentary control, independent of any political affiliations, outside the normal administrative hierarchy, and free from the formalism, publicity and delays associated with governmental machinery.<sup>3</sup>

When the ARC examined this matter, the Parliamentary Commissioner Act of U.K. had not yet been passed, although the issue was under consideration for adoption in Britain. The ARC had after taking into account the federal character of our polity, the vastness of the country, the size of the population, the large involvement of Government in public affairs, the existing judicial system with extensive writ jurisdiction of higher courts to protect fundamental rights, existence of various semi-judicial Tribunals and the normal departmental grievance handling agencies, visualised the difficulties to be encountered in the way of establishing *Ombudsman*-type institutions in India. The ARC still felt—

The vastness of the country and its population need not be a deterrent to the establishment of such an institution. Our administrative system already provides for the functioning of the judiciary and administrative tribunals and for a hierarchy of appeals against the orders of subordinate authorities to superior authorities. We do not intend the system we envisage should clash with these institutions and wish, therefore, to provide for the functioning of that institution only in respect of matters for which such remedies are not available or where, in some cases, it might not be reasonable to expect a citizen to take

3. *Interim Report of the Administrative Reforms Commission on Problems of Citizens' Grievances*, 1966, p. 8.

recourse to legal proceedings. This would substantially reduce the number of complaints eligible for investigation and thus enable the institution to devote its attention and energies only to those cases in which *prima facie* the need for redressing an act of injustice or maladministration exists.<sup>4</sup>

The ARC finally recommended that the complaints against Ministers and Secretaries to Government should be dealt with by an authority to be designated as *Lokpal* and that the authorities at the Centre and the States empowered to deal with complaints against other officials be designated as *Lokayukta*. The main features of the institutions of *Lokpal* and *Lokayukta*, recommended by the ARC, were more or less like the *Ombudsmen* institutions elsewhere with regard to their independence, status, mode of appointment and removal. They were to deal with "matters in the discretionary field involving acts of injustice, corruption or favouritism". As in the case of the Parliamentary Commissioner in U.K., many similar matters were kept out of the purview of the *Lokpal* and *Lokayukta*, e.g. service matters of civil and defence personnel, action in respect of which remedy was available by reference to normal courts or tribunals, certain commercial or contractual dealings of the Government with private parties, etc. etc.<sup>5</sup>

In the Indian context, investigation of corruption matters received much greater attention rather than ordinary cases of injustice, harassment, neglect and delay in the States where *Lokayuktas* were appointed. The *Ombudsmen* institutions in other countries, on the other hand, however, mainly concern themselves with ordinary grievances involving maladministration. Although no institution of *Lokpal* or *Lokayukta* has yet been established at the Centre, some of the States like Maharashtra, Madhya Pradesh, Karnataka, Bihar, Orissa etc. did appoint *Lokayuktas* for dealing with public complaints on the lines suggested by the ARC. The earliest legislation was that of Maharashtra—The Maharashtra Lokayukta and Upalokayuktas Act, 1971. The other State legislations were more or less based on the Maharashtra legislation. The *Lokayukta* in Maharashtra has exclusive power to look into complaints against State Ministers, Secretaries and other senior officers, while *Upalokayukta* deals with complaints against other officials. A complaint, under the law, includes both "grievance" relating to maladministration and "allegation" relating to corruption. Under section 6 of the Act, complaints are not to be entertained, save in exceptional cases, if the complainant has or had any remedy by way of proceedings before a tribunal or a court of law. The complaint has also to be accompanied by such affidavits as may be prescribed. There is also a penal provision under section 9 of the Act for anyone who wilfully or maliciously makes any false complaint. Donald C. Rowat, an internationally-renowned expert on the *Ombudsmen* institutions in the world, has commented as below on the Maharashtra legislation—

Many of the provisions and even much of the language in this legislation are virtually the same as that to be found in Ombudsman laws in other countries. The key differences are: the inclusion of allegations of corruption and the

4 *Ibid.*, p. 11.

5 *Ibid.*, pp. 13—15.

extension of the Lokayukta's scope to elected officials, the requirement that the complaint must be directed against specific individuals, the formality of the procedure for making a complaint, which applies to grievances as well as allegations, and the fear instilled in the complainant by the provision that he may be imprisoned and fined for making a false statement.

He has given following reasons as to why the *Ombudsman* plan in Maharashtra and other States in India has not succeeded as much as was hoped in tackling maladministration—

The main defect in the Indian plan has been the attempt to combine the Ombudsman institution with the machinery for fighting corruption, and the consequent treatment of grievance complaints in almost exactly the same way as allegations of misconduct and corruption. This has had two unfortunate results. The fear by senior officials and ministers of allegations against themselves or their colleagues has meant that they have given the plan weak support bordering on actual sabotage of its effective working....Secondly, it has resulted in a forbidding formal procedure, designed for allegations, being applied equally to grievance complaints. The extreme example is the threat of punishment to the complainant unfortunate enough to have made a false statement. The Ombudsman elsewhere is widely regarded as the little man's friendly helper and defender against the bureaucratic juggernaut of the modern state...

The *Ombudsman* institutions elsewhere, as mentioned earlier, mainly concern themselves with public grievances relating to maladministration rather than complaints about corruption. Investigation relating to complaints of corruption have necessarily to be more formal and time-consuming. Corruption involves stigma and possibility of even imprisonment in case of a guilty official. The complainant has, therefore, to be refrained from making a false complaint by suitable provisions of penal action in the law. Matters relating to ordinary grievances like delay, negligence, unfair or arbitrary decision on the other hand, could be treated differently. There need neither be any prescribed forms for making such complaints nor any formal or elaborate procedure in their investigation. No penalty need also be prescribed against a complainant of this type even if the complaint is found to be baseless on enquiry.

In some countries, *Ombudsmen* quite often get the grievances redressed by telephoning the concerned officials and hardly much investigation as such is involved. The normal practice is for the *Ombudsman* to write to the persons complained against in cases of delay, negligence or arbitrariness, etc. and get the problem resolved. Often a simple letter from him to the concerned official about the case of an aggrieved citizen leads to prompt action without any cost of money or time. In some cases, he calls for the official papers and after going through the same himself, or after informal discussions with the dealing official, gives necessary instructions and advice as to how to deal with a pending matter. His advice is usually complied with. In one such country, most of the complaints received by the *Ombudsman* related to allegations of delay, neglect and inatten-

tion, inefficiency and ineptitude, indifference and carelessness, discrimination and favouritism, departure from law, rules or regulations, unjust or biased decisions, or administrative excesses and abuses, which could have been with impure motive but most of them were just due to callousness and indifference. Most of the complaints were dealt with by the *Ombudsman* informally and relief was provided in case of genuine complaints and others were closed after suitable intimation to the parties. In dealing with public complaints, his first priority was to provide relief where it was due. Punishment of the erring officials came next, in case of deliberate delay, negligence or any other fault or shortcoming on their part. If anyone was found to be habitually negligent, the *Ombudsman* had the powers to write to the higher authorities for taking disciplinary action and he himself could send an adverse report on the officer after obtaining his explanation, for being placed in his Confidential Rolls. Cases involving corruption were passed on to a separate agency dealing with corruption cases, for formal investigation and inquiry. This appears to be the most practical way of dealing with ordinary complaints and giving relief to a genuinely aggrieved party. The important point is to have two separate machineries for dealing with public complaints—one involving corruption and another maladministration. The combining of these two functions in one institution, under the ARC's recommendations, had not made it popular and effective. There is, therefore, need to re-examine this matter and provide for two separate complaint-handling machineries. Complaints involving ordinary grievances can be dealt with by one single authority, irrespective of the rank or status of the officers complained against. In fact, the complainant need not necessarily name any officer but only mention his grievance and the office to which it relates. This grievance-handling authority at the Centre may consist of three to five *Ombudsmen*, each of whom may be designated *Lokadhikari*, as distinct from *Lokpal* and *Lokayukta* whose role may be restricted only to investigation of complaints of corruption. In fact, the Lok Pal Bill, 1985, now before the Parliament for consideration, deals only with complaints involving corruption against Central Ministers, etc. Complaints of maladministration relating to inefficiency, misapplication of laws and rules, harsh or improper decisions, etc. on the part of Ministers or officials, have rightly been kept out of this legislation.

One of the *Lokadhikaris* may be designated as Chief or *Mukhya Lokadhikari* to coordinate and distribute work among them on departmental or functional basis. In due course, the States may have their own *Lokadhikari* concerning their areas of administration. The appointment and removal of a *Lokadhikari* at the Centre can be in the same manner as that of the Comptroller and Auditor General of India (C&AG). His status and other service conditions could also be similar. In a sense, a *Lokadhikari* would perform many analogous functions in the administrative field as the C&AG does with regard to financial transactions of Government. In other words, a *Lokadhikari*, for all practical purposes, may perform functions of administrative audit. Like his Scandinavian counterparts, he would ensure that the administration is carried on in accordance with laws and rules passed and approved by Parliament; that public officials exercising state authority perform their duties efficiently, objectively, impartially, and with due dili-

gence. He may investigate actions of officials on his own initiative or on the basis of a complaint from any aggrieved citizen. Like *Ombudsmen* elsewhere, he may, after investigation, recommend appropriate remedial action where necessary, to competent higher authorities in case of any wrong or unjust action on the part of any official. He himself would have no power to reverse or modify any action or decision. By virtue of the power and prestige attached to his office and also by convention, his advice and recommendations should generally be accepted. As in some other countries, a *Lokadhikari*, should have the power where he deems proper, to recommend suitable departmental action against any defaulting official. He should also have the power to admonish, reprimand or criticise an official for any wrong acts done in performance of his duties. His adverse findings on any official, where he so desires, may be kept in the official's Confidential Roll. To make the institution of *Lokadhikari* strong and effective, in investigating cases of maladministration on the part of public officials, including Ministers, it should have the following features which are broadly similar to the *Ombudsman* systems in countries like Denmark, New Zealand and the U.K. etc.:

- (i) A *Lokadhikari* should be a constitutional body of the rank and status of the C&AG. Constitutional appointment will give him the prestige necessary for effective discharge of his functions.
- (ii) He should be independent of the Executive, the Legislature and the Judiciary. For this purpose, by suitable constitutional amendment, the writ and contempt jurisdictions of the courts may be barred with regard to his functioning. A *Lokadhikari*, and not the courts, should have the power to investigate cases of maladministration including the new breed of "public interest litigation".
- (iii) He should have the power to take up investigation, on the basis of a complaint as well as on his own initiative.
- (iv) He should have the power to recommend or advise suitable remedial or corrective action in individual cases, as also to suggest changes, improvements in policy, procedures or practices in administration or amendment of laws, statutes etc., where called for.
- (v) Decisions should be taken on his advice, recommendations, etc., by the competent authorities within a specified time-limit.
- (vi) A *Lokadhikari* should have the power to publicise cases of serious maladministration where his advice might have been disregarded after due intimation to the agencies concerned.
- (vii) A *Lokadhikari* should have the power to send special reports to Parliament as well as a consolidated annual general report mentioning the work done and cases where his advice and recommendations were not acted upon by any competent authority. His special reports and the annual general report should be sent directly to the Parliament with



copies to the Prime Minister. These reports should be discussed in a committee of Parliament in the same way as the C&AG's reports are discussed by the Public Accounts Committee.

In keeping with our political, judicial and administrative arrangements, certain areas of administration like service problems of civil and defence employees, matters involving security of the State or issues where remedy was available through normal courts or tribunals, and commercial, contractual or tax liability cases etc., which were recommended by the ARC to be kept out of the purview of *Lokpal* and *Lokayukta*, may also be kept outside the *Lokadhikari's* purview. In special circumstances, a *Lokadhikari* may, however, deal with complaints relating to such matters, where an aggrieved party for good and adequate reasons is not in a position to approach a court or a tribunal. A *Lokadhikari* may exercise his discretion in entertaining such complaints on the merits of each case.

There is no doubt that with the growing dissatisfaction of the people regarding lack of sensitivity, efficiency, impartiality and fair play on the part of public officials, an *Ombudsman*-type independent supervising and investigating authority will go a long way in restoring public confidence in administration. The findings of an independent investigation authority would also protect public officials in cases of false or baseless complaints or misinformed criticism. For smooth functioning of the new machinery, suitable working arrangements would have to be arrived at with the other existing agencies for handling of public complaints and grievances. In actual practice, the *Lokadhikari* should normally devote more time and attention to investigate important complaints having larger public interest dimensions, or cases of grave miscarriage of justice, deliberate harassment, or abuse of power. Minor complaints should, no doubt, be got investigated by departmental agencies only a watch, however, being kept on speedy action.

The new institution will also, to a large extent, unburden the higher courts with regard to public interest litigation. At present, much time of the High Courts and the Supreme Court is taken away by complaints of maladministration, for example cases like patients not getting proper food or medicine in Government hospitals; mine labourers not getting required facilities of drinking water; inefficient administration of protective homes, jails and hospitals; irregularities in admissions or conduct of examinations in engineering or medical colleges and other institutions of importance, etc. etc. Doubts have been raised and strong criticisms voiced against the higher courts devoting much of their time to such work on the ground of securing social justice to citizens. The critics feel that the courts should give more attention to other obligatory functions like deciding disputes involving important questions of fact and law, interpretation of the Constitution and legal disputes of larger public interest. The *Lokadhikari* could deal with all cases of public interest litigation with greater speed and informality and thus relieve the courts of this work. Its recommendations for necessary corrective action would, no doubt, be advisory in character and not binding like that of a court decision. Yet, if these are based on merit and justice, these would

naturally be complied with. As in other countries, adverse Press publicity in not accepting reasonable recommendations of the *Lokadhikari* will force the concerned public authorities to respect them. In a democratic system of Government, this would be a more reasonable and practical way to render social justice. Court intervention in such cases with binding decisions may, at times, make the tasks of public authorities difficult.

The new institution of *Lokadhikari* will be a boon to public administration from another angle. There is increasing criticism of outside interference, pulls and pressures, in taking objective and impartial decisions by public officials. To allay real or imaginary fears of political or partisan approach of public officials in handling individual cases, investigation of any such complaint by an independent, non-partisan authority like the *Lokadhikari* will be of great advantage. The *Lokadhikari* can publicly expose and criticise any person who may have exercised undue, unhealthy, or partisan influence on a public official in the discharge of his lawful duties. The risk and possibility of such investigation will make officials more careful and this will also strengthen their hands in resisting undesirable pressures. As of right, a *Lokadhikari* can call and go through official records to verify the truth and soundness of reasons in arriving at a decision. Even a Minister's orders will be subject to his scrutiny in case of complaints of arbitrariness, nepotism or favouritism. The very existence of such an institution will have great preventive value in checking maladministration.

Considering many advantages to public administration in the context of new trends and developments undermining public faith in the efficiency and fairness of public officials, time is ripe to seriously examine the introduction of a suitable *Ombudsman* plan at the Central level in India. In conformity with the designations of *Lokpal* and *Lokayukta* already adopted for handling complaints of corruption, *Ombudsmen* for hearing of non-corruption complaints or grievances may be appropriately designated as *Lokadhikaris*. They will function as ever-alert watch-dogs for the rights of the people. Their powers should be adequate for effective discharge of their duties so that they may not be dubbed as "muzzled watch-dogs" or the "dogs who only bark but do not bite". To make a beginning as in some Canadian states, one or more specialised *Lokadhikaris* for dealing with specific areas of administration, like Railways, Insurance Companies, Banks, etc. could be appointed after enacting a suitable law for this purpose by Parliament.

The success of the institution will, however, ultimately depend on the calibre, character and competence of the persons selected to run it. Overzealousness, exaggerated sense of self-importance, or an undue fault-finding approach may pose a danger. There should be no attempt to find fault where there is none or the fault is of a minor nature or unintentional. Official view-points should also be given utmost consideration. It has to be recognised that, despite wide-spread criticism of administration and public officials, there are many public servants at all levels who, in the midst of various handicaps and constraints, carry out their tasks with utmost sincerity and dedication. Their limitations in meeting the needs and requirements of citizens in different areas may be due to acute

shortage of funds, material, machines or other essential equipments and facilities. Often, non-fulfilment of genuine needs may lead to understandable complaints and criticisms of neglect, indifference or harassment on the part of officials. In investigating such complaints and grievances, practical difficulties and helplessness of public officials should necessarily be kept in mind. Imprudent criticism for merely satisfying one's own ego or to exhibit self-importance, may do much disservice to long-term public interest. One of the strong arguments against introduction of *Ombudsman* system in some countries is that any indiscriminate fault-finding and giving injurious Press publicity of administrative actions, by an unsympathetic external agency, may weaken and demoralise public officials. Hence, the great need for selecting the right type of persons for these appointments, who must not only be impartial, objective and fair-minded but refrain from the temptation of false image-building, or projecting self-importance.

One of the reasons for the success of this institution in Sweden has been the fact that most *Ombudsmen* have exercised great restraint from unnecessary fault-finding and penalising officials. Prosecution and departmental action against officials on the recommendations of the *Ombudsmen* in Sweden were hardly 0.2 per cent, admonitions and criticisms only 12 per cent, and in 44 per cent of cases, there was no criticism at all during the decade 1968-1978, for which a study was made.

In conclusion, to use the canine phrase again, the people's watch-dog in India should bark when necessary and bite when absolutely necessary. Sometimes good systems and institutions fail due to their own excesses. Hopefully, our *Ombudsmen* or *Lokadhikaris* when appointed, would be wise enough to avoid this mistake.

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*An hon. member:* Winding up commission or charges?

*Shri P.R. Kumaramangalam:* Winding up charges.

*Shri S. Jaipal Reddy:* When are you going to wind up?

*Shri P.R. Kumaramangalam:* I am winding up. This is the winding up statement.

*An hon. member:* How much commission is necessary for your winding up?

(L.S. Deb., 4 August 1987)

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## PRIVATE MEMBERS' RIGHT TO QUOTE FROM AND LAY SECRET DOCUMENTS ON THE TABLE OF THE HOUSE

SUBHASH C. KASHYAP

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Right to information is fundamental to the effective functioning of parliamentary institutions. The Executive, which is responsible to Parliament at all times must keep Parliament informed contemporaneously and concurrently of all important matters and activities in furtherance of the policies approved by Parliament so as to enable members to bring to bear in their speeches an informed and objective approach to the various issues that come up for discussion on the floor of the House or in parliamentary committees. As observed elsewhere:

Information is vital to Parliament. It is the first essential requisite for effective discharge of any of its functions. Parliament gets informed in many ways—through a wide variety of sources—but inasmuch as the Government is the greatest single monopolist of information, Parliament and its members have to rely very heavily on the Government departments for their information requirements. To call for information is perhaps the greatest power of Parliament. Parliament's right to be informed is unlimited except that if divulging of certain information is likely to prejudice vital national interest or the security of the State, it may not be insisted upon. So far as the activities of the Government are concerned, it is the duty of the Government itself to feed Parliament with information which is full, truthful, precise and supplied in time.

Ministers, therefore, not only take the first opportunity to make statements on the floor of the House on all issues of public importance but also lay various reports and papers concerning matters under their charge on the Table of the House or place them in Parliament Library for perusal by members. Also papers may be laid on the Table by Government in order to supply authoritative facts on any issue that may be agitating the House at any particular point of time. Papers are laid either in compliance with specific provisions contained in the Constitution, various Central Acts and the Rules of Procedure and Conduct of Business or in pursuance of the Directions issued by the Speaker from time to time and the settled practices and conventions in regard thereto.

1. Subhash C Kashyap, *Parliament as a Multifunctional Institution*, Lok Sabha Secretariat, New Delhi, 1987, pp. 4-5.

The practice of laying papers on the Table is a long established one. Much before Independence and from its very inception in 1921, the Indian Legislative Assembly claimed the right to have certain information laid before it.<sup>2</sup> In fact, even before 1921, statements containing information promised in answers to Questions used to be laid on the Table from time to time.<sup>3</sup> After the Government of India Act, 1919, some Central statutes began to make specific provisions for laying on the Table, of certain documents, including those containing rules and regulations framed by the Government under powers of delegated legislation. The Government, on its own, also sometimes laid on the Table some important reports, agreements etc.<sup>4</sup> However, the practice was very limited and although papers cited by the Government on the floor of the House were usually laid on the Table in the Indian Legislative Assembly, till 1950, there was no particular rule requiring that a document so cited must be laid.

Normally, it is the Ministers who lay documents on the Table. Subject to the Rules of Procedure and Directions by the Speaker, papers or documents may be laid on the Table by private members also after due authentication. The member who authenticates a document is presumed to take full responsibility for its genuineness, correctness and authenticity. This is deemed necessary because once a document is laid on the Table, it becomes a part of the permanent record of the House and hence a public document open to inspection and use by members and others.

During the Ninth Session of the Eighth Lok Sabha, a question arose whether a private member could lay on the Table a secret document which he had referred to in his speech and the subject matter of which was under investigation by a parliamentary committee. The following paragraphs attempt to analyse the various issues involved, the rulings of successive Speakers in similar cases and the adequacy or otherwise of the procedural safeguards in the extant rules of procedure consistent with the requirements of public interest and national security.

On 10 December 1987, during discussion on the motion of no-confidence in the Council of Ministers, a member (Shri K.P. Unnikrishnan) referred to the report of a Committee headed by Lt. Gen. Maya Das for technical evaluation of Howitzer guns and alleged that the Joint Committee of Parliament which had been appointed to inquire into the Bofors contract, had not asked Lt. Gen. Maya Das to appear before the Committee.

Another member (Shri S. Jaipal Reddy), on a point of order, desired to know as to which document the member was referring to and demanded that the same be made available to members. Shri K.P. Unnikrishnan thereupon stated

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2. *L.A. Deb.*, 1921, pp. 933-42.

3. *L.C. Proceedings*, 1904, p. 110; 1911, p. 711; 1916, pp. 18 and 80-81; 1920, p. 14.

4. *L.A. Debs.* 1923, pp. 3095-96; 1934, pp. 530-33 and 2457-58; 1935, pp. 99-103 and 128-29; 1942, p. 211.

that he would lay the same on the Table and thereafter referred to certain findings of the Maya Das Committee which were of a secret nature.

Taking objection to the report being quoted, the Minister of Energy (Shri Vasant Sathe) submitted:

Sir, under the rules if an hon. member wants to quote from a document, he must first give intimation to you that he is going to quote from the document and then that document can be allowed to be laid on the Table of the House. He can't abruptly start reading from the document....

The Speaker, thereupon, observed that the member will have to authenticate the document and take responsibility for its correctness. The Minister (Shri Vasant Sathe) then submitted that the document would lose its sanctity if the member was allowed to quote from it before authenticating it.

The Minister of State for Defence Production (Shri Shivraj Patil) posed the following question:

Now....that document is referred to, some quotations from the document are given and later on, the document is produced before the Hon. Speaker. Supposing the Hon. Speaker comes to the conclusion that that document is not admissible.....what happens?

The Speaker then observed that in case the document was proved to be false, the member could be proceeded against on a charge of committing breach of privilege and contempt of the House. If it was found that he had wilfully tried to pass a false document as a genuine one and deliberately tried to mislead the House, he could be punished.

The Minister of Energy (Shri Vasant Sathe) submitted that it would be of no use to punish him later as the damage would have already been done. Publicity would be given to something which was secret and from a classified document. It would cause tremendous damage to the whole system. The Minister of Defence (Shri K.C. Pant) *inter alia* submitted.

....I do not know what he is quoting from. If it is a classified document, whether he should bring it to the House or not, it is for him to decide. Ordinarily, I think, Defence documents should be treated with some sanctity.... But, Sir, the serious aspect of the matter is that when this House has appointed a Committee to go into the matter—there are several reports and this is not the only report.... In the meantime, if the document is quoted that will prejudice the opinion of the members and the country as a whole. It would be highly unfair to the work of the Committee. It is open to the member to refer this to the Committee.

Drawing attention of the House to direction 118(2) of the Directions by the Speaker, the Prime Minister (Shri Rajiv Gandhi) observed that the direction

clearly provided that if in the course of his speech, a member wished to lay a paper or document on the Table without previously supplying a copy thereof to the Speaker, he might hand it over at the Table but it would not be deemed to have been laid on the Table unless the Speaker, after examination, accorded necessary permission.

The Minister of Human Resource Development (Shri P.V. Narasimha Rao) submitted that since a committee of the House was already seized of the same matter, the document should in the first instance normally go to that committee.

The Speaker observed that there had been several precedents when private members were permitted to refer to or quote from confidential documents in their possession.

Subsequently, Shri Unnikrishnan handed over a *photostat* copy of the purported Report of the Maya Das Committee after giving the following certificate thereon:

I certify from my personal knowledge that this document is a true copy of the original which is authentic.

As per established procedure, the *photostat* copy of the Report handed over by the member was sent to the Ministry of Defence for comments, particularly about its authenticity to enable the Speaker to decide whether it could be treated as a paper laid on the Table. After considering all aspects of the matter, including the Ministry's reply as well as the fact that the matter was under examination by a parliamentary committee, Speaker decided not to allow the document to be laid or deemed to have been laid on the Table.<sup>9</sup>

The questions that arose in the instant case were basically two, namely (i) whether the member was within his rights to quote from a secret document which might impinge on national security; and (ii) whether he could be permitted to lay the document on the Table of the House irrespective of the fact that the matter was already under consideration of a parliamentary committee.

Rules 368 and 369 of the Rules of Procedure and Conduct of Business in Lok Sabha provide as under:

**368.** If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table.

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

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5. Rule 369 read with Directions 117-118.

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

**369. (1)** A paper or document to be laid on the Table shall be duly authenticated by the member presenting it.

(2) All papers and documents laid on the Table shall be considered public.

Directions 117 and 118 of the Directions by the Speaker deal with the laying of papers by private members. These provide as follows:

**117.** A private member may lay a paper on the Table of the House when he is authorised to do so by the Speaker.

**118. (1)** If a private member desires to lay a paper or document on the Table of the House, he shall supply a copy thereof to the Speaker in advance so as to enable him to decide whether permission should be given to lay the paper or document on the Table. If the Speaker permits the member to lay the paper or document on the Table, the member may at the appropriate time lay it on the Table.

(2) (i) If in the course of his speech, a member wishes to lay a paper or document on the Table without previously supplying a copy thereof to the Speaker, he may hand it over at the Table but it will not be deemed to have been laid on the Table unless the Speaker, after examination, accords the necessary permission.

(ii) If the Speaker does not accord the necessary permission, the paper or document shall be returned to the member and the fact indicated in the printed Debates.

It is obvious that so far as a Minister is concerned, he can quote "in the House a despatch or other State paper which has not been presented to the House". The only stipulation is that if he does quote from such a document, he shall be required to lay it on the Table subject to certain provisos.<sup>6</sup>

In the case of private members, however, papers can be laid on the Table only under specific authorization by the Speaker, and to obtain Speaker's permission to lay a paper on the Table, a member has to supply a copy thereof in advance.<sup>7</sup> But, if the need to lay a paper on the Table by a private member arises in the midst of his speech, he may hand over a copy of the paper at the Table but "it will not be deemed to have been laid on the Table unless the Speaker, after examination accords the necessary permission."<sup>8</sup>

6. Rule 368, *op. cit.*

7. Directions 117 and 118(1), *op. cit.*

8. Direction 118(2)(i), *op. cit.*



While according permission to treat a paper or document furnished by a member as laid on the Table, the following factors which have crystallized under various rulings<sup>9</sup>, are now taken into consideration by the Speaker:

- (i) that the member has referred to the document in the House or read extracts therefrom and there is a demand for laying it;
- (ii) that the document is important enough to be brought on record of the House, but contains nothing which is against the wider interests of the Nation, or is not propagandist in nature and the House is not being made thereby a forum for expressing any views likely to lower the prestige or authority of the House;
- (iii) that the matter contained therein is in some way connected with the business of the House;
- (iv) that the document has been published by Government or other competent authority and it is original and authentic; and
- (v) where the authenticity of a document cannot be verified, it may be considered for being laid only if the member endorses the following certificate thereon:

I certify from my personal knowledge that this document is a true copy of the original which is authentic.

It is obvious from Direction 118 read with (i) above that ordinarily it is open to a member during the course of his speech to refer to or read extracts from a document which has not been laid on the Table or an advance copy of which has not been supplied to the Speaker for obtaining his permission. Speech and action in Parliament are unquestioned and free. But, this freedom from external influence or interference does not confer on a member an unrestrained licence of speech within the walls of the House. Normally, a member is not expected to spring a surprise on the Speaker, the House and the Government by quoting from a secret document. In fairness, he should inform the Speaker and the Government in advance. Also, the Speaker always has the inherent right to stop a member in the midst of his speech and not allow him to quote from a document unless he first makes the document available to the Chair.

The freedom of speech in Parliament is governed by certain provisions of the Constitution, Rules of Procedure and well-established conventions. Successive Speakers have held that:

- (i) A member can ordinarily quote from a document that is treated by Government

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9. *L.S. Debs.*, 1952, cc. 1547, 1549, 1606; 1956, cc. 581-582, 3203, 6104, 8945-86; 1957, cc. 876-77; 1962, cc. 1241-43; 1958, cc. 558, 1679, 1683-84, 1750, 1753, 4699, 4713, 1956, cc. 3530; 1959, cc. 9639, 9033, 9265, 10153

as secret or confidential and which the Government have not disclosed in public interest;

- (ii) Even if a document, which is treated by Government as secret or confidential, is obtained through leakage or stealth or in an irregular manner, the Chair would not compel the member to disclose his source;
- (iii) Government are not obliged to lay such a document on the Table and the Chair cannot compel Government to do so, if the Government continue to hold the view that it is not in the public interest to do so;
- (iv) Government cannot be compelled to admit or deny the correctness of any alleged copy of a document which is classified as secret or confidential. However, it is necessary for the member who quotes from such a document to certify that he has verified from his personal knowledge that such document from which he quotes is a true copy of the original with Government, which is authentic.

In 1981, the same member (Shri K.P. Unnikrishnan) had given notice of a question of privilege against the Minister of Petroleum, Chemicals and Fertilizers, the Minister of Home Affairs and others for allegedly causing an inquiry against him for quoting from and laying on the Table of the House photocopies of certain secret files, notings and reports of certain Ministries. While disallowing the question of privilege, the Speaker observed *inter alia* as follows:

I may, however, state that the right of a member of Parliament to function freely and without fear or favour in the House is a constitutional guarantee...I cannot but stress the need for every care being taken, and prudence being exercised, while speaking in the House on such sensitive matters, so as to avoid occasions for any misunderstanding whatsoever....I would, however, reiterate that nothing should be done by any agency which would impinge upon or detract from the right of a member of freely functioning in Parliament.

In this connection, it may be mentioned that the Select Committee of the House of Commons on the Official Secrets Act had observed that disclosures by members in the course of debate or proceedings in Parliament could not be made the subject of proceedings under the Act. This was based on the members' fundamental privilege of freedom of speech in the House. Article 105(2) of our Constitution has conferred a similar privilege on the members of the two Houses of Parliament. A member cannot, therefore, be proceeded against under the Official Secrets Act or for that matter under any other Act for quoting from a secret or confidential document even though he might have obtained it by stealth.

As regards the question of what consequences would follow if a document laid on the Table and/or quoted from turns out to be fake or forged, the House of Commons Committee on the Official Secrets Act observed:

The House of Commons has disciplinary powers over its members, and a member who abuses his privilege of speech may be punished, not merely by

suspension from the service of the House, but by imprisonment or expulsion from the House or both. Expulsion at least cannot be considered a light penalty. It is not so much on the penal sanctions, however, Committee would desire to rely for the prevention of abuses of Parliamentary privilege prejudicial to the safety of the realm, as on the good sense of members themselves, who are as much concerned as Ministers to prevent such abuses.

It would appear from the foregoing that while a member's right to quote from a secret document is a privilege which is available to him and which has been upheld from time to time, it has to be exercised with caution and a sense of responsibility since a duty is also cast on the member to make sure of its authenticity and assume full responsibility before using it. According to direction 118A issued by the Speaker—

- (1) When a member seeks permission to lay a paper or document on the Table of the House under direction 118, he shall record thereon a certificate in one of the following forms, as the case may be:—
  - (a) 'I certify from my personal knowledge that this is the original document which is authentic.'
  - (b) 'I certify from my personal knowledge that this document is a true copy of the original which is authentic.'
  - (c) 'I certify that the contents of this document are correct and based on authentic information'.
- (2) If the paper or document consists of more than one page, the member shall put his signature with date on every page thereof.

A member is liable to be proceeded against on the charge of committing a breach of privilege and contempt of the House for abusing this right and can be punished if it is found that knowing a document to be false or forged he wilfully gave a wrong certificate and tried to pass it as genuine and thereby deliberately misled the House.

It is also a well-established convention that matters which are under the consideration of various parliamentary committees are not raised on the floor of the House. The convention covers the asking of questions including supplementary questions, tabling of motions including cut motions and resolutions as well as participation in debates in the House on matters which are under the consideration of the Committee.

So far as the question of permitting the member to lay on the Table of the House a secret document which he might have referred to in the course of his speech is concerned, it is undoubtedly the prerogative of the Speaker to refuse permission for the same where he feels that it would be against national interest so to do and his decision cannot be questioned. Also, till the document is permitted to be laid on the Table, any person giving publicity to its contents through any writing or publication in the Press will not be entitled to any protection against action under the laws of the land.

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## UNVEILING OF PORTRAIT OF SHRIMATI INDIRA GANDHI

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A portrait of late Prime Minister, Shrimati Indira Gandhi, was unveiled by the President, Shri R. Venkataraman, at a function held on 19 November 1987 in the Central Hall of the Parliament House on the occasion of her 70th birth anniversary.

The President on arrival at Parliament House was received by Dr. Shanker Dayal Sharma, Vice-President and Chairman, Rajya Sabha, Dr. Bal Ram Jakhar, Speaker, Lok Sabha, Shri H.K.L. Bhagat, Minister of Parliamentary Affairs, Shri Sudarshan Agarwal, Secretary-General, Rajya Sabha, Dr. Subhash C. Kashyap, Secretary-General, Lok Sabha and Professor Svetoslav Roerich, the painter and donor of the portrait.

On the President reaching his seat on the dais in the Central Hall, the National Anthem, *Jana-Gana-Mana* was played by the President's band followed by recital of Rabindra Nath Tagore's famous poem, *Ekala Chalo* which was much loved by Shrimati Indira Gandhi. Thereafter, the portrait of Shrimati Indira Gandhi was presented to the Speaker, Lok Sabha by the Prime Minister, Shri Rajiv Gandhi.

In his speech on the occasion, the Prime Minister recalled Shrimati Gandhi's numerous achievements, her concern for India's safety and unity, strength and well-being and said it was fitting that her portrait joined the galaxy of portraits of many of the illustrious makers of modern India in the Central Hall. He, however, observed that it was Shrimati Gandhi's intense dedication to the country and its people more than the high political office that justified her portrait to be placed along with those of other leaders.

Paying homage to Shrimati Gandhi, Dr. Bal Ram Jakhar, Speaker, Lok Sabha, called her "a valiant daughter of our motherland; a patriot who laid down her life in the service of the nation". Praising her multi-dimensional personality and her achievements as the Prime Minister of India, Dr. Jakhar laid particular emphasis on her role for the upliftment of the poor and the downtrodden in the country and championing the cause of peace, disarmament and development in the world affairs.

In his speech, Dr. Shanker Dayal Sharma, Vice-President and Chairman, Rajya Sabha, expressed profound gratitude and respect towards Shrimati

Gandhi and described her "an outstanding world leader, a fervent nationalist, a truly unique and fascinating person of exquisite sensitivity and style". He noted that Shrimati Gandhi represented the brilliant power and vitality of democratic socialism and the human spirit—impelling and accelerating the evolution of an ancient people towards modernity. He added that Shrimati Gandhi enhanced India's stature and prestige in the comity of nations by championing non-aligned movement, the mission against *apartheid* and oppression of every kind, the cause of global peace, equity and prosperity, with daring outspokenness, peerless skill and great dignity. He felt that the portrait of Shrimati Gandhi would be cherished by successive generations of Indians and citizens of the world and prayed that "the radiance of her life-work lights our path for all time to come".

Paying rich tributes to Shrimati Indira Gandhi after unveiling her portrait, President Shri R. Venkataraman described Shrimati Gandhi as an illustrious personality who strode like a colossus across the political firmament of India for over a quarter of a century. He noted that her "solicitude for the weaker sections was not confined to national frontiers. Her impassioned plea for new economic order, vigorous opposition to Apartheid and discrimination of any kind anywhere in the world raised her to the status of world statesman". The President concluded with the hope that the portrait would undoubtedly carry to posterity the message of unity.

The President presented a shawl as a memento to Professor Roerich.

The function concluded with recitation of Rabindra Nath Tagore's famous poem, 'Where the mind is without fear' and playing of the National Anthem by the President's Band. Thereafter the President departed.

Shrimati Gandhi's portrait, which now adorns the historic Central Hall along with those of some other illustrious freedom fighters of modern India, directly faces that of her father and first Prime Minister of India, Shri Jawaharlal Nehru, both having been painted by the celebrated artist, Professor Svetoslav Roerich. The portraits of other leaders installed in the Central Hall, include those of Mahatma Gandhi, Sardar Patel, Babu Rajendra Prasad, Subhas Bose, C. Rajagopalachari, Bal Gangadhar Tilak, Lala Lajpat Rai, Moti Lal Nehru, Maulana Abul Kalam Azad, Sarojini Naidu, Rabindra Nath Tagore, Madan Mohan Malaviya, C.R. Das and Dadabhai Naoroji.

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## WIT AND HUMOUR IN PARLIAMENT

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The Houses of the Union Parliament and of the State Legislatures sometimes witness heated discussions. But, it is not all just heat; discussions shed light as well and there are also lighter interludes. Continuing this feature, we have endeavoured to capture some moments of wit and humour experienced during the ninth session of the Eighth Lok Sabha.

— Editor

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### LOK SABHA

*Professor Madhu Dandavate:* Sir, I want your protection before I ask the question. This is the fifth time I am asking the question and every time "matter is under consideration" was the reply. I expect that this time the reply will be "Matter is under active consideration".

*Shri S. Jaipal Reddy:* Ministers cannot be inconsistent, Sir....

(L.S. Deb., 9 November 1987)

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*Shri P. Kolandaivelu:* As far as Tamil Nadu is concerned, the Hon. Minister, Mr. Vasant Sathe fully knows that we are actually short of power and we need more power—only energy and not the political or any other power.

*Shri S. Jaipal Reddy:* He wants electrical power in exchange for political power.

(L.S. Deb., 17 November 1987)

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*Professor Madhu Dandavate:* Sir, this glare which is coming will blur the vision of the Treasury Benches.

*Shri Priya Ranjan Das Munsi:* We are not afraid of the sunshine. The Opposition is afraid of the sunshine.

(L.S. Deb., 20 November 1987)

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*Shri V. Tulsiram:* उपाध्यक्ष महोदय, मैं मंत्री महोदय से यह जानना चाहता हूँ और मैंने इस बारे में पहले भी कहा था कि जब मछलियां पकड़ी जाती हैं,...

(Mr. Deputy Speaker, I reiterate I wanted to know from the Hon. Minister that when fishes are caught.....)

*Shri Girdhari Lal Vyas:* छोटी या बड़ी?  
(Small or big?)

*Shri V. Tulsiram:* छोटी-छोटी तो हमारी तरफ हैं, बड़ी-बड़ी आपकी तरफ हैं।

(Smaller ones are on our side, while the bigger ones are on yours)

(L.S. Deb., 20 November 1987)

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*Shri N.V.N. Somu:* ....I request the Hon. Minister to use his good office to convince the State Government by hook or crook. I request the Minister to expedite the MRTS plan and complete it as soon as possible.

*Shri Madhavrao Scindia:* Not by crook only by hook.

(L.S. Deb., 1 December, 1987)

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*Shri Madhavrao Scindia:* .....While we bask in the glory of the compliments, I would very much very clearly like to emphasise that so much, if not more, is due to the people of Calcutta in making the Metro project a success.

*Professor Madhu Dandavate:* Especially in underground activities.

(L.S. Deb., 1 December 1987)

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*Dr. G.S. Dhillon:* ...Professor Dandavate, I do not apply it to you. You will live a few years more than me.

*Professor Madhu Dandavate:* At the rate of 'Zero Hour' we may pass away even earlier.

*Dr. G.S. Dhillon:* Sir, there is a good debate about this 'Zero Hour' that this 12 O'clock should be called 'AM' or 'PM'. You must have read it in the newspapers also. I think if you transfer this 'Zero Hour' to mid-night 'Zero Hour' as in U.K. we will get rid of so many problems.

*Professor Madhu Dandavate:* I think Ministers will sleep more in response to 'Zero Hour'.

(L.S. Deb., 2 December 1987)

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*Professor Madhu Dandavate:* Please speak upto the lunch hour. I want to speak afterwards.

*Shri Murli S. Deora:* OK. If you want, I can speak upto dinner also. Please listen to me, Professor Dandavate, I have been listening to you for the last 2½ years.

*Professor Madhu Dandavate:* I have been listening to you for the last 30 years.

*Shri Murli S. Deora:* That is why you are looking so young and fresh, no wonder.

(L.S. Deb., 3 December 1987)

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*Kumari Mamta Banerjee:* ...Has the Government any proposal to nationalise this incompetent State Government...*(Interruptions)*

*Shri Chandra Pratap Narain Singh:* At least the hon. member is able to keep the hon. members from West Bengal at bay which even you cannot...*(Interruptions)*

*Shri Bhagwat Jha Azad:* To nationalise a State Government is a novel idea.

(L.S. Deb., 4 December 1987)

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*Shri Dinesh Singh:* Only the dollar is fluctuating and this is the thing. My knowledge is not any more than that of the Hon. Minister. He has been a Finance Minister in the State and here. I have never had the Finance portfolio, Sir.

*Professor Madhu Dandavate:* He was External Affairs Minister. That is why he knows about the dollars.

*Shri Narayan Datt Tiwari:* Well, I think the general statement that I had made, reflects the situation correctly.

*Professor Madhu Dandavate:* Sir, if the dollar dies, the rupee has to commit *sati*. That is what is happening today.

(L.S. Deb., 4 December 1987)

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*Shri Somnath Chatterjee:* In the name of aids, they are giving us AIDS...(Interruptions)

*Shri Saifuddin Chowdhary:* But you have to have the immunity not to be aided. That is a vital thing.

(L.S. Deb., 7 December 1987)

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*Shri Chandra Pratap Narain Singh:* In politics there are no long-term interests.

*Shri G.G. Swell:* This is a long-term interest for all of us.

*Shri Natwar Singh:* I am aware of the fact that there are no permanent enemies, only permanent interests.

*Professor Madhu Dandavate:* Not vested interests.

*Shri Amal Datta:* If interests are permanent, they must be vested interests.

(L.S. Deb., 8 December 1987)

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*Mr. Chairman:* Mr. Indrajitji, why don't you address the Chair?

*Shri Indrajit Gupta:* I am so much attracted by Mr. Tewari, that I really cannot take my eyes away from him.

*Professor Madhu Dandavate:* Put some lady in the Chair!

(L.S. Deb., 14 December 1987)

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*Professor Madhu Dandavate:* Other objects include 'lover' also.

*An hon. Member:* He has that memory.

*Shri Dinesh Goswami:* What have you done that Mr. Dandavate is threatening to commit Sata\*?

(L.S. Deb., 15 December 1987)

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\* Masculine of *sati*.

## PARLIAMENTARY EVENTS AND ACTIVITIES

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### CONFERENCES AND SYMPOSIA

*78th Inter-Parliamentary Conference:* The 78th Inter-Parliamentary Conference was held in Bangkok (Thailand) from 12 to 17 October 1987. The Indian Parliamentary Delegation to the Conference was led by Dr. Bal Ram Jakhar, Speaker, Lok Sabha and consisted of Professor C. Lakshmana, Sarvashri Somjibhai Damor, I. Rama Rai, S.N. Sinha and Leonard Solomon Saring, all members of Parliament. Dr. Subhash C. Kashyap, Secretary-General, Lok Sabha, was Secretary to the Delegation.

The Conference discussed and adopted resolutions on the following subjects :

1. The contribution of Parliaments to :
  - (a) the respect, development and promotion of human rights; and
  - (b) the respect for the fundamental principles, treaties and obligations governing relations among nations in order to solve the problem of refugees and displaced persons;
  
2. The contribution of Parliaments to efforts aimed at the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and Elimination of Apartheid and all forms of Racism.

Besides, the Conference devoted over three sittings to the General Debate on the political, economic and social situation of the world, for which 109 speakers were registered.

A supplementary item on the "Contribution of Parliaments to achieving comprehensive and just peace between Iran and Iraq and to security of navigation in the Gulf on the basis of the implementation of UN Security Council resolution 598(1987)" proposed by Islamic Republic of Iran and Iraq was unanimously placed on the Agenda.

*98th Birth Anniversary of Shri Jawaharlal Nehru:* The occasion of the 98th Birth Anniversary of Shri Jawaharlal Nehru, first Prime Minister of India, was marked by the opening of an exhibition on 'Role of Nehru in Freedom Struggle'

by Dr. Shanker Dayal Sharma, Vice-President of India and Chairman, Rajya Sabha on 14 November 1987 in the Parliament House Annexe, New Delhi. The exhibition was organised by the Parliamentary Museum and Archives Division of Lok Sabha Secretariat with the assistance of Directorate of Advertising and Visual Publicity, Ministry of Information and Broadcasting.

Dr. Bal Ram Jakhar, Speaker, Lok Sabha, presided over a Symposium on the theme 'Jawaharlal Nehru as the Maker of the Modern Commonwealth' on the same day. The symposium was held under the joint auspices of the Indian Parliamentary Group and the Bureau of Parliamentary Studies and Training. Dr. Shanker Dayal Sharma delivered the key-note address and initiated the discussion.

#### PARLIAMENTARY DELEGATIONS VISITING INDIA

*Czechoslovakia*: In response to an invitation from the Parliament of India, a 15-member Czechoslovak Parliamentary Delegation led by His Excellency Mr. Aloj Indra, Chairman of the Federal Assembly, visited India from 22 to 27 November 1987. The delegates called on Dr. Shanker Dayal Sharma, Vice-President of India and Chairman, Rajya Sabha, Dr. Bal Ram Jakhar, Speaker, Lok Sabha and Shri H.K.L. Bhagat, Minister of Parliamentary Affairs, Food and Civil Supplies, on 23 November 1987. Dr. Jakhar hosted a banquet in their honour on the same day. A meeting between the delegates and members of our Parliament was also held on that day. The delegates called on Shri R. Venkataraman, President of India, on 24 November 1987. Besides Delhi, the delegates visited Goa.

*Nepal*: In response to an invitation from the Parliament of India, a 17-member Nepalese Rashtriya Panchayat Delegation led by his Excellency Mr. Nava Raj Subedi, Chairman, Rashtriya Panchayat, visited India from 26 November to 4 December 1987. The delegates called on Dr. Bal Ram Jakhar, Speaker, Lok Sabha on 26 November 1987, who also hosted a banquet in their honour on the same day. The Delegation called on Shri R. Venkataraman, President of India, Prime Minister Shri Rajiv Gandhi, Shri H.K.L. Bhagat, Minister of Parliamentary Affairs, Food and Civil Supplies on 27 November 1987 and Dr. Shanker Dayal Sharma, Vice-President of India and Chairman, Rajya Sabha, on 3 December 1987. A meeting between the delegates and members of our Parliament was also held on 3 December 1987. Besides Delhi, the delegates visited Goa, Bangalore, Tirupathi and Bombay.

#### INDIAN PARLIAMENTARY DELEGATIONS GOING ABROAD

*Iran*: On the invitation of the Islamic Consultative Assembly of Islamic Republic of Iran, an Indian Parliamentary Delegation led by Dr. Bal Ram Jakhar, Speaker, Lok Sabha, visited Iran from 20 to 25 October 1987. Besides the leader, the Delegation consisted of Dr. Mohd. Hashim Kidwai, Shrimati Shanti Devi, Sarvashri A. Charles, Ajit P.K. Jogi and Hafiz Mohd. Siddiq, all members of

Parliament. Shri Sudarshan Agarwal, Secretary-General, Rajya Sabha was Secretary to the Delegation.

*Spain:* On the invitation of the Parliament of Spain, an Indian Parliamentary Delegation led by Dr. Bal Ram Jakhar, Speaker, Lok Sabha, visited Spain from 26 to 31 October 1987. Besides, the leader, the delegation consisted of Shrimati Manemma Anjiah, Sarvashri Nirmal Chatterjee, K.R. Natarajan, Salahuddin, Lal Vijay Pratap Singh, and Vishvjit Prithvijit Singh, all members of Parliament. Dr. Subhash C. Kashyap, Secretary-General, Lok Sabha was Secretary to the Delegation.

#### BUREAU OF PARLIAMENTARY STUDIES AND TRAINING

During the period 14 September to 31 December 1987, the following Programmes/Courses were organised by the Bureau of Parliamentary Studies and Training, Lok Sabha Secretariat.

*Orientation Programmes for New Members of Haryana and Mizoram Legislative Assemblies:* In the series of Orientation Programmes organised under the joint auspices of Bureau of Parliamentary Studies and Training and Indian Parliamentary Group, an Orientation Programme for new members of Haryana Vidhan Sabha and Mizoram Legislative Assembly was organised in New Delhi from 2 to 4 December 1987.

The Programme was inaugurated by Dr. Bal Ram Jakhar, Speaker, Lok Sabha. The participants were addressed among others, by Shri Shivraj V. Patil, Minister of State for Defence Production and Supplies, Shri M.M. Jacob, Minister of State for Parliamentary Affairs and Shri Chintamani Panigrahi, Minister of State for Home Affairs and several senior members of Parliament on various subjects of parliamentary interest.

The Programme was intended to provide opportunities to new members of Haryana Vidhan Sabha and Mizoram Legislative Assembly to discuss and analyse various aspects of parliamentary processes and procedures and to familiarise themselves more closely with the operational mechanics of parliamentary institutions. It endeavoured to assist them to face with more confidence and greater ease the onerous tasks, responsibilities and challenges of their job and become more effective legislators.

The Programme consisted of nine Discussion-Sessions and one Question-Answer Session on various subjects of parliamentary interest. The discussions were initiated by Union Ministers and senior parliamentarians. The legislators took an active part in the deliberations and sought clarifications on various parliamentary processes and procedures. Shri Om Mehta, Honorary Adviser (BPST), Shri M.C. Bhandare, M.P. and Dr. Subhash C. Kashyap, Secretary-General, Lok Sabha, clarified the points raised by the participants during the

Question-Answer Session held on the conclusion of the Orientation Programme.

*Third Parliamentary Internship Programme for foreign Parliamentary Officials:* The Third Parliamentary Internship Programme for foreign Parliamentary Officials which was organised from 14 September to 3 November 1987, was inaugurated by Professor Madhu Dandavate, M.P. It was attended by seven foreign parliamentary officials from six countries including one from the British House of Commons.

The Programme was tailored to meet the special needs of officials of foreign Parliaments who were sponsored by their Governments to study the working of parliamentary institutions, processes and procedures in India.

Besides attending the lectures and discussion sessions, the participants were also attached with various Officers/Branches of Lok Sabha and Rajya Sabha Secretariats and with the Tamil Nadu Legislative Assembly Secretariat for on-the-job training. They were also asked to prepare project papers on one or the other subjects of parliamentary procedures indicating the comparative position in India and the countries they belonged to. At the end, the discussions were also arranged on the project papers prepared by the participants.

*Third Training Programme in Legislative Drafting:* The Third Training Programme in Legislative Drafting, which commenced from 16 November 1987, was inaugurated by Professor N.C. Parashar, M.P. and Chairman, Committee on Government Assurances. It is being attended by six participants from foreign countries, three from Parliament Secretariats and three from State Legislature Secretariats.

The Programme was designed to meet the long-felt need of equipping the parliamentary officials with the basic concepts, skills and techniques required for drafting of legislation so that they could render valuable assistance to the legislators in drafting their Bills.

Shri G.R. Rajagopaul, former Secretary, Legislative Department, was designated as honorary Course Director for the Programme.

Besides attending the discussion-sessions and practical-exercises session at the Bureau, they were also attached with Kerala Legislative Assembly Secretariat for studying the procedures relating to drafting of Private Members Bills. Currently, they are attached with the Legislative Department till 9 February 1988 for on-the-job training.

*Appreciation Courses for Probationers/Officers of All India and Central Services:* Four Appreciation Courses on parliamentary processes and procedures were organised by the Bureau, viz., Twentysecond Appreciation Course for Officers of the rank of Director, Deputy Secretary and Under Secretary in the

Government of India—5 to 9 October 1987; Seventh Appreciation Course for Probationers of Indian Railways Traffic Service, Indian Railways Personnel Service and Indian Railways Accounts Service—12 to 16 October 1987; Second Appreciation Course for Probationers of Indian Railways Engineering Service—7 to 11 December 1987; and Second Appreciation Course for Officers of Department of Supply, Government of India—14 to 17 December 1987.

*Appreciation Course for Section/Desk Officers of Government of India:* The Bureau conducted the Eleventh Appreciation Course in parliamentary processes and procedures for Section/Desk Officers of the Government of India from 26 to 30 October 1987.

*Attachment Programme for Parliamentary Fellows of the Institute of Constitutional and Parliamentary Studies:* At the request of the Institute of Constitutional and Parliamentary Studies, New Delhi, an Attachment Programme was organised by the Bureau for Parliamentary Fellows of that Institute from 21 December 1987 to 12 January 1988 with a view to enable them to study the practical aspects of parliamentary institutions. With this end in view, they were attached with various Officers and Branches of Lok Sabha Secretariat from 21 December 1987 to 12 January 1988. They were provided with literature relating to various parliamentary processes and procedures in advance. The Programme was attended by 11 participants, including three from foreign countries.

*Training Course for Officers of State Legislature Secretariats:* A Training Course for Officers of State Legislature Secretariats in the working of Branches dealing with Legislative and Non-Legislative Business, including Committees other than the Financial Committees, was organised from 18 to 30 November 1987. The course, inaugurated by Dr. Subhash C. Kashyap, Secretary-General, Lok Sabha, was attended by 14 participants from different State Legislature Secretariats and three participants from Lok Sabha Secretariat.

*Study Visits:* At the request of various training and educational institutions, the Bureau organised 18 Study Visits for, among others (i) Deputy Commissioners and Assistant Commissioners of Sales Tax and Senior Sales Tax Officers; (ii) Foreign Trainee Officers attending a training programme on 'Training of Trainers' organised by the Institute of Secretariat Training and Management; (iii) Probationers of Indian Telecommunication Service; and (iv) District Education Officers attending a training programme at National Institute of Educational Planning and Administration.

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## PRIVILEGE ISSUES

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### LOK SABHA

*Notice to the Speaker from the Supreme Court in connection with a Transfer Petition:* On 6 November 1987, the Speaker (Dr. Bal Ram Jakhar) informed the House that on 20 October 1987, a notice was received from the Assistant Registrar of the Supreme Court of India requiring his appearance before the Supreme Court on 9 November 1987 at 10.30 a.m. in connection with a Transfer Petition (Civil) No. 461 of 1987 and Civil Miscellaneous Petition No. 20825 of 1987. He observed that the Transfer Petition sought to transfer from the High Court of Delhi to the Supreme Court of India, the Civil Writ Petition No. 2470 of 1987 filed by Sarvashri Ram Dhan and Satpal Malik, MPs, against the Union of India and others challenging the validity and constitutionality of the Constitution (Fifty-second Amendment) Act, 1985 and the Tenth Schedule added to the Constitution by the said Act. He noted that as per well established practice and convention of Lok Sabha, he had decided not to respond to the notice. He further informed that he had passed on the relevant papers to the Minister of State in the Ministry of Law and Justice for taking such action as he might deem fit to apprise the Court of the correct constitutional position and the well established conventions of the House.

### RAJYA SABHA

*Notice to the Chairman from the Supreme Court in connection with a Transfer Petition:* On 6 November 1987 the Chairman (Dr. Shanker Dayal Sharma) informed the House that he had received a notice from the Supreme Court of India in connection with the Transfer Petition filed by the Union of India seeking transfer from the Delhi High Court to the Supreme Court of a Writ Petition filed by Shri Ram Dhan, member, Lok Sabha and Shri Satya Pal Malik, member, Rajya Sabha, wherein they had challenged the validity of the Constitution (Fifty-second Amendment) Act, 1985. He observed that as per practice of the House, he did not propose to respond to the notice or put in an appearance in the Court. He further informed that he was passing on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit in the matter and hoped that the House agreed with his view.

The House agreed and the matter was treated as closed.

**Alleged misleading of the House by the Prime Minister:** On 12 May 1987, the Chairman (Shri R. Venkataraman) observed that on 30 April 1987, he had announced in the House about receipt of a notice of breach of privilege signed by Shri L.K. Advani and others (Sarvashri K. Mohanan, Nirmal Chatterjee, Satya Prakash Malaviya, Chitta Basu, P. Upendra, J.P. Goyal, Gurudas Das Gupta, Nagen Saikia and Sardar Jagjit Singh Aurora) against the Prime Minister in respect of his statements made in Rajya Sabha on 28 April 1987 to the effect that while finalising the deal relating to the Swedish Howitzer guns, Government had secured a confirmation from the Bofors Arms Company as well as from the Swedish Government that there would be no middlemen in the deal. The Chairman added that such statements were sought to be objected to by the members as misleading on the basis of remarks purported to have been made by the Minister of Foreign Trade, Swedish Government at her Press conference on 29 April 1987. The Minister was reported to have said that late Prime Minister Mr. Olof Palme had only conveyed the assurances from Bofors to Prime Minister Shri Rajiv Gandhi, and that there were no assurances on behalf of the Government.

The Chairman informed that he had referred the notice to the Prime Minister for his comments and the factual position relevant to the issue under consideration as conveyed to him was that on 18 April 1987 (*i.e.* 10 days before the Prime Minister's intervention in Rajya Sabha) the Ambassador of Sweden to India had sent a signed *Aide Memoire* reproducing the following statement of 17 April 1987, by the Under Secretary of State for Economic Affairs in the Ministry of Foreign Affairs of the Royal Swedish Government:

The Prime Minister of India, Mr. Rajiv Gandhi, demanded himself in talks with Mr. Olof Palme in the autumn of 1985 that one of several conditions for Bofors in order to get the Howitzer contract would be that the Company eliminated all possible middlemen. The contract was to be made up directly between Bofors and the Indian Defence Ministry.

The Company declared in the autumn of 1985 to Representatives of the Swedish Government that no middlemen existed and that the Company was negotiating directly with the Indian Defence Ministry. This was transmitted by Mr. Olof Palme to Mr. Rajiv Gandhi in a personal talk in January of 1986.

The Chairman further informed the House that a Press statement issued by the Royal Swedish Government on 29 April 1987, as transmitted by the Swedish Embassy in India on that day, stated as follows:

An important question during the negotiations for a contract between the Bofors and the Indian Defence Ministry was the request of the Indian Government that the Howitzer deal should be concluded directly between the parties, without middlemen. This question was also raised in talks between the Prime Minister Mr. Rajiv Gandhi and Prime Minister Olof Palme. In January of 1986, Prime Minister Olof Palme informed Prime Minister Rajiv Gandhi that Bofors have declared, it wished to conclude the business directly with the Indian



Defence Ministry, thus, without any middlemen. Bofors also wrote directly to the Defence Ministry in March 1986, stating that no middlemen would occur in the transaction. There was no official reconfirmation of the Swedish position in the previous week (Monday, 20th to Sunday, 26th April, 1987).

The Chairman observed that in his statement before Parliament on 28 April 1987, the Prime Minister stated, "I talked to Mr. Olof Palme—I think it was in December, 1985, if I remember rightly, though I do not remember the date precisely but it will be on the records of the House—and he confirmed back from Bofors. Bofors told the Swedish Government that there are no middlemen." If the Swedish Minister for Foreign Trade referred to this in her purported statement that "Olof Palme merely conveyed the assurance from Bofors" there is no contradiction.

He further observed that the Prime Minister of India had a second meeting with Mr. Olof Palme in New Delhi in January 1986. The Prime Minister in his statement before the House had said, "Then in January, 1986, Prime Minister Olof Palme told me that there are no middlemen." The Chairman noted that obviously the Swedish Minister for Foreign Trade had no personal knowledge of the conversation that took place in January 1986 at New Delhi between the Prime Ministers of India and Sweden and therefore the purported statement, namely, "late Olof Palme merely conveyed the assurance from Bofors" could not be accepted as a contradiction of what the Prime Minister had said about the meeting in January 1986.

The Chairman noted that therefore it had not been established that the Prime Minister made an incorrect statement before Rajya Sabha in this regard on 28 April 1987 and the same was consistent with the *Aide Memoire* presented by the Swedish Ambassador on behalf of his Government on 18 April 1987.

He observed that the second contradiction cited by Shri Advani and others related to the Prime Minister's statement, "the Swedish Government has told as recently about a week or ten days ago before the debate in the House that there are no middlemen as confirmed by Olof Palme to me and that Bofors have reconfirmed this to them." He added that Shri Advani and others had relied on the purported statement from the Swedish Minister for Foreign Trade, namely, "We have not reconfirmed it last week" in order to contradict the Prime Minister's version. He further observed that the statement of the Prime Minister referred to the *Aide Memoire* dated 18 April 1987, and the same was borne out by the reference to the "week or ten days". It should be noted that the *Aide Memoire* was on 18 April, and the Prime Minister's statement in the Rajya Sabha was on 28 April, exactly ten days before the statement in Rajya Sabha. He said that the Prime Minister's statement did not say that there was reconfirmation from the Swedish Government between 20 to 26 April 1987, the period referred to by the Swedish Minister for Foreign Trade.

The Chairman then quoted *Practice and Procedure of Parliament* by Kaul and Shakdher, Third Edition, page 234, according to which "in order to constitute a

breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly." He ruled that in view of the fact that the first part of the Prime Minister's statement was based on the *Aide Memoire*, an official document from the Swedish Embassy and the second part that "Prime Minister Olof Palme told me that there are no middlemen" had not been contradicted by any one with personal knowledge of those talks, the Prime Minister's statement was neither incorrect nor deliberately made to mislead the House.

The Chairman held that the charge of breach of privilege against the Prime Minister was not sustainable and, therefore, he withheld his consent to raise the question as a breach of privilege.

## FOREIGN COUNTRIES

### UNITED KINGDOM

#### HOUSE OF COMMONS

*Premature disclosure of the draft report of a Parliamentary Committee by a newspaper:* On 18 March 1986, the House adopted a resolution agreeing with the recommendation of the Committee of Privileges contained in their second Report [House of Commons Paper No. 555 (1984-85)]<sup>1</sup> that when the "leak of the confidential proceedings of a Select Committee comes to light" and a special Report stating that the leak had caused substantial interference was made by the Committee to the House, the Report should automatically stand referred to the Committee of Privileges.

The Second Special Report from the Environment Committee concluded that an account of the Chairman's draft report on radioactive waste published in *The Times* newspaper on 16 December 1985 was the result of someone leaking a copy to the author, and had caused serious interference with the work of the Committee. Accordingly this Special Report also automatically stood referred to the Committee of Privileges.

The Committee of Privileges in their First Report presented to the House on 1 May 1986, reported *inter alia* as follows:

- \*\*\*                      \*\*\*                      \*\*\*
- (3) The publication in *The Times* of the account of the Chairman of the Environment Committee's draft report was undoubtedly based on a leak and this was not denied by the author. Unfortunately, however, the thorough investigation carried out by the Environment Committee to identify the original

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<sup>1</sup>For summary of the case, see *Privileges Digest*, April 1987, pp. 24—36.

source of the leak was not successful; whoever was responsible has not admitted his complicity and his identity remains unknown. As is customary, the journalist concerned has refused to disclose his source; he was not even willing to exclude any category of person, such as the staff of the Committee. Your Committee does not believe it would be profitable to carry out any further investigation on these lines.

- (4) Your Committee described in its Second Report last Session the evidence given by Chairmen of select committees and others regarding the damage that could be done by leaks of draft reports.<sup>2</sup> These generalised assessments remain important, particularly regarding the damage that a leak in one case can do to the select committee system as a whole, but difficult to quantify and to some extent hypothetical. Here Your Committee was able to consider the actual damage done in a specific case.
- (5) The Environment Committee itself summarised the effect of the leak in this instance as constituting "a serious interference with the work of the Committee" the suspicion that, despite the assurances received, a member of the Committee had leaked the draft report was bound to "damage the trust that needs to exist" within a committee if it is to work effectively; premature disclosure of parts of a draft report was also bound to influence discussion of those parts when the report came to be considered; and for these reasons the committee had even considered abandoning its inquiry and report.
- (6) These assessments were amplified by Sir Hugh Rossi, the Chairman of the Environment Committee, in oral evidence. Apart from anything else the publication of the leak in *The Times* had delayed by several weeks the consideration of the draft report. More seriously, the fact that so much of the report was leaked before it was even discussed, had made members of the committee feel "they were no longer free to approach the draft report in the impartial non-partisan way in which it had been the practice in our Committee to approach matters of this kind"; "party political considerations, which we had so far avoided, began to creep into the matter"; one member had said that those who disagreed with the original draft were put at a "major disadvantage" and discussion concentrated on how the press interpreted the changes in the report, rather than on their merits; some members felt constrained in proposing changes; and members became affected by "the public expectation as to what they ought to be seen to be doing". However, Sir Hugh could not be certain about the actual effect of this modified approach on the contents of his report or on what changes would have been made to it in a different atmosphere.
- (7) One damaging consequence of the leak was, however, certain. The draft report was, in the end, amended in a number of important respects, with the result that "the original newspaper report was in fact inaccurate insofar as it purported to be a report of the conclusions which the committee had reached" and a great deal of misinformation resulted; this continued in circulation for several weeks; and even when the final report was published some

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<sup>2</sup>*Ibid.*

commentators appeared to be relying on the earlier leak instead of the actual text. Sir Hugh gave two examples of such inaccuracies. On the other hand some advance publicity could be helpful.

- (8) Finally Sir Hugh confirmed that the "feeling of mistrust as to what we can discuss freely amongst ourselves" still lingered on. He also emphasised the need to nurture the development of the new select committees with care; the approach of members on these committees was different from their party-political approach elsewhere, and much depended on their work being seen to be impartial; to this end "perhaps it is necessary at times that we can talk in a way that we perhaps cannot talk when we are on our hind legs on a public platform or in the Chamber."
- (9) Mr. Charles Wilson, the Editor of *The Times* and Mr. Richard Evans, who was the author of the article published on 16th December, 1985, which disclosed the contents of the Chairman's draft report were also called to give evidence. They saw no damage resulting from the publication of the draft report, but rather an advantage to the public interest by a widening of the public debate on the nuclear industry at an earlier date; the final report was not, they claimed, so very different from the draft that was leaked.
- (10) Your Committee cannot assess precisely the extent of the damage actually done by the leak of this draft report, and in particular the degree to which the agreed report itself would have been different if there had been no leak. It is convinced, however, by the evidence of the Committee's Chairman that damage was done on this occasion, and the direct denial of this by the journalists, whose opinion on this matter cannot possibly be as authoritative as that of the Committee's Chairman, was in no way substantiated. This damage amounted to substantial interference with the work of this particular committee. Every leak of this kind is also a further threat to the effective operation of other committees.
- (11) For the reasons set out in paragraphs 5 to 8 of Your Committee's Second Report of last session, it is a contempt of the House to disclose the proceedings of select committees before they are reported to the House. The House's resolution of 6th February 1978 showed that it would treat seriously any contempt involving "substantial interference" with the work of the House or its committees. Your Committee has found such interference in this case and accordingly finds that a serious contempt was committed by whoever enabled *The Times* to obtain a copy of the draft report of the Chairman of the Environment Committee, by the journalist who wrote the article and by the Editor of *The Times* who published it.
- (12) In the opinion of Your Committee the person responsible for the original leak, whether a member, one of his staff or one of the staff of the committee whatever his motive, and whatever the means employed, did something that would merit penalties imposed by the House. But because he has not been identified, Your Committee can make no recommendation. It simply expresses once again its dismay that there are members or others who apparently have no respect for the traditions and rules of the House, who are prepared to betray the trust of those with whom they work on select committees, and who

continue to do things which clearly damage the effective operation of those committees. If the person responsible for this case is ever identified, he should be severely punished.

- (13) The Editor of *The Times* and the Lobby reporter knew they were committing a breach of privilege in publishing the article. They defended their decision on three grounds.
- (14) First, they argued that publication was in the public interest and this was paramount; "the public interest in this case far outweighed other considerations", including any embarrassment to the committee or its work or to Parliament, said Mr. Wilson; publication had widened the public debate on the conduct of the nuclear industry and this could have been relevant to decisions being taken within the industry.
- (15) Secondly, the journalists contended that the rules of privilege in this matter were "out of date" and had fallen into disrepute; they had not been enforced against other publishers of leaks and they could not see why they should be in this case, especially as similar rules, Mr. Evans claimed, did not apply to leaks of cabinet proceedings or other government reports.
- (16) Thirdly, they emphasised that they had taken the decision to publish responsibly, because of the public interest, and that they were not simply showing disrespect for Parliament. They informed Your Committee that they had also received a leaked copy of the Second Special Report from the Environment Committee, and Mr. Evans had written a story about this but the Editor had decided not to publish it; it was not in the public interest and they did not want to be seen 'thumbing a nose at Parliament'. The Editor indicated that in certain previous cases of leaks published in *The Times Diary*, if he had then been Editor he might also have considered it unnecessary to publish. In their view the real culprit in all these cases was the original source, not the publisher.
- (17) Mr. Evans also stated that he had never offered money or other reward for the information he was given.
- (18) Your Committee is not convinced by the explanations given by the journalists for their conduct. Although they claimed "public interest" they were unable to show how it could be in the public interest to give currency to a draft—which would almost certainly be amended and therefore gave an inaccurate account of the committee's views—when the agreed and accurate report would soon be available; the public debate might be stimulated, but on false premises. Indeed, on the question of timing, Mr. Evans was candid "if we waited two weeks another newspaper might get hold of it". The interests of *The Times*, it seems to Your Committee, were now being equated with "the public interest" which *The Times* journalists had been claiming to uphold.
- (19) The defence that the privilege rules are inapplicable and obsolete is not well judged. Whatever may have been claimed before Your Committee's report last year, when all these arguments were examined carefully, it can no longer be claimed today. Your Committee reaffirmed then that privilege rules should still be applied in serious cases of leaks from select committees; it indicated the

sort of cases it had in mind (including cases like the one now before it); and it even made plain the penalties it considered appropriate in such cases. *The Times* decision to commit a contempt in this case was taken in open defiance of a very recent, considered, warning and not just of some obsolete rule.

- (20) Finally, although welcoming the assurance by the Editor of *The Times* that decisions to breach privilege by publishing leaks were not taken lightly or irresponsibly, Your Committee doubts whether *The Times* has given sufficient (or indeed any) weight to the damage that such publication can do and has done to select committee work, despite the rehearsal of all these arguments in evidence before Your Committee last year. Beyond saying that the public interest outweighed such damage—which they dismissed as merely “embarrassment”—the journalists made no attempt to deal with these arguments. They did not seem to appreciate the fact that their publication of the leak interfered in any way with the committee’s work; and they ignored completely the public interest of avoiding such damage.
- (21) For all these reasons Your Committee does not accept that the publication of the leaked copy of the Chairman’s draft report to the Environment Committee was justified by public interest or any other consideration. Continued and repeated publications of this kind can only threaten the work of all select committees and hence of Parliament.
- (22) Whatever may be the responsibility of the original source, those who publish leaks must bear a heavy responsibility because it is the act of publication which actually causes the damage. Your Committee particularly regrets that a Lobby reporter should continue to act in defiance of the House in this way, because he and his colleagues are granted many privileges by the House to help them in their work, and because they have often shown their support in other ways for the select committee system, which gives them much information.

\* \* \*                      \* \* \*                      \* \* \*                      \* \* \*

- (24) Your Committee cannot recommend any penalty in respect of the original source of the leak, as he has not so far been identified (paragraph 3), but, for the reasons stated in paragraph 12, it strongly condemns this behaviour.
- (25) Your Committee believes that Mr. Richard Evans, the Lobby reporter of *The Times*, has shown scant respect for the traditions and rules of the House in this matter. He has openly drawn attention to the leaks he has publicised and he has committed breaches of privilege in this way on a number of occasions. Your Committee has found that he was in contempt of the House in this case. It therefore recommends that he be suspended from the Lobby for six months and excluded from the precincts of the House for that purpose and for that period.
- (26) The Editor of *The Times* must bear a major share of responsibility for this serious contempt of the House. The practice of publishing leaks from select committees has clearly been the policy of his newspaper, and the newspaper itself should not be allowed to continue its work in the Palace of Westminster without suffering some restriction as a result of this policy. Your Committee

therefore recommends that the number of Lobby passes issued to *The Times* newspaper be reduced by one for six months.

On 20 May 1986, the Leader of the House (Mr. John Biffen) moved<sup>3</sup> the following motion:

That this House agrees with the recommendations of the Committee of Privileges in its First Report (House of Commons Paper No. 376).

The Speaker (Mr. Bernard Weatherill) observed<sup>4</sup> as follows:

I should announce to the House that I have selected the following amendments:

(a) leave out from "House" to end, and add

"takes note of the First report of the Committee of Privileges (House of Commons Paper No. 376); believes that it would be proper to punish an honourable member who disclosed the draft report of a Select Committee before it had been reported to the House; but considers that it would be wrong to punish a journalist merely for doing his job."

(g) at end *add*

"provided that the duration of the penalties to be imposed pursuant to paragraphs 25 and 26 shall be reduced to five days from the passing of this motion."

(i) at end *add*

"provided that the duration of the penalties to be imposed pursuant to paragraphs 25 and 26 shall be reduced to six days from the passing of this motion."

(j) at end *add*

"with the exception of paragraph 25."

I suggest that it would be for the convenience of the House if the formal moving of the amendments was deferred until the end of the debate.

Outlining the general background to the matter, and the basis on which the Privileges Committee had made that report the Leader of the House then stated<sup>5</sup> as follows:

Through the ages the House of Commons has asserted its right to be able to determine the manner of its own proceedings; to choose, for example, when these shall be private and when they shall be public. So far as proceedings on

3. *House of Commons Deb.*, 20 May 1986, c. 293.

4. *Ibid.*

5. *Ibid.*, cc. 293-96.

the Floor of the House are concerned they are almost invariably public, and what is said is freely and immediately available to all.

But so far as Select Committees are concerned, the procedural position is that whilst a Committee may take evidence in public, its deliberative sessions and the consideration of any report must be private and confidential, and shall remain so until published. This is of long standing.

This distinction between proceedings on the Floor and proceedings in Select Committees reflects, therefore, a very long standing judgment of the House as to how select Committees can best perform their work on its behalf... If draft reports or reports of proceedings of the Committee appear in the press before its deliberations are complete, it is argued that it inevitably becomes more difficult for the Committee to achieve a unanimous view. This should not be a modest factor in our calculations.

The report before the House concerns a departmental Select Committee. These Select Committees were established in 1979. They still have to develop to the role that was originally foreseen in relation to the Executive. This evening, it is their future development that the House must judge, and judge alike the claim of chairmen of the departmental Select Committees that they need this protection of privilege for the deliberative stages of their work.

Against this background, I should now like briefly to recount the facts of this particular case. The Environment Committee, under the chairmanship of my hon. Friend the member for Hornsey and Wood Green, reported to the House in its second special report that an article published in *The Times* on 16 December 1985 had resulted from a leaked copy of the Chairman's draft report on radioactive waste. Since the Committee also reported that in its view, this leak had caused serious interference with the work of the Committee, this special report stood automatically referred to the Committee of Privileges under the new procedure subsequently approved by the House on 18 March, 1986.

The source of the leak has not been identified, despite searching inquiries of all its members by the Environment Committee—although we all look forward to the debate this evening. This, of course, is one of the most highly unsatisfactory aspects of this case. The witnesses from *The Times* have refused to disclose their source. They have also refused to rule out any category of person—such as the staff of the Committee—from whom the information might have been obtained. Clearly no useful purpose would be served by instituting any further investigation.

My hon. Friend the member for Hornsey and Wood Green has given evidence about the damage he believes was done to his Committee's work and asserted that substantial interference had taken place. It was on the evidence so forcefully presented by my hon. Friend that the Privileges Committee came to formulate its recommendations.

*The Times* has acknowledged that it was fully aware that in publishing its leak it was committing a breach of privilege. It justified this as being "in the



public interest". For the reasons detailed in paragraphs 18 to 21 of the report, the Committee of Privileges cannot accept this. Otherwise the implication is that *The Times*, and not the House, is the unquestioned judge of what constitutes the "public interest" in the matter.

The world of politics and public affairs lives by a relationship with the press that is necessarily intimate and should be based on mutual and sustained respect. The House will not wish to act capriciously, and these matters proceed in the baleful circumstances where the Select Committee has been unable to identify the perpetrator of the leak.

Even so, this challenge poses an inescapable and disagreeable choice before the House. It can either allow the right of Select Committees to confidentiality in their deliberations to disintegrate or it can defend that right by some form of punishment. As I have already said, in considering this choice, the House will recall that the whole problem of the premature disclosure of the proceedings of Select Committees, and its handling by the House, has only recently been the subject of exhaustive consideration in the second report last session of the Privileges Committee. Its recommendations were approved by the House on 18 March last by a large majority.

This is the first case under the new procedure and what we decide this evening is bound to colour the future. The Select Committee on the Environment has concluded that its work has been substantially impeded and the Privileges Committee agrees. It is not disputed that a breach of privilege has occurred. The central issue is what is an appropriate, effective and equitable response by the House.

Referring to amendments (a), (g), (i) and (j) selected by Mr. Speaker for debate, Mr. Biffen observed that since the Chairman of the Select Committee on the Environment was persuasive in arguing that his Committee had been seriously harmed by the leak, he did not commend a penalty so substantially less than that recommended by the Privileges Committee.

Mr. Biffen then addressed the recommendations of the Committee, which were contained in the motion before the House, and said:

The motion proposes that the lobby reporter concerned in this leak, Mr. Richard Evans, should be suspended from the lobby for six months and excluded from the precincts for that purpose and for that period. That is in line with the recommendation made by the Privileges Committee in *The Economist* case in 1975 and in its second report last Session. The motion also proposes that the number of lobby passes issued to *The Times* should be reduced by one, also for a period of six months.

After some discussion, amendment (a) to the motion was put to the vote of the House and adopted. The following resolution as amended was adopted;

That this House takes note of the First Report of the Committee of Privileges (House of Commons Paper No. 376); believes that it would be proper to punish an honourable Member who disclosed the draft report of a Select Committee before it had been reported to the House; but considers that it would be wrong to punish a journalist merely for doing his job.

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*Dr. Chinta Mohan:* I strongly object to the Minister's statement given right now. The Minister has given a very intelligent answer, instead of giving crude facts here.

*Professor Madhu Dandavate:* Is he guilty of intelligence?

(L.S. Deb., 4 August 1987)

## PROCEDURAL MATTERS

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### LOK SABHA

*Chair's right to change the order of speakers in the lists supplied by parties:* On 11 November 1987, during short duration discussion under rule 193 regarding situation in Sri Lanka, a member (Shri Braja Mohan Mohanty) submitted on a point of order that names of speakers were not being called according to the list supplied by his party, i.e. Congress(I). He further submitted that more members from the Opposition were called to speak. The Deputy Speaker, who was in the Chair overruled the point of order observing that lists supplied were for the guidance of the Chair only and it was always open to the Chair to make changes whenever necessary.

*Permission to a Member to move his Resolution if not present when his name was called:* On 12 November 1987, Shri C. Janga Reddy was not present in the House to move his statutory resolution regarding disapproval of Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1987, when the Deputy Speaker called his name. Thereupon, Dr. Chinta Mohan, the next member in whose name the item stood, was called to move his resolution. As soon as Dr. Mohan got up and had just started speaking, Shri Reddy entered the House and requested that he be allowed to move the resolution. The Deputy Speaker did not accede to his request as Dr. Chinta Mohan had already started speaking. Dr. Mohan then moved the resolution. Shri Reddy was, however, allowed to speak on the resolution later.

*Member obliged to apologise even after expunction of derogatory remarks made by him:* On 17 November 1987, after the Question Hour, a member (Shri Arif Mohammed Khan) used certain derogatory words against the Government. The Speaker, thereupon, ordered expunction of those words from the proceedings and directed the member to apologise. The member then apologised to the House for the remarks made by him.

*Secretary-General can convey Speaker's directions:* On 17 November 1987, owing to pandemonium in the House, the Speaker adjourned the House at 1240 hours to meet at 1400 hours. The Secretary-General informed members assembled in the House at 1400 hours that the Speaker had directed that House would remain adjourned till 1430 hours. When the House re-assembled accord-

- ingly, a member (Shri Somnath Chatterjee) on a point of order submitted that announcement about adjournment of the House till 1430 hours by the Secretary-General was a serious matter particularly when the Deputy Speaker was present in the House. Ruling out the point of order, the Speaker observed that the Secretary-General had acted according to procedure, precedents and conventions.

*Interpretation of sub-judice rule:* On 17 November 1987, the Speaker referred to a notice from a member (Professor Madhu Dandavate) seeking to raise on a point of order, a question regarding interpretation of *sub-judice* rule. The test of *sub-judice* rule, the Speaker observed, was that the matter sought to be raised in House should be substantially identical with the one on which a court of law had to adjudicate. Drawing attention of the House to the Report of Committee of Presiding Officers (1968), he further observed that the rule of *sub-judice* would apply only during the period when matter was under active consideration of a court of law or court-martial, which would, *inter-alia*, mean (a) in criminal cases—from the time charge-sheet was filed till judgement was delivered; (b) in civil suits—from the time issues were framed till judgement was delivered; and (c) injunction petitions—from the time they were admitted till orders were passed.

*Minister's presence on behalf of Government in the House:* On 3 December 1987, around 1220 hours, Dr. Chinta Mohan and some other members pointed out that there was not a single Minister present in the House and demanded adjournment of the House. The Deputy Speaker, who was in the Chair, thereupon observed that a Minister must remain present in the House. Thereafter, Minister of State for Parliamentary Affairs (Shrimati Sheila Dikshit) came to the House and apologised on behalf of the Government.

*Authenticity of Press reports by a member:* On 11 December 1987, during discussion on motion of no-confidence in the Council of Ministers, a member (Shri N.V.N. Somu) referred to certain Press reports that Indian Peace Keeping Force in Sri Lanka was under the command of Sri Lankan President and desired to know the exact position. The Speaker, thereupon, observed that the member should not rely on Press reports, and if he insisted, he should authenticate it and take full responsibility for its authenticity.

## STATE LEGISLATURES

### UTTAR PRADESH LEGISLATIVE ASSEMBLY\*

*Reply to Questions within scheduled time:* While raising a point of order on 30 December 1987 regarding postponement of replies to questions repeatedly, Sarvashri Harsh Vardhan and Ravindra Nath Tiwari said that the ruling party had been trying to hatch a planned conspiracy suppressing the cases of corruption.

\* Material (in Hindi) contributed by Uttar Pradesh Vidhan Sabha Sachivalaya.

The Speaker, after hearing the views of the Minister of Parliamentary Affairs, directed the Government to make efforts to reply questions within the scheduled time.

*Governor's right to summon the House:* While raising a point of order on 30 December 1987, Shri Shatrudra Prakash said that the Rules provided for the Session to be held for 90 days. Rejecting Shri Prakash's contention, the Deputy Speaker observed that the House should normally hold 90 sittings but the Governor had the exclusive right to summon the House.

*Reply to Notices within scheduled time:* Raising a point of order on 31 December 1987, Shri Surya Pratap Shahi said that members were not getting provisional replies to Notices under rule 301 of the Rules of Procedure within seven days and final replies within one month. After listening to the views of the Minister of Parliamentary Affairs, the Speaker directed that replies in this regard may be made available at the earliest.

*Presentation of reports by a private member:* On 31 December 1987, when a member, Shri Raghuraj Prasad Upadhyay was presenting certain reports, Sarvashri Ram Saran Das and Beni Prasad Verma raised an objection and wanted to know the authority under which the reports were being presented. The Deputy Speaker, who was in the Chair, ruled out the point of order and observed that Shri Upadhyay had been authorised by the Speaker, who could authorize anyone to present the report.

*Need for prior notice for levelling charges:* On 31 December 1987, when Shri Bhagwan Din Kushwaha levelled certain charges against the conduct of the Home Minister, the Minister of Parliamentary Affairs asked Shri Kushwaha to express regrets. The Presiding Officer thereupon directed that the charges levelled by Shri Kushwaha might be expunged from the proceedings and observed that no such charge could be levelled against the conduct of any member of the Council of Minister under rule 289(a) of the Rules of Procedure and Conduct of Business. He ruled that since such a charge had been levelled and prior notice therefor had not been given, the member had to express his regrets.

*Powers of the Chair:* On 31 January 1987, Shri Beni Prasad Verma raised a point of order regarding summoning of a meeting of the District Magistrates by the Prime Minister in Delhi on 1 January 1988 and demanded that the State Government should stop the officers of Uttar Pradesh from participating in the proposed meeting. While giving his ruling on the above point of order, the Deputy Speaker observed, "So far as my powers are concerned, it has been mentioned in the Rules of Procedure and Conduct of Business in the House that points of order could be raised about the interpretation or enforcement of these Rules or such articles of the Constitution, which regulate the functioning of the House and that such a question may be raised which is under the jurisdiction of the Speaker." He disallowed the point of order since the same was not related to the Rules of Procedure and Conduct of Business of the House.

*Discrimination against State Legislature Secretariat:* Raising a point of order on 4 January 1988, Shri Ramashray Verma said that the Government were acting against the dignity of the House by discriminating between the employees of the State Legislature and the Government. The Speaker, thereupon, directed the Minister of Parliamentary Affairs that there should be no discrimination between the employees of the Government and those of the State Legislature. The benefits granted to the Government employees should also be extended to the officials of the State Legislature.

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*Dr. G.S. Dhillon:* Buffalo milk as is normally understood makes the people a little more aggressive. And where there is cooperation aggressiveness is the last one.

*Professor Madhu Dandavate:* These observations will go on record. He says, the difference between Gujarat and Punjab is the difference between the cow and the buffalo.

*Dr. G.S. Dhillon:* There is a difference between the bulls also.

(L.S. Deb., 26 August 1987)

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## PARLIAMENTARY AND CONSTITUTIONAL DEVELOPMENTS

(1 October to 31 December 1987)

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### INDIA

#### DEVELOPMENTS AT THE CENTRE

*Death of MP:* Shri K.G. Adiyodi, Congress(I) member of Lok Sabha from Calicut constituency in Kerala, passed away on 22 October.<sup>1</sup>

*Additional Charge for Minister:* Minister of State for Textiles, Shri Ram Niwas Mirdha was given the additional charge of the Ministry of Water Resources on 11 November.<sup>2</sup>

*New Chief Justice for Punjab and Haryana:* Justice Veeraswamy Ramaswamy of the Madras High Court was sworn in as Chief Justice of Punjab and Haryana High Court by the Governor of Haryana, Shri S.M.H. Burney, on 12 November.<sup>3</sup>

*Death of MPs:* Congress(I) members of Lok Sabha, Shri Jaideep Singh from Godhra constituency of Gujarat, Shri G.L. Dogra from Udhampur Constituency of Jammu and Kashmir and Shri Rahim Khan from Faridabad constituency of Haryana, passed away on 20 November, 27 November and 18 December, respectively.<sup>4</sup>

#### AROUND THE STATES

##### ANDHRA PRADESH

*Dismissal of Minister:* The Governor, Kumari Kumud Ben Joshi, dropped Revenue Minister Shri N. Sreenivasulu Reddy from the Council of Ministers on 12 November, on the advice of Chief Minister, Shri N.T. Rama Rao. The Minister

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<sup>1</sup> *Free Press Journal*, 23 October 1987

<sup>2</sup> *Hindustan Times*, 12 November 1987

<sup>3</sup> *Tribune*, 13 November 1987

<sup>4</sup> *Hindustan Times*, 21 November 1987 *Times of India*, 28 November and 19 December 1987

was removed for alleged violation of discipline and in the interest of smooth administration of the State.<sup>5</sup>

#### HARYANA

*Election results:* Lok Dal(B)-BJP alliance candidates won the elections to the State Assembly from Fatehabad, Karnal and Jundla (Reserved) constituencies, according to results declared on 9 November.

While Shri Balbir Singh (BJP) was declared elected from Fatehabad defeating his nearest CPI(M) rival, Shri Prithvi Singh, Shri Lachman Das, also of BJP, was declared elected from Karnal, defeating his nearest rival, Shri Jai Prakash Gupta of Congress(I). In Jundla (Reserved), Lok Dal(B) candidate, Shri Risal Singh defeated his nearest Congress(I) rival, Shri Puran Singh.<sup>6</sup>

#### JAMMU AND KASHMIR

*Elections to Legislative Council:* All the three nominees of the National Conference(F)-Congress(I) alliance were declared elected unopposed to the Legislative Council on 14 December. Those elected were, the PCC(I) President Shri G. R. Kar and Shri Ghulam Rasool Malik and Shri Abdul Qayoom of National Conference(F).<sup>7</sup>

*Bill to increase seats in the House:* The State Assembly adopted a Constitution Amendment Bill unanimously, to raise the number of Assembly seats from the existing strength of 100 to 111. Named the Constitution of Jammu and Kashmir (Twentieth Amendment) Bill 1987, the legislation amended section 14(1) of the State's Constitution which provided for 100 seats in the State Assembly, of which 24 were reserved for the Pak-occupied territory.<sup>8</sup>

#### KERALA

*Election held void:* Kerala High Court, on 10 November, declared void the election of Shri M.J. Zacharia Sait (UDF-IUML) from Mattancherry constituency on the ground of use of corrupt practices in the March 1987 Assembly elections.<sup>9</sup>

#### MAHARASHTRA

*Legislative Council election results:* Congress(I) won four of the five seats, in the Legislative Council elections from the local bodies constituencies on 19

<sup>5</sup> *Hindu and Times of India*, 13 November 1987.

<sup>6</sup> *Hindu*, 10 November 1987.

<sup>7</sup> *Telegraph and Statesman*, 15 December 1987.

<sup>8</sup> *Indian Express*, 17 December 1987.

<sup>9</sup> *Hindustan Times*, 20 November 1987.



October. The four Congress(I) candidates declared elected were: Shri Shabir Ahmed (Nasik); Shri Ratan Lal (Prabhani); Shri Vasanttrao Wankhede (Wardha); and Shrimati Vasudha Deshmukh (Amravati). The fifth seat was won by Shri Vijay Sawant of Peasants and Workers Party from Raigad.<sup>10</sup>

*New Chief Justice:* Justice Chittatosh Mukherjee was sworn in as Chief Justice of Bombay High Court on 2 November.<sup>11</sup>

*By-election result:* In a by-election to the State Assembly from Vile parle constituency, Shiv Sena nominee, Shri Ramesh Prabhoo, was declared elected on 14 December, defeating Congress(I) candidate, Shri Prabhakar Kunte.<sup>12</sup>

#### MEGHALAYA

*New Minister:* Former Home Minister, Shri D.D. Lapang, was sworn in as Planning and Programme Implementation Minister by the Governor, Shri Bhisma Narain Singh, on 16 October, thus raising the strength of the Ministry to 18.<sup>13</sup>

*Assembly seats declared "general":* The Election Commission declared on 29 December, five seats in the State Assembly as "general" and remaining 55 reserved for Scheduled Tribes for the elections to be held on 2 February 1988. The five general seats were Pynthormukhrah, Mawprem, Labon, Phulbari and Mahendraganj.<sup>14</sup>

#### MIZORAM

*Cabinet reshuffle:* Chief Minister Shri Laldenga inducted Shri H. Rammawi as Minister of State on 7 October, thus raising the strength of his Ministry to 12. In a minor reshuffle of portfolios, the Chief Minister entrusted the Department of Animal Husbandry and Veterinary, earlier held by him, to Minister of State, Shri R. Tlanghmingthalga, whose portfolio of Cooperation was given to Shri Tawnluia. Agriculture was taken away from Shri Lalruata and given to Shri L. Ngurchhina. The portfolio of Transport which was earlier held by Shri R. Tlanghmingthalga was given to Shri H. Rammawi.<sup>15</sup>

#### NAGALAND

*General election results:* Congress(I) secured an absolute majority in the State Assembly by winning 34 out of 60 seats, in the elections held on 18 November.

<sup>10</sup> *Statesman*, 20 October 1987.

<sup>11</sup> *Hindustan Times*, 3 November 1987.

<sup>12</sup> *Tribune*, 15 December 1987.

<sup>13</sup> *Hindustan Times*, 17 October 1987.

<sup>14</sup> *Statesman*, 30 December 1987.

<sup>15</sup> *Telegraph*, 8 October 1987.

The Nagaland National Democratic Party won 18 seats while the Nagaland Peoples Party got only one seat. Seven seats were won by independent candidates.<sup>16</sup>

*New Ministry:* A 20-member Ministry led by Shri Hokishe Sema was installed in the State on 22 November. The Ministry consisted of 15 Cabinet Ministers and five Ministers of State. The Cabinet Ministers were, Sarvashri Chingwang Konyak, J.B. Jasokie, N.I. Jamir, I.K. Sema, Tiameren, Shikiho Sema, T. Rothrough, Chankong Chang, Vizadel Sakhrie, Kiezhe Sema, Yokten Konyak, N. Yeangghong Konyak, Zovehu Lohe and Ghoutoshi Sema. The Ministers of State were, Sarvashri T.N. Ngullie, Nekheto Sema, Lakhimong, Nilon Rengama and Chubatemjen.<sup>17</sup>

*Deputy Chief Minister:* Chief Minister Hokishe Sema inducted into his Cabinet, on 30 November, PCC(I) President Shri R.C. Chitten Jamir as Deputy Chief Minister, thus raising the strength of his Cabinet to 21.<sup>18</sup>

*Re-election of Speaker:* Shri A.C. Chongsen was unanimously elected Speaker of the State Legislative Assembly for the second successive term on 7 December.<sup>19</sup>

*Induction of new Ministers:* Chief Minister Shri Hokishe Sema inducted Shri Chenlom Phom as a Cabinet Minister on 8 December, thus raising the strength of his Ministry to 22. Minister of State for Labour and Employment, Shri T.N. Ngullie was also elevated to Cabinet rank.<sup>20</sup>

#### PONDICHERRY

*Death of MLA:* AIADMK MLA Shri V.M.C. Varadapillai passed away on 9 November.<sup>21</sup>

#### RAJASTHAN

*Resignation of Governor:* President Shri R. Venkataraman accepted the resignation of the State Governor, Shri Vasantrya Patil on 9 November.<sup>22</sup>

#### TAMIL NADU

*New Minister:* Former Information Minister, Shri R.M. Veerappan, was reinducted into the State Cabinet on 1 November on the recommendation of the Chief Minister Shri M.G. Ramachandran.<sup>23</sup>

<sup>16</sup> *Hindustan Times*, 22 and 24 November 1987; and *Statesman*, 24 November 1987.

<sup>17</sup> *Free Press Journal*, 23 November 1987.

<sup>18</sup> *Hindustan Times*, 1 December 1987.

<sup>19</sup> *Telegraph*, 8 December 1987.

<sup>20</sup> *Telegraph*, 9 December 1987.

<sup>21</sup> *Tribune*, 11 November 1987.

<sup>22</sup> *Telegraph*, 10 November 1987.

<sup>23</sup> *Hindu*, 2 November 1987.

## UTTAR PRADESH

**Cabinet reshuffle:** In a reshuffle of portfolios on 1 October, Revenue Minister Shri Bakdev Singh Arya was given the charge of Forests and Minister for Parliamentary Affairs, Shri Ammar Rizvi, was given charge of Revenue, Scarcity Relief and Rehabilitation. In another re-allocation on 3 October, Labour Minister Kumari Saraswati Ammal was given additional charge of Harijan and Social Welfare while Shri Ramnath Munshi, who was looking after Excise Department, was given additional charge of Transport. <sup>24</sup>

**Death of MLA:** Shrimati Saroj Verma Lok Dal(A) MLA and daughter of former Prime Minister, the late Shri Charan Singh was found dead at her house in Lucknow on 25 October. She had reportedly committed suicide. <sup>25</sup>

## WEST BENGAL

**New Chief Justice:** Justice D.S. Tewatia was sworn in as Chief Justice of Calcutta High Court on 2 November. <sup>26</sup>

**Death of MLAs:** Shri Subodh Oraon MLA(RSP) and Shri Ajit Chakravorty, MLA CPI(M) passed away on 5 and 14 December, respectively. <sup>27</sup>

## DEVELOPMENTS ABROAD

## AFGHANISTAN

**New President and new Constitution:** Afghanistan's Grand National Council unanimously elected Mr. Najibullah as the country's President and approved of a new Constitution on 30 November. The traditional Grand Assembly, *Loya Jirgah*, decided to drop the word "Democratic" from the name of the country which would henceforth be known as the "Republic of Afghanistan". The new Constitution, adopted after five months of debate, according to Afghan officials, provided for an executive President assisted by a Council of Ministers. The President retained control of the armed forces. A National Assembly or Parliament was also to be set up in the next six months under the provisions of the Constitution. <sup>28</sup>

## BANGLA DESH

**Dissolution of Parliament:** The President, General H.M. Ershad dissolved the parliament (*Jatiya Sansad*) under article 72 of the Constitution on 7 December. <sup>29</sup>

<sup>24</sup> *Free Press Journal*, 2 October 1987; and *Statesman*, 4 October 1987.

<sup>25</sup> *Hindu*, 26 October 1987.

<sup>26</sup> *Times of India*, 3 November 1987.

<sup>27</sup> *Indian Express*, 6 December 1987; and *Telegraph*, 15 December 1987.

<sup>28</sup> *Times of India*, 1 December 1987.

<sup>29</sup> *Times of India*, 8 December 1987.

*Resignation of Minister:* Finance Minister, Mr. M. Sayeduzzaman, resigned from the Cabinet on 26 December. He was replaced by Mr. Muhammad Abdul Monem who was relieved of his Commerce portfolio.<sup>30</sup>

#### BELGIUM

*Resignation of Prime Minister:* Prime Minister Mr. Wilfried Martens tendered his Government's resignation to King Baudouin on 15 October after failing to resolve a dispute within his Cabinet over a French-speaking Mayor in a Dutch-speaking village.<sup>31</sup>

*New Party leadership:* China's veteran leader Mr. Deng Xiaoping stepped down with others, as the Communist Party Chief on 1 November, to let younger men like Premier Zhao Ziyang, carry forward his reforms over a long "primary stage of socialism". Premier Zhao Ziyang assumed leadership of the Chinese Communist Party when he was named General Secretary at the plenary session of the newly-elected Central Committee on 2 November.<sup>32</sup>

#### CZECHOSLOVAKIA

*New Party Chief:* Mr. Gustav Husak was, on 17 December, replaced as Head of the country's Communist Party by a senior Central Committee member, Mr. Milos Jakes. Mr. Husak who had been Party Chief since April 1969, would, however, remain Head of State and keep his seat on the Party Presidium.<sup>33</sup>

#### EGYPT

*Death of Minister:* Minister of State for Parliamentary Affairs, Mr. Mohammed Abdul-Hamid Radwan, passed away on 1 November.<sup>34</sup>

#### ETHIOPIA

\* *New President:* The Parliament, *National Shengo*, unanimously elected Mr. Mengistu Haile Mariam as the first President of the country after Ethiopia emerged a People's Democratic Republic on 29 September.<sup>35</sup>

#### FJI

*New Head of State:* Fiji's *coup* leader, Brigadier Sitiveni Rabuka, scrapped the 1970 Constitution and declared himself the Head of State on 1 October. He also announced the removal of Governor-General Ratu Sir Penaia Ganilau. In a radio

<sup>30</sup> *Statesman*, 27 December 1987.

<sup>31</sup> *Hindustan Times*, 16 October 1987.

<sup>32</sup> *Free Press Journal*, 2 November 1987; *Hindu and Times of India*, 3 November 1987.

<sup>33</sup> *Times of India*, 18 December 1987.

<sup>34</sup> *Statesman*, 3 November 1987.

<sup>35</sup> *Statesman*, 6 October 1987.

broadcast on 6 October, Mr. Rabuka formally declared Fiji a republic which, he said, would have a new Constitution recognising the rights and customs of the indigenous people of Fiji. In another radio broadcast on 7 October, Mr. Rabuka named a 19-member ministerial council.<sup>36</sup>

On 5 December, Brigadier Rabuka appointed former Governor-General, Mr. Ratu Sir Penaia Ganilau, as the first President of the new republic. Former Fijian leader, Ratu Sir Kamisese Mara, was named as the Prime Minister. Mr. Mara announced a 21-member Cabinet on 9 December and named Mr. Sitiveni Rabuka as Home Minister.<sup>37</sup>

#### JAPAN

*New Prime Minister:* Mr. Noboru Takeshita was elected as the new Prime Minister by the *Diet* on 6 November, replacing Mr. Yasuhiro Nakasone who resigned earlier in the day along with the Cabinet.<sup>38</sup>

#### NIGER

*Death of President:* President Mr. Seyni Kountohé passed away in Paris on 10 November.<sup>39</sup>

*New President:* Army Chief of Staff, Colonel Ali Seibou was unanimously appointed as President at a meeting of the 7-member Military Council on 14 November.<sup>40</sup>

#### PAKISTAN

*Resignation of Foreign Minister:* Foreign Minister, Mr. Sahebzada Yaqub Khan, resigned from the Cabinet due to "personal reasons" on 1 November.<sup>41</sup>

#### POLAND

*Removal of Ministers:* Twelve Ministers were removed and 16 Government departments cut to eight on 24 October, in a Government overhaul aimed at revitalising key economic sectors and decentralising the economy.<sup>42</sup>

#### ROMANIA

*Replacement of Ministers:* On 3 October, President Ceausescu replaced Minister for Technical and Material Supply and Fixed Assets Management

<sup>36</sup> *Statesman*, 2 October 1987; *Hindu and Hindustan Times*, 7 October 1987; and *Indian Express*, 8 October 1987.

<sup>37</sup> *Hindustan Times*, 6 December 1987; and *Statesman*, 10 December 1987.

<sup>38</sup> *Times of India*, 7 November 1987.

<sup>39</sup> *Hindustan Times*, 11 November 1987.

<sup>40</sup> *Hindustan Times*, 15 November 1987.

<sup>41</sup> *Hindustan Times*, 2 November 1987.

<sup>42</sup> *Free Press Journal and Hindustan Times*, 25 October 1987

Control, Mr. Petre Preoteasa, Minister for Electrical Engineering, Mr. Alexandru Necula, Interior Minister, Mr. George Homostean and Justice Minister, Mr. Gheorghe Chivulerea by Mr. Ioane Petre, Mr. Nicolai Vaidercuc, Mr. Inlianvlad and Mr. Maria Bobu, respectively.<sup>43</sup>

#### SEYCHELLES

*New Parliament:* New members to the 23 elected seats of the 25-member People's Assembly were elected on 6 December after the outgoing Parliament was automatically dissolved on expiry of its four-year term on 7 September.<sup>44</sup>

#### SOUTH KOREA

*New Constitution:* President Chun Doo Hwan announced on 29 October, the adoption of a new Constitution which was overwhelmingly approved by the electorate in a referendum. The new Charter would take effect from February 1988.<sup>45</sup>

*Election of President:* Country's Central Election Managing Committee (CEMC) formally announced on 18 December that ruling Democratic Justice Party candidate, Mr. Roh Tae Woo, had won the Presidential election held on 16 December.<sup>46</sup>

#### SRI LANKA

*Resignation of Minister:* Agriculture Minister, Mr. Gamani Jayasuriya resigned from the Cabinet and Parliament on 11 November in protest against the proposed merger of the northern and eastern provinces under the Indo-Sri Lanka Accord.<sup>47</sup>

*Bills on Provinces:* Parliament passed two Bills seeking to amend the Constitution and set up Provincial Councils, on 12 November.

*Expulsion of party MPs:* President Mr. J.R. Jayewardane expelled two members of the Parliament belonging to the ruling United National Party for abstaining from voting in Parliament on the amendment to the Constitution giving provincial autonomy to Tamils.<sup>48</sup>

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<sup>43</sup> *Statesman, Hindustan Times and Times of India*, 5 October 1987.

<sup>44</sup> *Hindustan Times*, 7 December 1987.

<sup>45</sup> *Hindu and Free Press Journal*, 30 October 1987.

<sup>46</sup> *Indian Express*, 19 December 1987.

<sup>47</sup> *Hindu*, 12 November 1987.

<sup>48</sup> *Free Press Journal*, 13 November 1987.

<sup>49</sup> *Statesman*, 19 November 1987.

## SURINAM

*Resignation of Cabinet:* Prime Minister Mr. Jules Wijdenbosch, alongwith his entire Cabinet, tendered his resignation to Lt. Col. Desi Bouterse, the head of the military government since the 1980 coup, on 12 December and a new Parliament was sworn in. However, Mr. Woijdenbosch and his Cabinet would maintain their posts until a new civilian government took over from the military government of Lt. Col. Bouterse.<sup>50</sup>

## SWITZERLAND

*New President:* Parliament elected Finance Minister Mr. Otto Stich as President on 9 December, replacing Mr. Pierre Aubert.<sup>51</sup>

## SYRIA

*Resignation of Prime Minister:* On 31 October, Prime Minister Mr. Raouf Kasum resigned and was replaced by Speaker of Parliament, Mr. Mahmoud-al-Zouhi.<sup>52</sup>

## TUNISIA

*New Prime Minister:* President Habib Bourguiba named former Interior Minister, Mr. Zine Al-Abidine Ben Ali, as the new Prime Minister on 2 October.<sup>53</sup>

*Coup in Tunisia:* President Habib Bourguiba was deposed in an apparently bloodless *coup* by Prime Minister Mr. Zine Al-Abidine Ben Ali, who announced on national radio that he had taken over as President and Head of the country's armed forces. Mr. Hedi Baccouche was appointed Prime Minister and Mr. Mahmood Mestini as Foreign Minister.<sup>54</sup>

## TURKEY

*Election results:* Prime Minister Turgut Ozal's Motherland Party won 294 of the 450 seats in the Parliament, according to results declared on 30 November. The Social Democratic Party won 97 seats and the True Path Party got 59.<sup>55</sup>

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<sup>50</sup> *Indian Express*, 14 December 1987.

<sup>51</sup> *Statesman*, 10 December 1987.

<sup>52</sup> *Times of India*, 1 November 1987.

<sup>53</sup> *Indian Express*, 3 October 1987.

<sup>54</sup> *Times of India*, 8 November 1987.

<sup>55</sup> *Times of India*, 1 December 1987.

UNITED KINGDOM

*Resignation of Lord Chancellor:* Lord Michael Havers resigned as Lord Chancellor due to health reasons on 26 October.<sup>56</sup>

UNITED STATES OF AMERICA

*Resignation of Defence Secretary:* Secretary of Defence, Mr. Casper Weinberger, resigned on 5 November, after nearly seven years in office. Meanwhile, President Mr. Ronald Reagan nominated National Security Adviser, Mr. Frank Carlucci, to succeed Mr. Weinberger.<sup>57</sup>

USSR

*Resignation of Deputy Prime Minister:* First Deputy Prime Minister, Mr. Gaider Aliev, resigned from the Council of Ministers on 23 October on health grounds.<sup>58</sup>

VANUATU

*Re-election of Prime Minister:* Mr. Fr. Walter Lini was re-elected Prime Minister for the third successive term by the members of country's 46-seat Parliament.<sup>59</sup>

ZIMBABWE

*Election results:* The ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) Party, led by Prime Minister Robert Mugabe, won 20 seats in the election held on 24 October for the 30 seats to the 100-member House in the Assembly, after reservation of these seats for the whites was abolished in September.<sup>60</sup>

*Election of President:* On 29 December, the Parliament elected Mr. Robert Mugabe as the first Executive President of the State for a six-year term.<sup>61</sup>

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<sup>56</sup> *Statesman*, 28 October 1987.

<sup>57</sup> *Times of India*, 6 November 1987.

<sup>58</sup> *Hindustan Times*, 24 October, 1987.

<sup>59</sup> *Times of India*, 12 December, 1987.

<sup>60</sup> *Hindustan Times*, 25 October, 1987.

<sup>61</sup> *Indian Express*, 30 December, 1987.



## DOCUMENTS OF CONSTITUTIONAL AND PARLIAMENTARY INTEREST

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The Representation of the People (Third Amendment) Bill, 1987, making specific provisions for the reservation of seats for the Scheduled Tribes in the Legislative Assemblies in the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, was passed by Rajya Sabha and Lok Sabha on 18 and 23 November 1987, respectively and received President's assent on 27 November 1987.

The Constitution (Fifty-Eighth Amendment) Bill, 1987, empowering the President of India to publish under his authority the translation of the Constitution of India and the amendments of the Constitution in Hindi, which was originally introduced as the Constitution (Fifty-sixth Amendment) Bill, 1987, was passed by Lok Sabha and Rajya Sabha on 24 and 26 November 1987, respectively and received President's assent on 9 December 1987.

We reproduce here the texts of these Acts.

—Editor

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### THE REPRESENTATION OF THE PEOPLE (THIRD AMENDMENT) ACT, 1987

*An Act further to amend the Representation of the People Act, 1950.*

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

**1. Short title and commencement:** (1) This Act may be called the Representation of the People (Third Amendment) Act, 1987.

(2) It shall be deemed to have come into force on the 22nd day of September, 1987.

**2. Amendment of section 7:** In section 7 of the Representation of the People Act, 1950 (hereinafter referred to as the principal Act),—

(i) in sub-section (1), for the word, brackets, figure and letter "sub-section (1A)", the words, brackets, figures and letters "sub-sections (1A) and (1B)" shall be substituted;

(ii) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) Notwithstanding anything contained in sub-section (1), in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, to be constituted at any time after the commencement of the Representation of the People (Third Amendment) Act, 1987,—

(a) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Arunachal Pradesh;

(b) fifty-five seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Meghalaya;

(c) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Mizoram; and

(d) fifty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Nagaland”

3. *Repeal and saving:* (1) The Representation of the People (Amendment) Ordinance, 1987, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

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## THE CONSTITUTION (FIFTY-EIGHTH AMENDMENT) ACT, 1987

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

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

1. *Short title:* This Act may be called the Constitution (Fifty-eighth Amendment) Act, 1987.

2. *Amendment of the heading of Part XXII:* In Part XXII of the Constitution, in the heading, after the word “Commencement”, the words “AUTHORITATIVE TEXT IN HINDI” shall be inserted.

3. *Insertion of new article 394A:* After article 394 of the Constitution, the following article shall be inserted, namely:—

**“394A. Authoritative text in the Hindi language: (1) The President shall cause to be published under his authority,—**

(a) the translation of this Constitution in the Hindi language, signed by the Members of the Constituent Assembly, with such modifications as may be necessary to bring it in conformity with the language, style and terminology adopted in the authoritative texts of Central Acts in the Hindi language, and incorporating therein all the amendments of this Constitution made before such publication; and

(b) the translation in the Hindi language of every amendment of this Constitution made in the English language.

(2) The translation of this Constitution and of every amendment thereof published under clause (1) shall be construed to have the same meaning as the original thereof and if any difficulty arises in so construing any part of such translation, the President shall cause the same to be revised suitably.

(3) The translation of this Constitution and of every amendment thereof published under this article shall be deemed to be, for all purposes, the authoritative text thereof in the Hindi language.”

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*Shri Dinesh Singh:* Those that would say it is half full, they take a positive line. Those that will say half empty is what we have from Mr. Unnikrishnan.

*Professor Madhu Dandavate:* But the fact is both are right.

*Shri S. Jaipal Reddy:* There are two sides of every coin.

(L.S. Deb., 11 August 1987)

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## SESSIONAL REVIEW

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### EIGHTH LOK SABHA

#### NINTH SESSION

Lok Sabha which commenced its Ninth Session (Winter Session) on 6 November 1987 was adjourned *sine die* on 15 December 1987. A brief resume of the important discussions held and other business transacted during this period is given below:

#### A. DISCUSSIONS

*Extension of time for presentation of report of the Joint Committee to enquire into Bofors Contract:* On 6 November 1987, Shri B. Shankaranand, Chairman of the Joint Committee to enquire into Bofors Contract, moved a motion seeking approval of the House for extending the time for the presentation of the report of the Committee upto the last day of the first week of the Budget Session, 1988.

Opposing the motion, Shri K.P. Unnikrishnan said that the Prime Minister making public the deliberations of the Committee was not in keeping with the Rules of Procedure of the House. Shri C. Madhav Reddy did not favour the extension of time as the Committee had failed to function and the necessary co-operation was not forthcoming from the Government. Professor Madhu Dandavate suggested that the Committee might be given powers to examine all the decisions regarding the procurement and storage of arms, summon any Minister of Cabinet and invite the foreign nationals for recording their evidence. Shri Indrajit Gupta questioned the parallel enquiry being conducted by the C.B.I. in the matter. Shri Dinesh Goswami sought to know the names of the three firms disclosed by the Chairman of Bofors to the Government.

Winding up the brief discussion, in which two other members\* participated, Shri Shankaranand said that the Committee was functioning quite effectively and was going on the right lines.

The Motion was adopted.

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\* Other members who took part in the discussion were: Sarvaswari Amal Datta and Bhagwat Jha Azad.

*Presidential Proclamation in Punjab:* On 6 November 1987, moving a statutory resolution regarding continuance of Presidential Proclamation in respect of Punjab for a further period of six months, the Minister of Home Affairs, Sardar Buta Singh said that the Presidential Proclamation issued on 11 May 1987, under Article 356 of the Constitution would cease to operate on 10 November 1987. He observed that although after the promulgation of President's rule, the fundamentalist terrorism had disappeared, the law and order situation in the State however continued to be disturbed. The Governor was of the view that there was no party which could possibly lead any Government effectively in such a situation and deal with the matters with firmness or determination. Keeping in view the situation prevailing in the State, the Minister proposed the continuance of the President's rule for a further period of six months with effect from 11 November 1987.

Opposing the resolution, Shri C. Madhav Reddy felt there was no justification for the continuance of President's rule in Punjab, as the situation had actually deteriorated from what it was during the popular regime. Expressing a similar view, Shri Basudeb Acharia urged the Government to implement the Punjab Accord and issue a White Paper on foreign intervention in Punjab. Professor Madhu Dandavate appealed to all political parties to adopt an attitude which might help in eliminating violence, ending completely the sense of alienation and bringing normalcy to the State.

Participating in the resumed discussion on 9 November, Shri Indrajit Gupta suggested that the Centre should be ready to talk to those who believed in national unity and were against secessionism and terrorism. Shri Dinesh Goswami said that political process should be started to restore a popular Government in Punjab. Opposing the resolution, Shri Balwant Singh Ramoowalia demanded the release of Jodhpur detenus.

Replying to the discussion in which nine other members\* participated, Sardar Buta Singh affirmed that the Centre did never want to dislodge a popular Government in Punjab, but had to take the unfortunate decision of imposing President's rule because the situation there was going from bad to worse. Some ministers of Barnala Government, he added, had links with the terrorists and one of his senior Ministers had even asked for the dismissal of the Police Commissioner of Punjab. The terrorists had no faith in the Punjab Accord, or Punjab Assembly, or Punjab Government or the Constitution. On the other hand, five members of the Panthic Committee had contacts with anti-national elements, who were receiving money and acquiring arms and explosive materials from foreign countries. They also had contacts with the so-called Council for Khalistan. The Centre, Sardar Buta Singh asserted, was fighting all those elements which were bent upon dividing the country, and therefore, no talks would be initiated with such people.

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\* Other members who took part in the discussion were: Shri. vashri R.L. Bhatia, Shyam Lal Yadav, Zainul Basher, Charanjit Singh Walia, Mewa Singh Gill, Chaudhury Sunder Singh, Dr. Datta Samant, General R.S. Sparrow and Shrimati D.K. Bhandari.

The Minister observed that the Commissioner of Punjab Police, Shri Rebeiro, had done a commendable job for the country, by mobilising not only the Punjab police but also the Central Police Organisations, and thus there had been a qualitative and quantitative improvement in the overall situation in the State. The Punjab Government, on its part, had taken several steps to rehabilitate migrant families who were returning to Punjab. It had been the endeavour of the Government to root out extremism and separatism in Punjab, to establish peace in the State and to maintain the unity and integrity of the country at all costs.

The Resolution was adopted.

*Implementation of Indo-Sri Lankan Agreement:* Making a statement on 9 November 1987 on the progress made in the implementation of the Indo-Sri Lankan Agreement, Prime Minister Shri Rajiv Gandhi informed the House that during three months after the signing of the Agreement, there had been satisfactory progress on many fronts. Sri Lankan security personnel had stayed in their barracks, Home Guards in the Eastern Province had been disarmed and the Special Task Force largely withdrawn. Over 3,300 Tamil detenus had been released under an amnesty.

The Prime Minister said that the contours of civil administration in the North and the East were being drawn on the lines suggested by Tamil representatives ranging from the LTTE to the TULF. The interim Administrative Council had been announced in which the LTTE had been given a decisive majority. The return of the refugees from India had been planned in consultation with the Government of Sri Lanka. The Government of India had identified priority areas for rehabilitation, to be financed through a grant of Rs. 25 crore by India. The Government, he added, had made a major effort to restore civil supplies, amenities and administration in Jaffna. A small team of civil administrators had been sent out to advise and assist the IPKF in the work of relief and rehabilitation.

Shri Gandhi noted that while the Government of India had accommodated every aspiration of the LTTE, the latter had not honoured any of their commitments and had chosen to adopt the course of violence. LTTE's public repudiation of the Agreement, their attacks on Sinhals and Muslims in the East, and their killing of Sri Lankan soldiers, had threatened to give rise to a Sinhala backlash that would have destroyed the Agreement and produced a cycle of violence worse than any the island had witnessed so far. In these circumstances, the IPKF were given instructions to apprehend any one carrying arms or any one involved in the massacre of civilians.

Shri Gandhi observed that long-term peace in Sri Lanka would hinge on the devolution package. The Sri Lankan Government had already introduced legislation in their Parliament to amend their Constitution, to provide for the creation of provincial Councils and the devolution of powers to them. The legislation also provided for the creation of a single Tamil province in the North and the East.

Shri Gandhi affirmed that despite some problems and delays, the Agreement represented the only way of safeguarding the legitimate Tamil interests, of ensuring a durable peace in Sri Lanka and of meeting India's security concerns in the region. He assured the House that the Government would not shirk their obligations and commitments.

Initiating the discussion, on the statement of the Prime Minister on 10 November, Shri Dinesh Goswami pleaded for immediate ceasefire and a fresh political initiative to bring the LTTE and other Tamil groups within the umbrella of the Accord and withdraw Indian forces from Sri Lanka at the earliest. Sarvashri C. Madhav Reddy, P. Kolandaivelu and Indrajit Gupta also sought immediate announcement of ceasefire.

Replying to the discussion on 11 November, in which 13 other members\* participated, the Minister of State in the Ministry of External Affairs, Shri K. Natwar Singh, said at the outset that the signing of the Agreement had been acknowledged the world over as an act of great statesmanship and of great professional skill on both sides. The Agreement, he contended, assured three basic things *viz.* the unity, territorial integrity and independence of Sri Lanka; the rights of the Tamils to live and prosper as free and equal citizens; and the security environment in the region which would remain free from outside interference.

Refuting the allegation that other Tamil groups had not been consulted, the Minister clarified that the Government had been in touch with them since August 1987. The matters such as colonisation, return of refugees, etc. had been discussed in great detail at the official level both in Colombo and in New Delhi and all the concerned groups were kept fully informed.

Referring to the demand for the pull-out of Indian Peace Keeping Force from Sri Lanka, Shri K. Natwar Singh assured the House that the military activity thrust upon the Government would be terminated as soon as possible, so that reconstruction and the political processes which would bring permanent peace and amity to Sri Lanka could be started. He appealed that no one should do anything which would upset the IPKF, lower their morale or come in the way of smooth implementation of the Agreement. The Government, he added, would consider the question of ceasefire, if LTTE gave an assurance to fulfil the clauses of the Agreement.

Dealing with the devolution package, the Minister said that although it did not meet Tamil expectation in full measure, it did concede some major demands of the Tamils with regard to formation of Provincial Councils and Council of

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\* Other members who took part in the discussion were: Sarvashri Bhagwat Jha Azad, Suresh Kurup, B.R. Bhagat, Syed Shahabuddin, Sharad Dighe, P.R. Kumaramangalam, R. Jeevarathinam, N.V.N. Somu, Ram Narain Singh, Balwant Singh Ramoowalia, V. Kishore Chandra S. Deo, Professor Saif-ud-Din Soz and Dr. Datta Samant.

Ministers and appointment of Governors on Indian model. The Tamils, he added, wanted additional safeguards, in view of the past history of conflict and bitterness, and the Government of India had agreed to provide these and had conveyed their willingness to Sri Lankan Government at the highest level.

Later, in a statement made in the House on 20 November, regarding developments in Sri Lanka, Shri K. Natwar Singh informed the House that in response to the sentiments expressed in the House, and by a number of well-meaning people who had been in touch with the LTTE leadership, regarding the need for giving a little time to LTTE to make them hand over their weapons and declare their support for Indo-Sri Lankan Agreement, the Government of India had decided not to allow the IPKF to open fire on its own initiative for forty-eight hours starting from 7 a.m. on 21 November 1987. He expressed the hope that LTTE would make use of the opportunity to hand over their arms and unequivocally support the Indo-Sri Lankan Agreement in the larger interests of the Tamils of Sri Lanka.

*Drought and Flood situation in the country and the relief measures taken by the Government:* Making a statement on 11 November 1987, the Minister of State in the Department of Agriculture and Cooperation in the Ministry of Agriculture, Shri Yogendra Makwana, informed the House that except in the North Western part, rainfall had been quite satisfactory in most parts of the country since 1 October. Although it may not help the standing Kharif crops, it would facilitate the availability of fodder and drinking water. The crop prospects in Rabi season, particularly in the peninsula, would substantially improve.

The Minister stated that as a result of deficient rainfall in large parts of the country, Kharif crop had been adversely affected. The Government hoped to make up for some of the shortfalls in Kharif, by higher production in the Rabi season. A detailed strategy for increasing Rabi production had been worked out in consultation with the States, with emphasis on increasing area coverage under Rabi crops, he added.

Shri Makwana said that the Government had taken a large number of initiatives by evolving a well-knit Action Plan for the implementation of drought relief measures, as early as August 1987. These included setting up coordinating machinery at different levels—a Cabinet Committee on Drought, a Committee of Secretaries, a Crisis Management Group in the Department of Agriculture and Cooperation—for giving the requisite thrust and direction to the relief efforts. Further, the Central Government had taken the initiative on assessing the situation by sending assessment and reconnaissance teams, and also extending ways and means assistance for meeting the immediate requirements even before receiving the formal memoranda from the States. A special scheme for fodder cultivation to the tune of Rs. 9 crore for raising about 60 lakh tonnes of green fodder, thereby providing incentives to small and marginal farmers, had also been launched.



Shri Makwana stated that while extensive drought was experienced in most parts of the country, the States of Assam, Bihar, Arunachal Pradesh, West Bengal and Uttar Pradesh experienced heavy rainfall resulting in high floods and extensive damages to life and property. Central assistance to the tune of Rs. 244.16 crore had been approved for all the 10 States/Union Territories affected by heavy rain. In order to effectively coordinate the relief operations, he added, the Central Ministers had been assigned responsibilities for certain States for closer inter-action with the State Governments.

*Prime Minister's visits abroad:* Making a statement in the House on 11 November 1987 about his official visits to Japan, Canada, United States, the Netherlands and Nepal in October-November 1987, Prime Minister Shri Rajiv Gandhi said that during his brief halt in Tokyo, he had an exchange of views with the Prime Minister of Japan, Mr. Yasuhiro Nakasone on matters of mutual interest and a soft untied Japanese credit equivalent to \$200 million was announced.

Shri Gandhi said that the Commonwealth Summit held in Vancouver proved wrong the growing speculation that the Commonwealth had run out of steam in its campaign against *apartheid* in South Africa. All the Commonwealth countries, with the exception of Great Britain, had agreed that sanctions were beginning to have the desired effect and, therefore, decided to intensify the pressure and expand the scope of sanctions. They also agreed that any effort to frustrate the sanctions should be identified and brought to light. The Programme of Action relating to sanctions on South Africa was adopted by all Commonwealth countries, with the solitary exception of Great Britain. All the countries initiated a programme of coordinated Commonwealth assistance to the Frontline States and had agreed to give high priority to efforts aimed at removing censorship in South Africa, as that was resulting in concealment of truth about that country from world public opinion. To provide high level impetus and guidance for achieving the objectives, the Summit set up an eight-member Committee of Foreign Ministers, which was chaired by Canada and included India. Shri Gandhi noted that events in Fiji figured prominently during the discussions. The Summit decided that the question of Fiji's re-admission should be taken up only when circumstances so warranted and was in keeping with the basic principles guiding the organisation. The Vancouver Commonwealth communique acclaimed the Indo-Sri Lanka Agreement as an act of highest statesmanship. An important achievement of the Summit was the Vancouver Declaration on World Trade, which would bring together on a common platform, representatives of developed and developing countries drawn from all continents.

The Prime Minister said that on 19 October 1987, he had participated in a special debate in the United Nations General Assembly on the Report on Environment and Development. At the invitation of President Reagan, he undertook a working visit to Washington and had a wide-ranging and useful exchange of views with President Regan on regional and international matters and on

steps for strengthening bilateral ties. They also agreed on the importance of greater inter-action between the legislators of the two countries. The US has reaffirmed their full support to the Indo-Sri Lanka Agreement.

Among other vital issues, the Prime Minister referred to the welcome prospect of the agreement between the Soviet Union and the United States to eliminate short and medium range nuclear missiles and also reiterated India's concern over Pakistan's weapon-oriented nuclear programme. On his way back, Shri Gandhi had also met the Prime Minister of Netherlands, Mr. Lubbers at Amsterdam airport.

Shri Gandhi further said that his visit to Kathmandu for the Third Summit of the South Asian Association for Regional Cooperation (SAARC), gave him the opportunity for an informal exchange of views on bilateral and international issues with other leaders present there. Detailing the outcome of the Summit, the Prime Minister said that all new ideas which had been agreed upon at the Second Summit held in Bangalore under India's Chairmanship had now been translated into projects. The Summit established a Food Security Reserve in which countries of the region would pool their resources to help one another in an emergency. Besides, the SAARC Regional Convention of the Suppression of Terrorism was signed at the Kathmandu Summit.

*Incident of 'Sati' at Deorala Village in Rajasthan:* Raising the discussion on 12 November 1987, Dr. Chinta Mohan blamed the Government of Rajasthan for not taking timely action to prevent the incident of *sati* at Deorala. Condemning the practice, he demanded immediate legislation banning it.

Participating in the discussion, Professor Madhu Dandavate said that the practice of *sati* was violative of article 21 of the Constitution and urged that Central legislation on *sati* should take into account suggestion of all sections of the House and also women organisations of the country.

Winding up the three-day discussion on 16 November, in which 32 other members\* participated, the Minister of Human Resource Development and Minister of Health and Family Welfare, Shri P.V. Narasimha Rao, assured the House that the sentiments and the views expressed and suggestions made by members would be the basis of Government action. A comprehensive Central

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\* Other members who took part in the discussion were: Sarvashri Balkavi Bairagi, Saifuddin Chowdhary, Asutosh Law, Yogeshwar Prasad Yogesh, K.R. Natarajan, Virdhi Chander Jain, Keyur Bhusan, Ram Bhagat Paswan, Sharad Dighe, Muhiram Saikia, Jujhar Singh, Mohd. Mahfooz Ali Khan, Shanti Dhariwal, Amar Roypradhan, Girdhari Lal Vyas, Somnath Rath, C. Janga Reddy, Braja Mohan Mohanty, Balwant Singh Ramoowalia, Arif Mohammed Khan, Ram Singh Yadav, Dr. G.S. Rajhans, Professor N.G. Ranga, Shrimati Meira Kumar, Shrimati Prabhawati Gupta, Shrimati Geeta Mukherjee, Dr. (Shrimati) Phulrenu Guha, Shrimati Basavarajeswari, Shrimati T. Kalpana Devi, Shrimati Jayanti Patnaik, Shrimati Vyjayanthimala Bali and Kumari Mamata Banerjee.

legislation\* to curb incidents of *sati* and its glorification was under study. The Government, he added, would consider the inclusion of suitable provision in the election laws to prevent those who glorified or supported *sati*, from getting elected to the State Assemblies or the Parliament, provided there was no impediment for doing so. The proposed Central law would also include procedural matters, including creation of special courts, shifting of the burden, provision for special public prosecutors, etc.

In conclusion, Shri Rao conceded that the legislation proposed to be enacted would not be enough in itself, and felt that action on the part of the society was also important in the matter.

*Situation in Fiji:* Making a statement on 16 November 1987, the Minister of State in the Ministry of External Affairs, Shri K. Natwar Singh, informed the House that the current crisis in Fiji began on 14 May 1987 when a handful of soldiers led by Col. Rabuka overthrew the popularly-elected coalition Government of the Labour Party and the National Federation Party, led by Dr. Bavadra. Col. Rabuka staged a second coup again on 25 September 1987, at a time when a formula for an interim Government involving all political parties had been worked out. The second coup dealt a severe blow to the hopes of reconciliation.

The Minister observed that Col. Rabuka's stated objective was to guarantee political supremacy for the indigenous Melanesian community at the cost of the interests of the people of Indian origin, who constituted 48.6 per cent of the population of Fiji and had made a significant contribution to the development of that country. The Constitution of 1970, which had been worked out after long and painstaking negotiations between the UK Government and all the political parties in Fiji, served Fiji well for 17 years thereby promoting racial harmony, stability and progress. Its abrogation by the military regime had put the clock back, thus endangering the prospects of racial harmony, peace and prosperity in that country.

The Government of India, the Minister said, had strongly and unequivocally condemned the actions of the military authorities in Fiji at various international forums, and had also made it clear to the Fijian authorities that safety and welfare of Indian nationals was their primary responsibility. He added that Prime Minister Shri Rajiv Gandhi had demanded the restoration of democracy, harmony and civilian rule in Fiji at the Commonwealth Summit in Vancouver. He had also declared that inaction would be a mockery of all that the Commonwealth stood for. Fiji's membership of Commonwealth was terminated at Vancouver Summit.

The Minister concluded by saying that the Government of India had refused to recognise the Government established by Col. Rabuka and had suspended trade

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\* A legislation on Commission of Sati (Prevention) Bill, 1987 passed by the Lok Sabha on 15 December 1987 may be seen under Legislative Business.

and technical co-operation with Fiji and called back India's High Commissioner in Suva to Delhi for consultations.

*Compensation for the victims of Bhopal gas tragedy:* Raising a discussion on 18 November 1987, regarding the reported negotiations between the Government of India and the Union Carbide Corporation, for an out-of-court settlement regarding payment of compensation to the victims of Bhopal Gas tragedy, Shri I. Rama Rai suggested that if at all there were any more negotiations they should be confined only to interim relief, till the final suit was disposed of on merits. Participating in the discussion, Shri Basudeb Acharia felt that an out-of-court settlement, was a political retreat from the earlier commitment of the Government. Shri C. Madhav Reddy asked the Government to pay interim relief to the victims irrespective of the outcome of the suit. Shri Indrajit Gupta held that legal liability of the Company had to be fixed first, before deciding the quantum of compensation.

Replying to the discussion, in which 11 other members\* participated, the Minister of Industry, Shri J. Vengal Rao reassured the House that the interests of the victims had been the primary concern of the Government and no step would be taken to vitiate their interests. The Government, he affirmed, had not foreclosed the option for settlement which could cut short the length of time involved. Any fair, just and reasonable amount of compensation, obtained through negotiated settlement was also welcome, provided it was in the genuine interest of the victims, he added.

The Minister noted that the Government had not spared any effort to provide relief and rehabilitation to the victims. Measures had also been initiated for their economic rehabilitation, like training opportunities for upgradation of skills, employment and self-employment programmes and financial assistance to the urban poor under the Special Training and Employment Programme. The State Government was also separately finalising a long-term Action Plan which would take into account the physical and economic conditions of the victims for tailoring appropriate long-term rehabilitation schemes. The Government of Madhya Pradesh had set up a Directorate of Claims for processing 5 lakh claims filed by claimants.

As regards the concern expressed by members about the adequacy of the assets being maintained by Union Carbide Corporation to satisfy any decree that might be passed against it, Shri Vengal Rao said that the Government had already engaged a specialist financial firm to monitor and assess the financial position of Union Carbide, and an injunction had been obtained from the court directing the Union Carbide to maintain unencumbered assets of a fair market value of \$ 3 billion to meet the decree, if any, passed by the court.

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\* Other members who took part in the discussion were: Sarvashri Zainul Basher, Veerendra Patil, K.N. Pradhan, Sharad Dighe, S. Jaipal Reddy, G.M. Banatwalla, Aziz Qureshi, Somnath Chatterjee, Thampan Thomas, Dr. G.S. Rajhans, and Dr. Datta Samant.

*Deliberations in U.S. Congress on South Asia:* Making a statement on 7 December 1987 regarding the recent deliberations on South Asia in the U.S. Congress, the Minister of State in the Ministry of External Affairs, Shri K. Natwar Singh informed the House that the U.S. Congress had recently considered some actions on South Asia, which, if enacted, would have adverse implications on India's bilateral relations with the United States. So far as India was concerned, the Government had made a commitment many years ago not to develop nuclear weapons. India, he added, had all along been against both vertical and horizontal proliferation of nuclear weapons and for reasons stated openly and unequivocally, India was not prepared to accept any regime discriminatory in matter of non-proliferation.

The Minister regretted that the Senate Committee had thought fit to equate India's peaceful nuclear programme with Pakistan's relentless pursuit of a weapons-oriented programme. The Government of India could not accept the distorted view of the reality and had conveyed her strong feelings to the U.S. Government at all levels. The Government were now awaiting the final outcome of the recommendations of the Senate Committee and would formulate their considered response in the light of further developments. He assured the House that the Government would not yield to pressures from any direction to alter their basic policies. Improvement in Indo-US relations required a better appreciation of India's point of view. Financial flows or technology transfer did not constitute the totality of the relationship, nor could they be used as levers to force policy changes upon India, he emphasised.

Initiating the discussion on the subject on same day, Shri S. Jaipal Reddy cautioned that unless the outrageous move of the U.S. Senate Committee for Appropriations, to equate India with Pakistan on the nuclear question was nipped in the bud, the relations between India and the United States would never remain the same.

Participating in the resumed discussion on 8 December, Shri Indrajit Gupta described the deliberations in the U.S. Congress as a part of global strategy of Americans and urged the Government to stand fast and boldly. Shri Dinesh Goswami asked the Government not to succumb to any type of arm twisting by the United States.

Replying to the discussion, in which 11 other members\* participated, Shri K. Natwar Singh said that the most objectionable and totally unacceptable portion was the introduction of a linkage, for the first time, between the peaceful nuclear programme of India and the weapons-directed military nuclear programme of Pakistan. India's ties with United States would be adversely affected if the

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\* Other members who took part in the discussion were: Sarvashri Dinesh Singh, E. Ayyapu Reddy, Bhagwat Jha Azad, Saifuddin Chowdhary, G.G. Swell, B.R. Bhagat, Saleem I. Sher-vani, N.V.N. Somu, Bipin Pal Das, Professor K.K. Tewari and Professor N.G. Ranga.

linkage continued. The Government, he added, were making efforts to sort out the matter and the Prime Minister had spoken to the U.S. Ambassador in India.

In conclusion, Shri K. Natwar Singh reiterated that India desired friendly and mutually beneficial relations with the United States, but it would not allow pressure from any direction to affect the fundamentals of her foreign policy.

*Agreement on elimination of land based intermediate nuclear missiles:* On 8 December 1987, an agreement was signed in Washington between General Secretary Mr. Gorbachev of USSR and President Mr. Ronald Reagan of USA on the elimination of land based intermediate nuclear missiles.

Making a statement in the House on 9 December, Prime Minister Shri Rajiv Gandhi, said that the Agreement represented a truly momentous development as it was the world's first nuclear arms reduction agreement. The United States and the USSR had agreed for the first time to completely eliminate one entire category of nuclear weapons.

In another statement made in the House, on the subject on 14 December, the Minister of State in the Ministry of External Affairs, Shri K. Natwar Singh said that the Treaty provided for the elimination of all land-based intermediate and short-range nuclear missiles having a range between 500-5,500 kms. deployed by the two sides anywhere on the globe and further prohibited them from producing these missiles in future. The treaty envisaged that intermediate range missile systems would be eliminated in two phases over three years and the shorter range systems within a single 18-month period. The Treaty also provided for elaborate provisions for verification, including on-site inspections. The United States and the USSR would be entitled to conduct a specified number of short notice inspections per year at agreed locations for 13 years after the Treaty came into force.

The Minister said that though the Treaty covered a very limited number of nuclear warheads it opened up prospects for undertaking more far-reaching measures of nuclear disarmament and improvement in the relations between the two Super Powers. The INF Treaty thus suggested an important breakthrough in disarmament negotiations in general and India regarded the Treaty as a vindication of her stand on nuclear disarmament.

In conclusion, Shri Natwar Singh recalled the congratulatory message of Prime Minister Shri Rajiv Gandhi, to General Secretary Mr. Gorbachev in which he had said that the world needed change of attitudes, policies and institutions to usher in a nuclear weapon-free and non-violent world, as enunciated in the Delhi Declaration.

*FERA violations:* On 9 December 1987, raising a discussion on the recent cases of alleged violation of Foreign Exchange Regulation Act (FERA) by certain individuals and companies, Professor Madhu Dandavate asked the Government to

prepare a new blueprint of the FERA to check its violation owing to certain loopholes and wanted to know the findings of the enquiry going on in regard to FERA violation and assets held by Shri Ajitabh Bachchan.

Winding up the brief discussion, in which Sarvashri Shyam Lal Yadav and Somnath Chatterjee participated, the Minister of State in the Department of Expenditure in the Ministry of Finance, Shri B.K. Gadhvi, affirmed the Government's commitment to effective enforcement of FERA against economic offenders. Special attention had also been paid to speedy investigation and expeditious finalisation of adjudication. In the first ten months of 1987, 6,277 show-cause notices were issued for purposes of adjudication proceedings and 4,233 cases had been adjudicated.

Allaying the apprehension of members regarding inquiries into certain cases not being conducted properly and promptly, Shri Gadhvi said that investigations in all the cases were being done in a professional and objective manner. The case of FERA violation by Shri Ajitabh Bachchan, he added, was still under investigation and action of prosecution would arise only after the establishment of charges and completion of adjudication proceedings. The case of Shri W.N. Chadha was also under investigation, as the Report of the National Audit Bureau of Sweden gave authentic information about payment of commissions and the possible involvement of the Anatronc General Corporation owned by Shri Chadha.

Referring to the *Indian Express* case, Shri Gadhvi informed the House that a case of FERA violation involving a deposit of US \$2,00,000 at the instance of Shri R.N. Goenka, was suspected and investigations in this regard were in progress. As regards United Breweries, the Minister said that their case had been adjudicated and a penalty, of Rs. 25,75,000 imposed on them, had been realised.

Dealing with amnesty under FERA, the Minister assured the House that the Government would not give amnesty to FERA violators, and would bring forward an amendment to the FERA Act to plug its loopholes.

*Motion of No-Confidence in the Council of Ministers:* On 10 December 1987, moving a motion of no-confidence in the Council of Ministers, Shri C. Madhav Reddy, alleged that the style of functioning of the Prime Minister was in contrast to the earlier Prime Ministers inasmuch as he had never cooperated with the State Governments being ruled by Opposition parties and their Chief Ministers.

Participating in the discussion, Shri P. Kolandaivelu opposed the motion and said that the Prime Minister Shri Rajiv Gandhi, had brought about some radical changes in various fields including the foreign policy.

The Minister of Finance and Commerce, Shri Narayan Datt Tiwari said that except for some distortion brought about by drought, all other economic paramete-

ters of the economy were showing satisfactory results. Millions of jobs had been created under various employment programmes and the public sector had been strengthened. As regards controlling inflation, Shri Tiwari stressed the need for making the public distribution system efficient and for organising consumer movement in every district.

Taking part in the discussion, Shri Dinesh Goswami held that the Government had failed to carry out electoral reforms during the last three years. Despite the promise, a refinery, had not been set up in Assam.

In a brief intervention, the Minister of Defence, Shri K.C. Pant, informed the House that inquiries into the Bofors and the submarine deal were in progress. He assured the House that the Government would, under no circumstances, compromise on the security of the country.

The Minister of Human Resource Development and Minister of Health and Family Welfare, Shri P.V. Narasimha Rao, denied any change or departure from the established policies being pursued by the Government. At the same time he held that there had to be and there would be a re-orientation of the implementation of those policies as time passed.

Taking part in the discussion on 11 December, in which 15 other members\* participated, Prime Minister Shri Rajiv Gandhi affirmed that the Government was elected for five years and would remain for five years and would not get shaken by street marches, conclaves and campaigns of the Opposition.

Referring to Fairfax inquiry, Shri Gandhi observed that the Government's stand was totally vindicated by the report of Thakkar-Natarajan Commission.

Dealing with the economic situation, the Prime Minister said that the industry had been given a new dimension. He added that anti-poverty programmes had been given a new orientation resulting in alleviation of poverty, the progress and development of the country through utilization of science and technology in the daily lives of the people. In agricultural sector, the green revolution was spreading eastwards for the first time. Despite the occurrence of the worst drought of the century, there would be a positive overall growth thus enabling the Government to contain inflation which was below 10 per cent as against 22 per cent in the drought year 1979.

As regards Centre-State relations, Shri Gandhi contended that these had never been as cordial as they had been during the last three years. He refuted the allegation regarding discrimination in allocation of funds between the States ruled by Congress(I) and those ruled by the Opposition.

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\* Other members who took part in the discussion were: Sarvashri Somnath Chatterjee, Bhagwat Jha Azad, Jagan Nath Kaushal, S. Jaipal Reddy, P.R. Kumaramangalam, R.L. Bhatia, Arif Mohd. Khan, Ghulam Nabi Azad, Z.R. Ansari, K.P. Unnikrishnan, Charanjit Singh Walia, G.M. Banatwalla, Ram Narain Singh, N.V.N. Somu and Shrimati Geeta Mukherjee.



Shri Gandhi affirmed that the Government had complete faith in the Constitution, in the Judiciary, in the law of the land and in the Parliament. It stood for complete and total freedom of the Press and independence of Judiciary.

Referring to the foreign policy, Shri Gandhi mentioned the various initiatives taken during the last three years in respect of South Africa, ANC, SWAPO, Frontline States, Non-aligned Movement, the Africa Fund, the Commonwealth Eminent Persons Group, SAARC, environment, disarmament and development. Besides, many initiatives had been taken to improve relations with Pakistan, China, U.S.A. and other neighbours. The historic Sri Lanka Accord, which was acclaimed internationally took into account all legitimate Tamil aspirations.

After Shri C. Madhav Reddy had replied to the debate, the motion was negatived.

*Report of Inquiry\* into events and circumstances leading to arrangements entered into with Fairfax Group Inc.*: Raising a discussion on 14 December 1987, Shri Indrajit Gupta described the report as witch-hunting, which gave an alibi to the economic offenders, by focussing attention on the officers who were trying to catch criminals defrauding the country.

Expressing a similar view, Professor Madhu Dandavate recalled that on four occasions earlier, foreign agencies were appointed or hired. He felt that the best way for the Commission to find the truth would have been to cross-examine both Shri V.P. Singh and the Prime Minister.

Intervening in the discussion, the Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Home Affairs, Shri P. Chidambaram said that the Government's inference was that a clear attempt was made by some people by hatching a conspiracy to create a constitutional crisis and to destabilize the constitutionally-elected Government in the country. He contended that what had happened between January and March, 1987, had done a grave damage to the polity and the Cabinet system of Government.

Narrating the sequence of events, Shri Chidambaram said that a conspiracy to engage Fairfax was hatched at a meeting held in New Delhi between Messers Goenka, Pande, Bhure Lal, Gurusurthy and a visiting representative of the Fairfax. The then Finance Minister, Shri V.P. Singh never came to know at any time during his tenure as Finance Minister, which ended on 24 January 1987, as to which foreign private agency was engaged and what were its terms and the manner in which it had to work. It would thus have been an utter waste of time for the Commission to summon such an ignorant person, he added.

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\* The Report of Justices Thakkar-Natarajan Commission for Inquiry into the utilisation of Fairfax Group Inc. was laid on the Table of the House on 9 December, 1987.

Replying to the discussion in which 7 other members\* participated, the Minister of Finance and Commerce, Shri Narayan Datt Tiwari maintained that hiring of a foreign agent of a dubious character like Michael Hershman was entirely wrong and the Government would never engage any foreign private detective agency for such matters in future.

Dealing with economic offenders, Shri Tiwari said that drive against them was a consistent and continuous effort without any fear or favour.

## B. LEGISLATIVE BUSINESS

*Representation of the People (Third Amendment) Bill, 1987:* \*\*On 23 November 1987 moving that the Bill as passed by Rajya Sabha be taken into consideration, the Minister of State in the Ministry of Law and Justice, Shri H.R. Bhardwaj said that it provided for reservation of seats for the Scheduled Tribes in the elections to the Assemblies of Nagaland, Meghalaya, Mizoram and Arunachal Pradesh to be held in future.

Winding up the brief discussion in which 4 members† participated, Shri Bhardwaj said that the provision of the Bill was non-controversial.

Sharing the concern expressed by members that some evils had crept into the electioneering system, the Minister informed the House that the Government were going very systematically in the matter of electoral reforms and would come out with whatever measures were necessary in that direction. The Government, he added, had agreed in principle to make use of voting machines during the next elections.

Regarding delimitation of constituencies, Shri Bhardwaj said that it was one of the items for discussion with the leaders of Opposition and whatever decision was taken in this regard would be implemented by the Government.

The Bill was passed.

*Constitution (Fifty-Sixth Amendment) Bill, 1987:* ‡ On 24 November 1987, moving that the Bill be taken into consideration, the Minister of State in the Ministry of Home Affairs, Shri Chintamani Panigrahi said that due to historical compulsions, the Constitution was adopted in English and no provisions providing for an authoritative text of the Constitution in Hindi, existed in the Constitution.

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\* Other members who took part in the discussion were: Sarvashri Bhagwat Jha Azad, V. Sobhanadreeswara Rao, Satyendra Narayan Sinha, Amal Datta, Vidyacharan Shukla, P.R. Kumaramangalam and Professor K.K. Tewari.

\*\* The Bill was passed by Rajya Sabha on 18 November 1987.

† Members who took part in the discussion were: Sarvashri K. Ramachandra Reddy, Girdhari Lal Vyas, Thampan Thomas and Dal Chand Jain.

‡ The Bill was introduced by the Minister of Home Affairs, Sardar Buta Singh on 27 February, 1987.

After passing the proposed Bill, the translation of the Constitution in Hindi, along with its up-to-date amendments, would be published in the Official Gazetteer under the authority of the President.

Participating in the discussion, Shri P. Kolandaivelu demanded translation of the Constitution into 15 languages recognised in the Constitution, as all of these were rich enough to have official status.

Winding up the discussion, in which 13 other members\*\* participated, Shri Panigrahi said that the Government were only implementing the resolution of the Constituent Assembly and assured the members that the Bill was in no way meant for giving a step-motherly treatment to any regional language.

The Bill, as amended, was passed by the requisite majority in accordance with the provisions of article 368 of the Constitution.

*Commission of Sati (Prevention) Bill, 1987\*\*\**: On 15 December 1987, moving that the Bill be taken into consideration, the Minister of State in the Department of Youth Affairs and Sports and Women and Child Development, Shrimati Margaret Alva said that the Bill defined *Sati* comprehensively to include not only the burning or burial alive of a widow along with her deceased husband but also of a widow or a woman with any of her relatives. Anyone who abetted the commitment of *sati* by inducement, encouragement, participation in processions and preventing the widow from saving herself, would be punishable with the maximum penalty, *i.e.* death or imprisonment for life. An attempt to commit *sati* would also be punishable with imprisonment for life. In the case of persons prosecuted under these offences, the burden of proving that they had not committed the offences, would be on them. Those convicted of such offences would be disqualified from inheriting the property of the victim. Further, persons convicted of such offences would be disqualified under the Representation of the People Act, 1951, from the date of such conviction and would continue to be disqualified for a further period of five years after release. The propagation of the practice or the commission of *sati* or its glorification by a candidate or his agent, would be deemed to be a corrupt practice under the Representation of People Act.

The Minister stated that the Bill also laid down procedures for setting up special courts and appointment of special public prosecutors and would repeal all earlier laws which were in force before the commencement of the proposed Act.

Participating in the discussion, Shri Dinesh Goswami expressed the view that

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\*\* Other members who took part in the discussion were: Sarvashri K. Ramachandra Reddy, Naresh Chandra Chaturvedi, Jagan Nath Kaushal, Somnath Chatterjee, Zainul Basher, V.S. Krishna Iyer, Balkavi Bairagi, Yogeshwar Prasad Yogesh, Bhadreshwar Tanti, C. Janga Reddy, G.M. Banatwalla, Professor Saif-ud-din Soz and Shrimati Geeta Mukherjee.

\*\*\* The Bill was introduced by the Minister of Human Resource Development and Minister of Health and Family Welfare, Shri P.V. Narasimha Rao on 14 December 1987.

clause 3 of the Bill would amount to punishing the victim of *sati*, rather than its perpetrators.

Intervening in the discussion, the Minister of State in the Ministry of Welfare, Dr. Rajendra Kumari Bajpai said that in addition to passing the legislation, there was need for organising mass campaign to mobilise public opinion in this regard.

Replying to the discussion, in which 20 other \*members participated, Shrimati Margaret Alva said that the definition of *sati* in the Bill was an improvement on the Rajasthan Act. The Government, she added, was prepared to consider suggestions received from Women's organisations, if they could help in the improvement of the legislation.

Dealing with the question of victim herself, Shrimati Alva said that Section 309 of the Indian Penal Code dealt with the attempt to commit suicide, and all courts had held till now that an attempt to commit *sati* was an attempt to commit suicide. Unless the one who attempted to commit the crime was punished, it would not be possible to punish those who abetted the crime. It was, therefore, felt necessary to consider some kind of punishment for an attempt at committing *sati* or suicide. A proviso had thus been added that special courts trying an offence under section 309 of IPC would, before convicting any person, take into consideration the circumstances leading to the commission of the offence.

Referring to rehabilitation of widows, Shrimati Alva said that the order of the Rajasthan Government on the employment of widows in Government service, without any age restrictions and without the help of employment exchange, was sent to all the Chief Ministers with an appeal that they might also implement similar orders in their States.

The motion for consideration of the Bill was adopted and the Bill, as amended, was passed.

### C. THE QUESTION HOUR

During the Session, 14,838 notices of Questions (11,152 Starred, 3,623 Unstarred and 63 Short Notice Questions) were received. Out of these, 536 Questions were admitted as Starred, 5,537 as Unstarred (including 5 Unstarred Questions which appeared in Supplementary lists of Questions) and 5 as Short Notice Questions. 16 Starred and 90 Unstarred Questions were deleted/withdrawn/postponed/transferred from one Ministry to another.

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\* Other members who took part in the discussion were Sarvashri: Kali Prasad Pandey, M.Y. Ghorpade, Mahendra Singh, Ram Nagina Mishra, Umakant Mishra, Ram Bahadur Singh, Vishnu Modi, N.V.N. Somu, Chandra Shekhar Tripathi, Piyus Tiraky, C. Janga Reddy, Kammodilal Jatav, Shrimati Bibha Ghosh Goswami, Shrimati Sheila Kaul, Shrimati Geeta Mukherjee, Shrimati N.P. Jhansi Lakshmi, Dr (Shrimati) Phulrenu Guha, Shrimati Manorma Singh, Shrimati Usha Choudhary and Shrimati Usha Thakkar.

**Daily average of Questions:** Each Starred List contained 20 Questions except those of (i) 12, 16, 19, 24, 26 and 27 November and 1, 4 and 7 December 1987 which contained 21 Questions each; (ii) 13 November and 2 December 1987 which contained 22 Questions each; and (iii) 17 November 1987 which contained 23 Questions. The Questions in excess of 20 in these lists were either postponed or transferred from earlier dates. On an average 7 Questions per sitting were orally answered on the floor of the House. The maximum number of Starred Questions answered on the floor of the House on a day was 10 on 30 November 1987 and minimum number was 4 on 25 November 1987.

The average number of Questions in the Unstarred List came to 213 against the prescribed limit of 230 Questions, the minimum being 159 on 2 December 1987 and the maximum 237 on 7 December and 10 December 1987, respectively (including 7 Questions transferred from earlier Lists in each case).

**Half-an-hour Discussions:** In all 58 notices of Half-an-Hour Discussion were received during the Session. Out of these, 19 notices were admitted and 6 were discussed on the floor of the House.

#### D. OBITUARY REFERENCES

During the Session, obituary references were made to the passing away of Sarvashri Dalbir Singh, Jaideep Singh, G.L. Dogra and Dr. K.G. Adiyodi, all sitting members, and Sarvashri Amjad Ali, Ramsahai Pandey, M. Gopaldaswami Thenkondar, Khushiram Sharma, Ajit Singh, Atamdas, Narain Din, Ram Avtar Sharma, Sheo Narain, Jaswantraj Mehta, Dr. Pashupati Mandal and Dr. Vasant Kumar Pandit, all ex-members. Members stood in silence for a short while as a mark of respect to the deceased.

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### RAJYA SABHA

#### · HUNDRED AND FORTY-FOURTH SESSION\*

The Rajya Sabha commenced its Hundred and Forty-Fourth Session on 6 November 1987 and was adjourned *sine die* on 16 December 1987. A resumé of some of the important discussions held and other business transacted during the Session is given below.

#### A. DISCUSSIONS

**Felicitations to Chairman:** On 6 November 1987, felicitating Dr. Shanker Dayal Sharma on his election as the Vice-President of India and *ex officio* Chairman of Rajya Sabha, Prime Minister, Shri Rajiv Gandhi described Dr. Sharma as a scholar and an authority on international law, on Constitution, on

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\*Contributed by the Research and Library Section, Rajya Sabha Secretariat.

history, and more particularly on Indian culture. He said Dr. Sharma had held high offices as Chief Minister, as Cabinet Minister, as the Congress President and more recently, as Governor. The office which he now occupied had been held by many highly respected and admirable personalities in the history of Indian Parliament, the Prime Minister added. He assured Dr. Sharma of the fullest cooperation of the Government.

Leaders of various political parties and groups and some other members\* joined in felicitating Dr. Sharma.

Thanking the Prime Minister and the members for their felicitations, Dr. Sharma said that he was profoundly touched by the warmth and kindness with which the Prime Minister and the honourable members had welcomed him to the House. He said that he had assumed his office with a sense of humility and prayed that he be enabled to uphold the high traditions of Rajya Sabha. He looked forward to dignified discussions in the House, guided purely by the perceptions of national interest, and hoped that members would be mindful and considerate about each other's rights at all times, and more especially, when a coincidence in their views eluded them. Exhorting the members to imbibe the right spirit, he recalled the words of Voltair: "I might disapprove what you say, but I will defend to death your right to say it." He pledged to do all that he could, during his term of office, to enable the members to participate in the deliberations of the House in a befitting manner.

*Situation in Sri Lanka*: Initiating a Short Duration discussion on the situation in Sri Lanka on 11 November 1987, Shri V. Gopalasamy said that Tamils all over the world were terribly shocked to witness the most unkind treatment from the quarter on which Sri Lankan Tamils had heavily depended for succour and solace. He warned that if the Government wanted to protect the unity and integrity of Sri Lanka at the cost of Tamilian lives, then the unity and integrity of India would also be in jeopardy.

Replying to the discussion\*\* which continued on 13 November, the Minister of State in the Ministry of External Affairs, Shri Natwar Singh said that many of the points raised by members had already been extensively dealt with by the Prime Minister in his comprehensive statement on the subject. He contended that it was wrong to say that the Indian Peace Keeping Force (IPKF) was fighting a

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\*Members who offered felicitations to the Chairman were: Sarvashri Dipen Ghosh, Aladi Aruna alias V. Arunachalam, Parvathaneni Upendra, M.S. Gurupadaswamy, Atal Bihari Vajpayee, Virendra Verma, N.E. Balaram, Murasoli Maran, Ghulam Rasool Mattoo, Chitta Basu, Nagen Saikia, Satya Prakash Malaviya, Tridib Chaudhuri, Bekal Utsahi, Ram Chandra Vikal, Thomas Kuthiravattom and Sardar Jagjit Singh Aurora.

\*\*Other members who took part in the discussion were: Sarvashri Murlidhar Chandrakant Bhandare, Sukomal Sen, Madan Bhatia, V. Narayanasamy, Valampuri John, Thangabalu M.S. Gurupadaswamy, Thindivanam K. Ramamurthy, Jaswant Singh, Anand Sharma, J.P. Goyal, Kapil Verma, Chaturanan Mishra, Satya Prakash Malaviya, Chitta Basu, Dr. G. Vijaya Mohan Reddy and Sardar Jagjit Singh Aurora.

proxy war for Sri Lanka President Mr. Jayewardene. IPKF had gone there to keep peace and was doing a marvellous job. It was acting with great restraint. The forces were there at the invitation of the President of Sri Lanka. They would come back as early as possible. The two countries were jointly committed to the implementation of the Agreement, he added.

The Minister hoped that through the Agreement, India would achieve both the short-term and the long-term interests of the citizens of Sri Lanka, particularly the Tamilians, who had been deprived of the basic rights to which they were entitled for the past many decades. The Minister explained that the Agreement ensured that they would be treated as equal citizens and would have their own government under one province of the North and the East and that the unity, territorial integrity and sovereignty of Sri Lanka would be maintained.

*Drought and flood situation in different parts of the country:* Initiating a Short Duration discussion on the subject on 16 November 1987, Sri Shanker Singh Vaghela observed that India was facing the worst drought of the century and most of the States were in its grip. In some States, unprecedented floods had caused havoc. The member suggested that a National Drought Relief Committee comprising politicians, economist and engineers should be formed under the Chairmanship of the President of India to organise relief works.

Replying to the resumed discussion\* on 19 November 1987, the Minister of Agriculture, Shri G.S. Dhillon observed that the drought situation during the current year had been quite different from those during the previous years, since it was not confined only to particular areas, but was widespread and had occurred all over the country. The Minister assured the House that on the basis of the recommendations of the Eighth Finance Commission, the Government would examine the suggestions made in this regard and put the views before the next Finance Commission.

According to Shri Dhillon, there was a set procedure for granting relief assistance. A time limit had also been prescribed for the purpose. But in most cases the memoranda that the Centre received from the States were heavily exaggerated. The Central Government had also seen that quite often the money was not properly utilised and had brought this to the notice of the States. Credit loans had already been rescheduled from medium or short term to long term ones, the Minister added.

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\*Other members who took part in the discussion were: Sarvashri Mirza Irshadbaig, Nirmal Chatterjee, A.G. Kulkarni, Chaturanan Mishra, V. Ramanathan, Natha Singh, Mohd. Khaleelur Rahman, Bir Bhadra Pratap Singh, B.L. Panwar, Virendra Verma, Surender Singh, K.G. Maheshwarappa, Anand Sharma, V. Gopalsamy, Ghulam Rasool Mattoo, Ram Chandra Vikal, Chitta Basu, Ramanand Yadav, Chimanbhai Mehta, Rameshwar Thakur, Vithalbhai Motiram Patel, Ramsinghbhai Pataliyabhai Rathvakoli, Jagdambi Prasad Yadav, Vithalrao Madhavrao Jedhav, Santosh Bagrodia, Shrimati Pratibha Singh and Shrimati Jayanthi Natarajan.

The Minister noted that the Centre had classified drought-hit areas into two categories—normal and severely hit—for purposes of providing assistance. This classification would definitely help severely hit areas, like some parts of Gujarat, Rajasthan and Orissa, the Minister clarified.

*Report of Thakkar-Natarajan Commission of Inquiry into utilisation of Fairfax Group Inc.:* Initiating a Short Duration discussion on the subject on 14 December 1987, Shri Chaturanan Mishra said that the report of the Thakkar-Natarajan Commission was a miscarriage of India's judicial system. He alleged that the Commission of Inquiry had gone beyond its terms of reference and decided the issue without taking evidence, thus resulting in character assassination of certain persons.

Replying to the discussion\*, the Minister of State in the Department of Expenditure in the Ministry of Finance, Shri B.K. Gadhi, said that he would like to place on record that Government of India had total faith in the loyalty, integrity, intelligence and objectivity of the Judges of the Supreme Court who presided over the Commission. He asserted that the drive against economic offenders was relentless and commended the Report for acceptance by the House.

#### B. LEGISLATIVE BUSINESS

*The Representation of the People (Third Amendment) Bill, 1987\*\*:* Moving the motion for consideration of the Bill, the Minister of State in the Ministry of Law and Justice, Shri H.R. Bhardwaj said that the Constitution (Fifty-seventh Amendment) Act, 1987, had inserted a new clause (3A) in article 332 of the Constitution. The amendment had the effect of introducing a formula different from that provided in clause 3 of article 332 of the Constitution for the reservation of seats for the Scheduled Tribes in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland. The determination by the Election Commission of the number of seats to be reserved for the Scheduled Tribes in the said State Legislative Assemblies, had to be consciously and deliberately left to be done with reference to a future date, namely, the date of enforcement of the new Constitution (Amendment) Act, because of the intention of the Government to add three more tribes to the existing list of Scheduled Tribes in the State of Meghalaya. Hence the Bill.

The statutory resolution moved by Shri Jaswant Singh seeking disapproval of the Representation of the People (Amendment) Ordinance, 1987, promulgated by the President on 22 September 1987 was negatived.

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\*The other members who took part in the discussion were: Sarvashri N.K.P. Salve, Vishwanath Pratap Singh, P. Shiv Shanker, Pervathaneni Upendra, Pawan Kumar Bansal, Dipen Ghosh, Kalpnath Rai, Aladi Aruna *alias* V. Arunachalam, K. Vasudeva Panicker, Anand Sharma, Jaswant Singh, Murlidhar Chandrakant Bhandare, Ram Awadesh Singh, Darbara Singh, Madan Bhatia, Satya Prakash Malaviya, Sardar Jagjit Singh Aurora and Dr. Bapu Kaldate.

\*\*The Bill was introduced on 9 November 1987.



The motion for consideration of the Bill was adopted and the Bill was passed on the same day.

*The Constitution (Scheduled Tribes) Order (Amendment) Bill, 1987\**. Moving the motion for consideration of the Bill on 24 November 1987, the Minister of State in the Ministry of Welfare, Dr. Rajendra Kumari Bajpai said that the elections to the State Legislative Assembly of Meghalaya were due to be held before February 1988. In order to enable the Election Commission to take preparatory action for the determination of the number of seats to be reserved for the Scheduled Tribes for the conduct of elections to the State Legislative Assembly, the President had to promulgate the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1987, since both the Houses of Parliament were not in session at that time.

The statutory resolution moved on the same day by Shri Pramod Mahajan seeking disapproval of the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1987, was negatived.

The motion for consideration of the Bill was adopted and the Bill was passed.

*The Constitution (Fifty-sixth Amendment) Bill, 1987\*\**: Moving the motion for consideration of the Bill on 26 November 1987, the Minister of State in the Ministry of Home Affairs, Shri Chintamani Panigrahi said that the Constitution of India was adopted in English under historical compulsions. Hindi being the official language of the Union, there was a general demand for the publication of an authoritative text of the Constitution in Hindi, particularly to facilitate its use in the legal process. The Bill sought to achieve that objective. It would encourage the use of Hindi in Hindi-speaking States. However, it would not in any way affect the interests of the non-Hindi speaking people as the authorised text of the Constitution in English was already available.

All the amendments moved were either withdrawn or negatived.

The motion for consideration of the Bill and the clauses etc. were adopted on the same day by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting. The Bill was passed by a majority of not less than two-thirds of the members present and voting.\*\*\*

*The Administrative Tribunal (Amendment) Bill, 1987†*: Moving the motion for consideration of the Bill on 8 December 1987, the Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of Home Affairs, Shri P. Chidambaram, said that the Administrative

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\*The Bill, as passed by the Lok Sabha, was laid on the Table on 20 November 1987.

\*\*The Bill, as passed by the Lok Sabha, was laid on the Table on 24 November 1987.

\*\*\*The title of the Bill was amended as the Constitution (Fifty-eighth Amendment) Act, 1987 at the stage of assent by the President.

†The Bill was introduced on 4 December 1987.

Tribunals Act, 1985 was passed by the Rajya Sabha in January 1985 and had received the assent of the President on 27 February 1985. The constitutional validity of the Act was challenged in the Supreme Court. The Supreme Court passed certain orders even while the petitions were pending. Taking into account the views expressed by the Judges of the Supreme Court, the Government brought before Parliament an Amendment Bill. It came into effect on 22 January 1986. The present Amendment Bill sought to implement the direction of the Supreme Court as agreed to by the Government.

The motion for consideration of the Bill was adopted, the clauses etc. were adopted and the Bill was passed on 9 December.

*The Commission of Sati (Prevention) Bill, 1987\**: Moving the motion for consideration of the Bill on 16 December 1987, the Minister of State in the Departments of Youth Affairs and Sports, and Women and Child Development, Shrimati Margaret Alva, said that the Bill defined *sati* comprehensively to include not only the burning or burial alive of a widow with a deceased husband but also of a widow or a woman with the body of any other relative or any article associated with her husband or relative. Anyone who abetted the commitment of *sati* by inducement, encouragement, participation in processions, preventing the widow from saving herself, would be punishable by the maximum penalty, i.e. death or imprisonment for life.

The amendment for reference of the Bill to a select committee of the House was, by leave, withdrawn.

The motion for consideration of the Bill was adopted, the clauses etc. were adopted and the Bill was passed on the same day.

### C. THE QUESTION HOUR

During the Session, 7,693 notices of Questions (6,920 Starred and 773 Unstarred) were received. Out of these, 512 Starred Questions and 3,850 Unstarred Questions were admitted. 2 Short Notice Questions were received but none was admitted. After the lists of Questions were printed, 13 Starred and 78 Unstarred Questions were transferred from one Ministry to another.

*Daily Average of Questions*: Each of the lists of Starred Questions contained 18 to 21 questions. On an average 3.53 Questions per sitting were orally answered on the floor of the House. The maximum number of Questions orally answered was six on 7 December and the minimum number was two on 11 and 13 November and 1 December 1987.

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\*The Bill, as passed by the Lok Sabha, was laid on the Table on 15 December 1987.

The minimum and maximum number of Questions admitted in the lists of Unstarred Questions was 82 and 221 on 3 and 7 December, respectively. Their average came to 148.5 per sitting.

*Half-an-Hour Discussion*: In all, 16 notices of Half-an-Hour Discussion were received during the Session and 3 were admitted.

*Statements correcting answers to Questions*: In all 11 statements correcting answers to Questions answered in the House were made/laid by the Ministers concerned.

#### D. OBITUARY REFERENCES

During the Session, the Chairman made references to the passing away of Sarvashri Satyendra Prasad Roy, Ramchandra Bhardwaj, Rohit Manushankar Daye, Mahendra Singh Ranawat, P. Ramamurti, Dr. K. Mathew Kurian and Shrimati Fathema Ismail, all ex-members. The members stood in silence for a short while as a mark of respect to the deceased.

#### STATE LEGISLATURES

##### HIMACHAL PRADESH VIDHAN SABHA \*

The Vidhan Sabha which commenced its Tenth Session on 22 December 1987 adjourned *sine die* on 30 December and was prorogued on 4 January 1988.

*Financial Business*: The Chief Minister (Shri Virbhadra Singh), who also held the portfolio of Finance, presented the Supplementary Demands for Grants (second batch) for the financial year 1987-88 on 28 December 1987. The general discussion took place on the 29 and 30 December. Necessary Appropriation Bill was introduced, considered and passed by the House on 30 December 1987.

*Obituary References*: The House made obituary references to late Shri S. Chakravarti, former Governor of the State and Shri M.G. Ramachandran, the Chief Minister of Tamil Nadu on 22 and 24 December 1987, respectively.

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\*Contributed by the Himachal Pradesh Vidhan Sabha Secretariat.

UNION TERRITORIES

DELHI METROPOLITAN COUNCIL\*

The Metropolitan Council commenced its Fifteenth Session on 21 December 1987 and adjourned *sine die* on 23 December.

*No-Confidence Motion*: The Opposition tabled a no-confidence motion against the Executive Council which was considered and voted down on 22 December 1987.

*Obituary Reference*: The Council made obituary reference on 21 December 1987 on the assassination by terrorists of Shri Hans Raj Sethi, a sitting member of the Council.

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\* Material contributed by Delhi Metropolitan Council.

**BOOK REVIEW**

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**"PARTY SYSTEMS IN DENMARK, AUSTRIA, SWITZERLAND, THE NETHERLANDS AND BELGIUM"**. Edited by Hans Daalder. Published by Frances Pinter (Publishers) Limited, 1987, pp. 372

Whenever and wherever Parliaments come to be organised in a democratic manner by means of elections held in a constitutional and free manner, political parties play a vital role in order to help the people in electing their representatives. It was England which initiated the parliamentary elections and political parties. It was with the knowledge as to how English electoral system and political parties have paved the way towards strengthening of parliamentary democracy there, that the democratic polities throughout the world have been fashioning the structures of their legislatures, parties and Governments, including Cabinets or Presidents, especially since the first world war.

Soon after the end of the second world war, the reconstruction of democratic institutions took place and by 1950 when the people of India also gave themselves their Constitution and the Parliament, legislatures of all full-fledged democracies of the world had come to extend franchise to all men and women of 18 or 21 years of age.

A few countries have followed the U.S. model of electing, through adult franchise, the Chief executives of their polities and giving them freedom to appoint their Cabinets.

Most of the full-fledged democracies have preferred to follow the British pattern of first electing their Parliament and then giving shape to their Cabinets or parliamentary Executives. Some countries like the Netherlands, Austria, Italy, France, West Germany, Switzerland, Denmark, Belgium, India, Japan, Canada, Australia, New Zealand and Ireland have succeeded so far in naming the chiefs of their majority party or groups of parties, commanding majority of members in

their respective Parliaments and allowing them to choose or form their Cabinets from amongst those who are, or are expected to be, elected members of their respective Parliaments.

Whereas each of the MPs of the Parliaments following the Westminster pattern are elected from single or double member constituencies, those of Denmark, Austria, Switzerland and the Netherlands, whose parliamentary systems have been studied with great care and in depth by Dr. Hans Daalder in this volume under review and also of several other west European countries, are elected by proportional representation, taking the whole country as one unit or on the basis of the zones within the country.

Political parties in democratic regimes all over the world have extended their help to the voters to learn how to vote, to whom to vote and why, and make their choice between contending candidates or contestants and their parties. Voters have got to be educated as to how to play their role in democracy and this function has come to be best performed by political parties, though many an interest group or agitational social or economic or political organisation have also been trying for the same during one or a number of parliamentary elections in many countries. Such interest groups or social-purpose-oriented organisations may be active during one or two elections, according to the exigencies, e.g. floating such appeals as Referendum for the extension of franchise for women or for lowering the voting age or for entry into European Common Market or some special social reform or welfare scheme. During all such parliamentary activities, political parties are needed by the general body of voters as well as the public in their efforts to make their choice and play their role as voters.

Plethora of parties has weakened the formation and working of coalitions either in power or in opposition. A minority party with a predominant political or religious or ethnic objectives seems to succeed temporarily in forcing one or the other dominant combination of parties either in power or in opposition to adopt a friendly, cooperative or associative attitude towards such group and its policy. However, such a development has not strengthened European democracies. To help in voting in elections for democratic legislatures and peaceful sponsorship of proposals for constructive political, economic, social and even moral issues and reforms have come to be the primary spheres of activity and *raison d'être* for political parties. They can function best and most peacefully in democracies, although they do function in some way or the other but generally in an underground or subdued or quasi-violent manner in open or undeclared dictatorial regimes.

The system of proportional representation of differing types has come to be in vogue in some smaller countries of Western Europe. It has resulted in the emergence of multiplicity of parties and parliamentary groups. It is true that through proportional representation almost all the voters, who choose to vote, have succeeded in getting their choices effectively reflected in the final selection of members of legislatures. But that very effective choice has also tended to

encourage the growth or presence of too many fragmentary parties or groups. Such an emergence of large number of politically noticeable parties or groups has made it difficult for their respective legislatures to depend upon harmonious groups of parties, which can be expected to converge into a dependable power-combine and provide an effective Cabinet capable of assuring some solvent and recognisable political leadership and carrying out some dependable social programme and economic direction and development. In practice, the experience of Belgium, the Netherlands and Switzerland shows that this tendency has, however, protected their democracies from too fast changes or too short-lived Cabinets, because of their political genius in developing coalitions between centre-right or centre-left parties and allowing one or more partners, as occasion demands, to differ from the Cabinet policies or voting decisions or whips and welcome the compensatory support from or agreement with the smaller or ultra-rightist or ultra-leftist or dissentient groups or parties. This tendency is specially noticeable in the Netherlands and Belgium. If we look at the growing tendency with Indian political parties in increasing number of States to break away from not only the century-old Mother Party, that is, the Indian National Congress, but also with such nascent parties like Janata or Lok Dal and form ever new groups or rejoin with the Mother Party or one or the other party, we have to be prepared for the possibility in the next few decades for Indian democracy's emergent need to share power with other groups or emulate the West European democratic coalitions, that is, plurality in parties or groups on the right and the left as well as the centre. It is wise not to assume that the Indian National Congress would be able to recapture its two-decade long (1946-66) good fortune of enjoying majority strength in all the legislatures of the States and at the Centre. It is wise for Indian parliamentarians and devotees of democracy to study carefully the experiences of the West European democracies of so-called "elitist" centrally-based coalition Ministries and be prepared to welcome the need for coalition Ministries.

Even now, it is any one's guess, if and when the National Congress can regain its former soloist majority in the assemblies of the States of Tamil Nadu, Karnataka, West Bengal and Andhra Pradesh, not to speak of Jammu and Kashmir. Like the Netherlands, Belgium and Switzerland with their plurality in linguistic, religious and other ethnic peoples, our States like Punjab, Tamil Nadu, Kerala and West Bengal cannot be expected to be content with their political comradeship within the Mother Party alone. With the restlessness of the tribals, Naxalite violent activities and communist sectarian politics in Orissa, Bihar and Madhya Pradesh, the Congress would go on yielding to its restless factions or socially heterogenous ethnic groups to the eventual formation of separatist groups or parties. The statesmanlike approach in India, especially for Congress leaders, would be to explore not only theoretically but also through practical political measures with regard to the growing number of States having their ethnic, religious, caste, tribal and linguistic problems.

We have fortunately opted for the ideal of secularism for our democracy. We are trying to pursue secular party politics. Nevertheless, some parties are pursu-

ing, openly or secretly, hard-headed religious party-politics. We are, however, generally obliged to compromise with secularism and welcome their cooperation or partnership either overtly or covertly in our political life. Even more openly and without professing universal secularism, the West European democracies have been welcoming and honouring different Christian parties, Catholics or Calvinists, or Protestants with their radical or socialist wings to play even major roles in their parties and certainly in the core of their parliamentary and ministerial careers; Communists and Socialists of those European democracies have had to make do with their religious-minded political parties. It is for the Indian democrats and socialists to study if this experience of European democracies has any lessons to offer in the making of our State-level Cabinets. We have also to take warning from the fundamentalists of several Muslim countries in Africa, the Gulf and West Asia and their challenge to democracy, secularism and parliamentarianism. Can we afford to compromise on this plane and in this sphere? These Dutch-cum-Nordic West European democracies as well as French, and West German, have made a success of their coalitions or Cabinets with the multiple splinter parties in the Opposition with varying degrees of obeying or respecting the whips of their respective parties and Cabinets, because during these four *décades* after the Second World War and its attendant restoration and reconstruction phases they have recognised the need for varying degrees and phases of discipline among Cabinets and their basic parties or groups.

Indian parliamentarians have got to learn the need for such tolerant approaches, pluralistic disciplines and varying differential politics practised in West European polities. Janata Party's governance in India during 1977-79 would have been longer and less painful for Indian democracy, if English-type of single-pointed discipline was not imposed on its Cabinet Ministers and if those who could not toe the general policy of the Cabinet had to persuade their other Cabinet colleagues from their constituent groups to be tolerant of each other's ideological, religious and ethnic compulsions. The informal leftist conclave in Parliament and Leftist coalitions in West Bengal and Kerala have been working on the lines of the West European democratic coalitions.

Defections from parties have grown to be a menace in the newly-liberated countries with their nascent democracies, especially because of the almost unappeasable thirst of legislators for obtaining berths in their Ministries. In older democracies with British-type of Cabinets, it is not unoften for the Prime Ministers, to agree to join the succeeding Ministries of the same parties or different coalitions as just Cabinet Ministers. Moreover, passion or fancy for ministerships is not so overwhelming in older democracies. So, contrary to the experience of European or Australasian democracies, Indian Parliament has found it necessary to prohibit defections through special legislation.

The Anti-Defection law of India has established a precedent in parliamentary democracy not only in respect of stability of political parties but also in streng-



thening the hold of the Prime Minister or the party leaders over their parties. How and to what extent this helps the parties and their leaders in ensuring reasonable degree of hegemony and tenure of leaders is studied in detail in another study, entitled "First Among Equals" published in 1985.

It is yet to be seen how far this prohibition of defection of legislators from their parties is likely to stabilise party system and strengthen democracy, when legislators are content to change their parties but persist in enjoying the privilege of belonging to their legislative parties, for example in India, as long as they abstain from opposing the Party Whips during parliamentary divisions.

The role allowed to be played by the constitutional head in calling anyone of the contenders to assume Prime Ministership, when none of the parties enjoys the support of clear majority of the members of a legislature (or Parliament), is dealt with in that book. In the Netherlands, it is an active role and it has helped their coalitions to choose their leaders in a harmonious and constructive manner. But in England, the choice of a majority party leader from Conservative Party when its members are not almost unanimous in choosing their leader, is pre-empted by the Crown calling upon one of the two contenders to form the Ministry. There is the question of choosing the leader of the majority party especially when it is a loose combination of the erstwhile separate parties as in India in the case of Janata in New Delhi in 1977 or in 1988 in that of AIADMK in Tamil Nadu when out of two rivals, one had to be chosen. On all such occasions, restraints posed by the Anti-Defection legislation tend to prevent the dismemberment or weakening the stability of party. Such questions have been dealt with only in the 1985 study "First Among Equals" by the British scholar, Patrick Weller.

The inter-relationship between Prime Ministers or leaders and their parties have been studied in depth by Weller in two Chapters "Prime Ministers and Party Influence" and "Incumbency and Vulnerability". In the social conditions as prevalent in infant democracies where there are tribal or caste loyalties and overwhelming passion for Ministerial power and patronage, this Anti-Defection legislation becomes indispensable to ensure discipline and loyalty among members towards their respective parties and consequently the stability in such parties.

Let us remember that the countries whose parliamentary parties have been studied in this book are only as small as many of India's smaller States and States like Uttar Pradesh, Bihar, Andhra Pradesh, Orissa, Maharashtra, Gujarat, Rajasthan, Karnataka, Madhya Pradesh, Tamil Nadu etc. are much bigger in their areas and populations. So frequent resort to devices like referendum, initiative and recall is not feasible in such bigger States. Unlike the literate, richer wordly-wise Europeans, Indian voters are mostly illiterate and poor and the modern educative mass media like the Press, Radio and T.V. are not within the reach of the great majority of them.

Even in Europe, these devices, except the referendum, are in practice not found, as indicated by these surveys under study, so easy to be utilised or so effective in gauging public opinion or supplementing the results of Parliament's proceedings. Even, referendum is being resorted to on a few occasions to decide the extreme or rare national disputes, such as the entry into the European Common Market, ethnic problems etc. Switzerland alone can be said to have made some effective use of these special devices. Referendum when resorted to in the form of a plebiscite as in Germany, under Hitler's pressures, proved to be destructive of the basis of Parliament. No wonder, Indian Constituent Assembly declined to adopt any of such devices. The Media has certainly come to supplement the educative, agitational and evocative functions of Parliament, and parties more particularly in the post-war decades. Its influence is found by these authors to be considerable in the experience of West European democracies. On many an occasion, they are found to be even more effective in forcing the Cabinets concerned to be reorganised or reorient their policies; especially since more or less all coalitions tend to be influenced or goaded or frightened by extra-parliamentary oppositional procedures and activities. This has been found to be a special experience of the Netherlands, Belgium and even Austria. The traditional parliamentary devices such as the private members' resolutions, adjournment motions, Bills, call-attentions, special mentions and even petitions are found to be less effective.

In India too, not only labour agriculturists, farmers and *khet mazdoors* (i.e. farm labourers) but also teachers and research workers, civil service ranks, railway and transport professionals and all other types of salaried and casual workers of State-owned enterprises have got into the habit of organising strikes, *dharnas* or sitting in and around Parliament or legislatures, all too frequently. Even the *gherao* of Ministers, Directors and Managers is being resorted to. The Press in India, as in all the western democracies, which have been studied by authors in this book, has continued the pre-Independence habit of anti-authority. Some of its sections have also come under the influence of vested interests of Elitist Management; overcoming the influence of the Government-managed Radio and T.V. So the public agitation in the streets and through the Press leading to or raising the tempo of threats, and even to the provoking of authority concerned to resort to the use of force have all come to usurp the functions of legislatures by over-taking or supplementing traditional parliamentary instruments or activities. All these and such other ever-ebullient intemperate expressions of discontent, disbelief, opposition or offensive demonstrations, by sections of the public have come to weaken or over-shadow parties' functions of siphoning, supplementing or ventilating public grievances, reactions or suggestions. So, Parliaments in the European, American and Australian continents have also come to extend their deliberative, promotional and cooperative activities in order to bring the ever-expanding arena of public debate and demonstration into somewhat orderly, peaceful and constructive sphere of democracy.

The most important functions of parties include helping the people to get themselves enrolled as voters to ensure that wrong or unqualified people are

not enrolled as voters, to guide voters as to when, where and how to vote, besides providing protection for voters from such organisations like the Ku Klux Klan in U.S.A., upper caste or religious zealots bent upon preventing groups of voters belonging to socially or economically weaker sections from exercising their right to vote and to prevent the polling officers from misleading voters.

In U.S.A., the political parties have fought for the rights of coloured or Black voters to vote freely and succeeded with the help of the coloured people's organisations in overcoming such troubles caused by 'White' conservatives. In India, our political parties have yet to gain initial successes. The Scheduled Caste and Tribe people are yet to overcome many a trouble since their voters are mostly illiterate, socially under-privileged, economically and politically weak and the coercive pressures of village leaders of all parties are largely unscrupulous and un-controlled. In this respect, the parties in West European democracies, certainly in the countries under the survey, have come to be scrupulous in helping the voters effectively. Thanks to the frequency of referendum and general elections, European voters are both wide awake and free from fear and their parties are both active and purposeful. To organise splinter groups to protect or espouse the cause of sectional or class or ethnic or religious or linguistic interests has tended to weaken the general effectiveness of political parties in democracies. Such has been the experience of every one of the European democracies under survey.

In some such military dictatorships as in Pakistan, Bangla Desh or in Inter-War Italy and Germany, Spain and Portugal, political parties functioned more or less in an underground quasi-violent manner. The West European democracies in the post-War decades have fortunately been free from such compulsions and even Catholics, Protestants, Jesuits, Calvinists, Flemish and such other groups are allowed to develop their political wings and platforms. Indian democracy at the Centre and in the States has also assured complete freedom for political parties, including even those with religious orientation. British parliamentarianism in these post war-decades, as is indicated, in the latest books "Ruling Performance—British Governments from Attlee to Thatcher", edited by Peter Herinassy and Seldon (1987) and "First Among Equals" by Patrick Weller (1985), with the interludes of Churchill, Wilson, Callaghan and Heath has succeeded in helping the British people to face the various phases of their economic and social upheavals in a non-violent and humanistic manner. So, the De'Gaullean phase of French democracy paved the way for much more stable Ministries, and sounder and more responsible political democratic parties. Their general momentum is towards more freedom to people and helpful response to the platforms and activities of political parties. The experience of all the West European democracies establishes the fact that the parties can discharge their functions only in democracies where fundamental political and civic freedoms prevail and futuristic, progressive and responsible politics, with a peaceful approach, are the main features of parties.

The experience of West European democracies, including these small countries under this special study, shows the pivotal role to be played by the constitutional Head of the State, whether it be the Monarch or the President, in helping their parties to form among themselves, suitable combinations or coalitions or "Consocialist" groups to function as the effective Cabinets. The formation of Cabinets take sometimes many a fortnight or month and even longer in the Netherlands. Yet their constitutional chiefs and parties are patient and in shaping such coalitions of parties as can assure stable Cabinet for long-enough periods; sometimes, for the whole tenure of their legislatures. When can Indian parties attain such patience? Would our Governors behave as scrupulously as the European Presidents? Is the Central Government patient, principled, non-partisan and cooperative enough, if not helpful, to let the concerned parties other than the ruling party or combination of parties, to adjust with each other and form effective coalition? The longevity of Indian democracy would depend upon the answers given to such questions and challenges. So far, European Monarchs or heads of State have set a high standard of patience and mutual forbearance among the so-called elitist or centrally-oriented dominant parties.

While experiments may be made by different States in India in the direction of coalitions, whether to rule or to offer constitutional opposition, it is high time for the major party, the Indian National Congress, to offer to go into coalition, in States where it has narrow majority or is the single-largest Party, nominally short of majority, instead of trying to log-roll or indulge in political jockeying or job-trafficking and consequently weathering possible political storms within its own ranks. Every care may, however, be taken to avoid the degeneration of our democracy to the level of pre-war French parties and their far-from-scrupulous-use or Trade for Power.

The most important and sensitive function of political parties is how to find finance for their establishments and the elections. Except one, in all these countries under survey, their respective governments pay subsidies towards election expenses. All of them have to find larger sums from non-governmental sources. Their financial accounts, during elections as well as non-election periods, are not audited publicly. Their collections are shrouded in secrecy. The candidates meet only a part of the expenses of election campaigning while industrialists, other vested interests and political sympathisers make contributions. How far and through what sources *quid pro quo* transactions *vis-a-vis* how much of their financial needs are being met, is anyone's guess. The experience of Indian parties is equally painful and mysterious. Whenever a party finds itself in charge of the 'governing cambine' its finances swell easily and its efforts to collect them are not so cumbersome. But their reputation for financial and other types of integrity is correspondingly poorer. Relatively less attention has been paid by scholars of this book to these aspects of the party management and consequent ill-reputation of parties.

There is a strong opinion growing in India in favour of public financing of parties contesting elections. But the ruling parties of different Governments and

equally the legislators have somehow been side-stepping this sensitive responsibility.

If and when proportional representation is introduced, the power of the party leaders in selecting their candidates in elections becomes so much more compelling and the nomination process in setting up candidates and ensuring their success becomes too serious. So the need for parties to develop democratic organisational process of choosing leaders at all levels becomes urgent. Yet democracy is being ill-served by the present-day unwillingness of the parties to be democratic. Indian democrats must beware of this threat to democracy and its progress.

The conclusions of this good book are generally based on the numerous detailed enquiries made and detailed answers elicited by means of so many questions circulated among different sections of society and voters of various classes and professions. Their conclusions are supported by 86 tables. Considerable efforts have been made to obtain detailed and sustainable inferences and information. Copious notes and references are amply provided. This book is certainly a model of the latest computer-calculations based study. I hope Indian researchers on the functioning of the Parliament and States Legislatures and political parties will also do such a scholarly study. Contribution of Indian Parliamentary life deserve such studies. Speaker Dr. Iswar Reddy has led the way in this direction. I congratulate the Editor of these studies, Dr. Hans Daakler and his colleagues, Mogens Pederson, Peter Gerlich, Henry Kerr, Wilfried Dewachter on their studies.

—PROFESSOR N.G. RANGA, M.P.

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**RECENT LITERATURE OF PARLIAMENTARY INTEREST**

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(Discusses the various factors responsible for bringing split in our secular polity and suggests measures to overcome them).

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## APPENDIX I

### STATEMENT SHOWING THE WORK TRANSACTED DURING THE NINTH SESSION OF THE EIGHTH LOK SABHA

1. PERIOD OF THE SESSION	6 November to 15 December 1987
2. NUMBER OF SITTINGS HELD	... 28
3. TOTAL NUMBER OF SITTING HOURS	176 hours and 37 minutes
4. NUMBER OF DIVISIONS HELD	... 11
5. GOVERNMENT BILLS	
(i) Pending at the commencement of the Session	13
(ii) Introduced	13
(iii) Laid on the Table as passed by Rajya Sabha	7
(iv) Returned by Rajya Sabha with any amendment/ recommendation and laid on the Table	Nil
(v) Referred to Select Committee	Nil
(vi) Referred to Joint Committee	Nil
(vii) Reported by Select Committee	Nil
(viii) Reported by Joint Committee	Nil
(ix) Discussed	21
(x) Passed	20
(xi) Withdrawn	1
(xii) Negatived	Nil
(xiii) Part-discussed	Nil
(xiv) Discussion postponed	Nil
(xv) Returned by Rajya Sabha without any recommendation	5
(xvi) Motion for concurrence to refer the Bill to Joint Committee adopted	1
(xvii) Pending at the end of the Session	12
6. PRIVATE MEMBERS' BILLS	
(i) Pending at the commencement of the Session	229
(ii) Introduced	22
(iii) Motion for leave to introduce negatived	Nil
(iv) Laid on the Table as passed by Rajya Sabha	Nil
(v) Returned by Rajya Sabha with any amendment and laid on the Table	... Nil
(vi) Reported by Select Committee	... Nil
(vii) Discussed	... 2
(viii) Passed	... Nil
(ix) Withdrawn	... Nil
(x) Negatived	... 1
(xi) Circulated for eliciting opinion	... Nil
(xii) Part-discussed	... 1
(xiii) Discussion postponed	... Nil
(xiv) Motion for circulation of Bill negatived	... Nil
(xv) Referred to Select Committee	... Nil
(xvi) Removed from the Register of Pending Bills	... Nil
(xvii) Pending at the end of the Session	... 250

<b>7.</b>	<b>NUMBER OF DISCUSSIONS HELD UNDER RULE 193</b> <b>(Matters of Urgent Public Importance)</b>	
	(i) Notices received	<b>446</b>
	(ii) Admitted	<b>9</b>
	(iii) Discussion held	<b>9</b>
	(iv) Part discussed	<b>2</b>
<b>8.</b>	<b>NUMBER OF STATEMENTS MADE UNDER RULE 197</b> <b>(Calling Attention to Matters of Urgent Public Importance)</b>	
	Statements made by Ministers	<b>3</b>
<b>9.</b>	<b>MOTION OF NO-CONFIDENCE IN COUNCIL OF MINISTERS</b>	
	(i) Notices received	<b>3</b>
	(ii) Admitted and Discussed	<b>1</b>
	(iii) Barred	<b>—</b>
	<b>143</b>	
<b>10.</b>	<b>HALF-AN-HOUR DISCUSSIONS HELD</b>	<b>6</b>
<b>11.</b>	<b>STATUTORY RESOLUTIONS</b>	
	(i) Notices received	<b>19</b>
	(ii) Admitted	<b>5</b>
	(iii) Moved	<b>3</b>
	(iv) Adopted	<b>1</b>
	(v) Negatived	<b>2</b>
	(vi) Withdrawn	<b>Nil</b>
<b>12.</b>	<b>GOVERNMENT RESOLUTIONS</b>	
	(i) Notices Received	<b>Nil</b>
	(ii) Admitted	<b>Nil</b>
	(iii) Moved	<b>Nil</b>
	(iv) Adopted	<b>Nil</b>
<b>13.</b>	<b>PRIVATE MEMBERS' RESOLUTIONS</b>	
	(i) Received	<b>8</b>
	(ii) Admitted	<b>8</b>
	(iii) Discussed	<b>1</b>
	(iv) Adopted	<b>Nil</b>
	(v) Negatived	<b>Nil</b>
	(vi) Withdrawn	<b>Nil</b>
	(vii) Part-discussed	<b>1</b>
	(viii) Discussions postponed	<b>Nil</b>
<b>14.</b>	<b>GOVERNMENT MOTIONS</b>	
	(i) Notices received	<b>2</b>
	(ii) Admitted	<b>2</b>
	(iii) Discussed	<b>—</b>
	(iv) Adopted	<b>—</b>
	(v) Part-discussed	<b>—</b>

15. PRIVATE MEMBERS' MOTIONS

(i) Notices received	... 351
(ii) Admitted	... 74
(iii) Moved	... —
(iv) Discussed	... —
(v) Adopted	... —
(vi) Negatived	... —
(vii) Withdrawn	... —
(viii) Part-discussed	... —

16. MOTION RE: MODIFICATION OF STATUTORY RULE

(i) Received	... Nil,
(ii) Admitted	... Nil
(iii) Moved	... Nil
(iv) Discussed	... Nil
(v) Adopted	... Nil
(vi) Negatived	... Nil
(vii) Withdrawn	... Nil
(viii) Part-discussed	... Nil

17. NUMBER OF PARLIAMENTARY COMMITTEES CONSTITUTED, IF ANY, DURING THE SESSION ... Nil

18. TOTAL NUMBER OF VISITORS' PASSES ISSUED DURING THE SESSION 18,991

19. MAXIMUM NUMBER OF VISITORS' PASSES ISSUED ON ANY SINGLE DAY ... 1,356  
AND DATE ON WHICH ISSUED ... on 10 December 1987

20. NUMBER OF ADJOURNMENT MOTIONS

(i) Brought before the House	... Nil
(ii) Admitted and discussed	... Nil
(iii) Barred in view of adjournment motion admitted on the subject	... Nil
(iv) Consent withheld by Speaker outside the House	... 149
(v) Consent given by Speaker but leave not granted by the House	... Nil

21. TOTAL NUMBER OF QUESTIONS ADMITTED

(i) Starred	... 520
(ii) Unstarred (including Starred Questions converted as Unstarred Questions)	... 5,447
(iii) Short-Notice Questions	... 5

**22. WORKING OF PARLIAMENTARY COMMITTEES**

Sl. No.	Name of the Committee	No. of sittings held during the period 1 October to 31 December	No. of Reports presented to the House during the Ninth Session
1	2	3	4
(i)	Business Advisory Committee	6	6
(ii)	Committee on Absence of Members	1	1
(iii)	Committee on Public Undertakings	17	1
(iv)	Committee on Papers Laid on the Table	2	1
(v)	Committee on Petitions	8	
(vi)	Committee on Private Members Bills and Resolutions	4	4
(vii)	Committee on the Welfare of Scheduled Castes and Scheduled Tribes	5	3
(viii)	Committee of Privileges	1	
(ix)	Committee on Government Assurances	2	1
(x)	Committee on Subordinate Legislation	6	2
(xi)	Estimates Committee	10	
(xii)	General Purposes Committee		
(xiii)	House Committee		
	(a) Accommodation Sub-Committee		
	(b) Sub-Committee on Amenities		
	(c) Sub-Committee on Furnishing		
(xiv)	Public Accounts Committee	12	
(xv)	Railway Convention Committee	1	
(xvi)	Rules Committee	1	
JOINT /SELECT COMMITTEES			
(i)	Joint Committee on Offices of Profit	4	1
(ii)	Joint Committee on Salaries and Allowances of Members of Parliament	5	
(iii)	Joint Committee on Lok Pal Bill, 1985	1	
(iv)	Joint Committee on Railways Bill, 1986	3	



- 23. NUMBER OF MEMBERS GRANTED LEAVE OF ABSENCE 9
- 24. PETITIONS PRESENTED 2
- 25. NUMBER OF NEW MEMBERS SWORN WITH DATE

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No. of Members sworn	Date on which sworn
1	11.11.87

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## APPENDIX II

### STATEMENTS SHOWING THE WORK TRANSACTED DURING THE HUNDRED AND FORTY-FOURTH SESSION OF RAJYA SABHA

1.	PERIOD OF THE SESSION	...6 November to 16 December 1987
2.	NUMBER OF SITTINGS HELD	... 29
3.	TOTAL NUMBER OF SITTING HOURS	197 hours and 04 minutes
4.	NUMBER OF DIVISIONS HELD	... 7
5.	GOVERNMENT BILLS	
	(i) Pending at the Commencement of the Session	... 12
	(ii) Introduced	... 8
	(iii) Laid on the Table as passed by Lok Sabha	... 15
	(iv) Returned by Lok Sabha with any amendment	... Nil
	(v) Referred to Select Committee by Rajya Sabha	... Nil
	(vi) Referred to Joint Committee by Rajya Sabha	... 1
	(vii) Reported by Select Committee	... Nil
	(viii) Reported by Joint Committee	... Nil
	(ix) Discussed	... 22
	(x) Passed	... 22
	(xi) Withdrawn	... 1
	(xii) Negatived	... Nil
	(xiii) Part-discussed	... Nil
	(xiv) Returned by Rajya Sabha without any recommendation	... 5
	(xv) Discussion postponed	... Nil
	(xvi) Pending at the end of the Session	... 12
6.	PRIVATE MEMBERS BILLS	
	(i) Pending at the commencement of the Session	... 55
	(ii) Introduced	... 8
	(iii) Laid on the Table as passed by Lok Sabha	... Nil
	(iv) Returned by Lok Sabha with any amendment and laid on the Table	... Nil ...
	(v) Reported by Joint Committee	... Nil
	(vi) Discussed	... 3
	(vii) Withdrawn	... 2
	(viii) Passed	... Nil
	(ix) Negatived	... Nil
	(x) Circulated for eliciting opinion	... Nil
	(xi) Part-discussed	... 1
	(xii) Discussion postponed	... Nil
	(xiii) Motion for circulation of Bill negatived	... Nil
	(xiv) Referred to Select Committee	... Nil
	(xv) Lapsed due to retirement/death of Member-in-charge of the Bill	... Nil ...
	(xvi) Pending at the end of the Session	... 61

<b>7. NUMBER OF DISCUSSIONS HELD UNDER RULE 176 (Matters of Urgent Public Importance)</b>	
(i) Notices received	... 108
(ii) Admitted	... 5
(iii) Discussions held	... 5
<b>8. NUMBER OF STATEMENTS MADE UNDER RULE 180 (Calling-Attention to Matters of Urgent Public Importance)</b>	
Statements made by Ministers	... 2
<b>9. HALF-AN-HOUR DISCUSSIONS HELD</b>	... 3
<b>10. STATUTORY RESOLUTIONS</b>	
(i) Notices received	... 25
(ii) Admitted	... 23
(iii) Moved	... 4
(iv) Adopted	... 1
(v) Negatived	... 2
(vi) Withdrawn	... 1
<b>11. GOVERNMENT RESOLUTIONS</b>	
(i) Notices received	... Nil
(ii) Admitted	... Nil
(iii) Moved	... Nil
(iv) Adopted	... Nil
<b>12. PRIVATE MEMBERS RESOLUTIONS</b>	
(i) Received	... 12
(ii) Admitted	... 12
(iii) Discussed	... 1
(iv) Withdrawn	... 1
(v) Negatived	... Nil
(vi) Adopted	... Nil
(vii) Part-discussed	... Nil
(viii) Discussion postponed	... Nil
<b>13. GOVERNMENT MOTIONS</b>	
(i) Notices received	... 2
(ii) Admitted	... 2
(iii) Moved	... Nil
(iv) Adopted	... Nil
(v) Part-discussed	... Nil
<b>14. PRIVATE MEMBERS' MOTIONS</b>	
(i) Received	... 201
(ii) Admitted	... 201
(iii) Moved	... Nil
(iv) Adopted	... Nil

(v) Part-discussed	... Nil
(vi) Negatived	... Nil
(vii) Withdrawn	... Nil

## 15. MOTIONS REGARDING MODIFICATION OF STATUTORY RULE

(i) Received	... Nil
(ii) Admitted	... Nil
(iii) Moved	... Nil
(iv) Adopted	... Nil
(v) Negatived	... Nil
(vi) Withdrawn	... Nil
(vii) Part-discussed	... Nil

## 16. NUMBER OF PARLIAMENTARY COMMITTEES CREATED, IF ANY, DURING THE SESSION

... Nil

## 17. TOTAL NUMBER OF VISITORS' PASSES ISSUED

3,176

## 18. TOTAL NUMBER OF PERSONS VISITED

5,175

## 19. MAXIMUM NUMBER OF VISITORS' PASSES ISSUED ON ANY SINGLE DAY AND DATE ON WHICH ISSUED

... 230

On 10 December 1987

## 20. MAXIMUM NUMBER OF PERSONS VISITED ON ANY SINGLE DAY AND DATE ON WHICH VISITED

... 542 on

3 December  
1987

## 21. TOTAL NUMBER OF QUESTIONS ADMITTED

(i) Starred	... 512
(ii) Unstarred	... 3,850
(iii) Short Notice Questions	... Nil

## 22. DISCUSSION ON THE WORKING OF THE MINISTRIES

Nil

## 23. WORKING OF PARLIAMENTARY COMMITTEES

---

Name of Committee	No. of meetings held during 1 October to 31 December 1987	No. of Reports presented during the session
(i) Business Advisory Committee	7	Nil
(ii) Committee on Subordinate Legislation	5	Nil
(iii) Committee on Petition	10	Nil
(iv) Committee on Privileges	Nil	Nil
(v) Committee on Rules	Nil	Nil
(vi) Committee on Government Assurances	12	1
(vii) Committee on Papers Laid on the Table	3	3

---

## 24. NUMBER OF MEMBERS GRANTED LEAVE OF ABSENCE

... Nil

## 25. PETITIONS PRESENTED

... Nil

## 26 NAMES OF NEW MEMBERS SWORN WITH DATES

S.No.	Name of Members sworn	Date on which sworn
1.	Shri Mohd. Khaleelur Rehman	6.11.1987
2.	Shri Khamsum Namgual Pulger	6.11.1987

## 27. OBITUARY REFERENCES

S.No.	Name	Sitting Member/ Ex-Member
1.	Dr. K. Mathew Kurian	Ex-member
2.	Shri Satyendra Prasad Ray	Ex-member
3.	Shri Ramchandra Bhardwaj	Ex-member
4.	Shri Rohit Manushankar Dave	Ex-member
5.	Shrimati Fathema Ismail	Ex-member
6.	Shri Mahendra Singh Ranawat	Ex-member
7.	Shri P. Ramamurti	Ex-member

**APPENDIX III**  
**STATEMENT SHOWING THE ACTIVITIES OF THE LEGISLATURES OF STATES AND UNION TERRITORIES**  
**DURING THE PERIOD 1 OCTOBER TO 31 DECEMBER 1987**

Legislature	Duration	Sittings	Govt. Bills	Private Bills	Starred Questions	Unstarred Questions	Short Notice Questions
1	2	3	4	5	6	7	8
<b>STATES</b>							
Andhra Pradesh L.A.	11.12.87 to 18.12.87	6	17(7)	—	351(84)(a)	(83)(b)	50(1)
Arunachal Pradesh L.A.	—	—	—	—	—	—	—
Assam L.A.	—	—	—	—	—	—	—
Bihar L.A.	—	—	—	—	—	—	—
Bihar L.C.	—	—	—	—	—	—	—
Goa L.A.	—	—	—	—	—	—	—
Gujarat L.A.	—	—	—	—	—	—	—
Haryana L.A.	21.12.87 to 24.12.87	4	10(10)	—	222(130)	51(34)	—
Himachal Pradesh L.A.	22.12.87 to 30.12.87	6	4(4)	—	459(262)(c)	25(122)(d)	3
Jammu & Kashmir L.A.	—	—	—	—	—	—	—
Jammu & Kashmir L.C.	30.11.87 to 19.12.87	12	3(3)	—	223(219)	35(35)	1
Karnataka L.A.	—	—	—	—	—	—	—
Karnataka L.C.	—	—	—	—	—	—	—
Kerala L.A.	2.11.87 to 13.12.87	31	20(17)	—	7,912(2,396)(e)	(4,268)	12(1)
Madhya Pradesh L.A.	—	—	—	—	—	—	—
Maharashtra L.A.	—	—	—	—	—	—	—
Maharashtra L.C.	—	—	—	—	—	—	—
Manipur L.A.	—	—	—	—	—	—	—
Meghalaya L.A.	—	—	—	—	—	—	—
Mizoram L.A.	—	—	—	—	—	—	—
Nagaland L.A.	7.12.87*	1	—	—	—	—	—
Orissa L.A.	—	—	—	—	—	—	—
Punjab L.A.	—	—	—	—	—	—	—

1	2	3	4	5	6	7	8
Rajasthan L.A.	7.10.87 to 11.11.87	12	24(19)	—	981(351)	858(398)	8
Sikkim L.A.	—	—	—	—	—	—	—
Tamil Nadu L.A.	9.11.87 to 18.11.87	10	23(23)	—	964(250)	195(195)	—
Tripura L.A.	—	—	—	—	—	—	—
Uttar Pradesh L.A.	29.12.87 to 5.1.88	7	3(3)	2	2,226(993) <sup>(n)</sup>	1,581(1,669) <sup>(o)</sup>	817(83)
Uttar Pradesh L.C.	29.12.87 to 5.1.88	6	(3)	1	538(377) <sup>(n)</sup>	6(31) <sup>(o)</sup>	27(27)
West Bengal L.A.	—	—	—	—	—	—	—
UNION TERRITORIES							
Delhi Metropolitan Council	21.12.87 to 23.12.87	3	2(1)	—	45(45)	162(154)	2(2)
Daman and Diu L.A.	—	—	—	—	—	—	—
Pondicherry L.A.	4.11.87*	1	2(2)	—	—	—	—

\* Adjourned on the same day.

NOTES:

- (i) Figures in Cols. 4 and 5 indicate the number, respectively, of Government and Private Members' Bills introduced with the number of Bills passed in brackets.
- (ii) Figures in Cols. 6, 7 and 8 indicate the number of notices received followed by the number of notices admitted in brackets.
  - (a) The figure 84 includes 6 Short Notice Questions admitted as Starred.
  - (b) Notices for 83 Starred Questions were admitted as Unstarred.
  - (c) The figure 262 includes 9 notices postponed from previous Session.
  - (d) The figure 122 includes 88 notices for Starred Questions classified as Unstarred, and 9 notices postponed from previous Session.
  - (e) The figure 7,912 represents the total number of Questions received.
  - (f) The figure 993 includes 149 Short Notice Questions admitted as Starred.
  - (g) The figure 1,669 includes 629 notices for Starred Questions and 462 Short Notice Questions admitted as Unstarred.
  - (h) The figure 377 includes 4 Short Notice Questions admitted as Starred.
  - (i) The figure 31 includes 23 notices for Starred Questions and 2 Short Notice Questions admitted as Unstarred.

## APPENDIX III (Contd.)

## COMMITTEES AT WORK/NUMBER OF SITTINGS HELD AND NUMBER OF REPORTS PRESENTED

	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Business Advisory Committee																
Committee on Govt. Assurances																
Committee on Petitions																
Committee on Private Members' Bills and Resolutions																
Committee of Privileges																
Committee on Public Undertakings																
Committee on Subordinate Legislation																
Committee on the Welfare of SC and ST																
Estimates Committee																
General Purposes Committee																
House/Accommodation Committee																
Library Committee																
Public Accounts Committee																
Rules Committee																
Joint/Select Committee																
Other Committees																
STATES																
Andhra Pradesh L.A.	2(2)	14	3	—	2	10	6	18(e)	—	—	—	1	10	—	9(b)	7(c)
Arunachal Pradesh L.A.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Assam L.A.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bihar L.A.	—	21	24	—	11	48	10	19	32	—	15	15	22	10	4	46(d)
Bihar L.C.	—	15	14	10	10	—	11	16	—	12	10	15	—	—	—	24(e)





- (c) Committee on Backward Classes—7 sittings.
- (d) Questions and Calling Attention Committee—25 sittings; and Zila Parishad and Panchayati Raj Committee—21 sittings.
- (e) Questions and Calling Attention Committee—24 sittings.
- (f) Committee on the Welfare of the Scheduled Castes—6 sittings; and Committee on the Welfare of the Scheduled Tribes—4 sittings.
- (g) Select Committee on the Gujarat Entry Tax Bill, 1987—1 sitting.
- (h) Panchayati Raj Committee—8 sittings; Committee on the Welfare of Socially and Educationally Backward Classes, Nomadic Tribes and Denotified Tribes—6 sittings; and Members' Allowances Rules Committee—2 sitting.
- (i) Committee on Papers Laid on the Table—3 sittings; and Official Language Implementation Committee—2 sittings.
- (j) Committee on the Jammu and Kashmir Fruit Nurseries (Licensing) Bill, 1987—2 sittings.
- (k) Backward Classes Committee—28 sittings.
- (l) Subject Committee on Agriculture and Integrated Rural Development—1 sitting; Subject Committee on Irrigation and Power—1 sitting; Subject Committee on Industry and Minerals—2 sittings and 1 report; Subject Committee on Public Works, Transport and Communications—1 sitting; Subject Committee on Social Services—1 sitting and 1 report; Subject Committee on Food, Housing and Labour—1 sitting and 1 report; Subject Committee on Local Administration and Cooperation—4 sittings and 4 reports; and Subject Committee on Home Affairs—4 sittings and 2 reports.
- (m) Committee on the Welfare of the Scheduled Castes—21 sittings; and Committee on the Welfare of the Scheduled Tribes—27 sittings.
- (n) Committee on Papers Laid on the Table—2 sittings and 1 report.
- (o) Enquiry Committee—5 sittings and 1 report; and Questions and References Committee—3 sittings.
- (p) Financial and Administrative Delays Committee—42 sittings; Compilation of Ruling Committee—16 sittings; Parliamentary Studies Committee—16 sittings; Sansadīya Evam Samajik Sadbhav Committee—14 sittings; and Questions and References Committee—26 sittings.
- (q) Committee on Delhi Pawn Brokers' Bill, 1983—4 sittings and 1 report; Committee on Delhi Advocates' Welfare Fund Bill, 1983—3 sittings; and 1 report; and Committee on Delhi Agricultural Credit Operations Bill, 1983—3 sittings and 1 report.

## APPENDIX IV

### LIST OF BILLS PASSED BY THE HOUSES OF PARLIAMENT AND ASSENTED TO BY THE PRESIDENT DURING THE PERIOD 1 OCTOBER TO 31 DECEMBER 1987

S. No.	Title of the Bill	Date of assent by the President
1	2	3
1.	The Legal Services Authorities Bill, 1987	11.10.1987
2.	The Representation of the People (Third Amendment) Bill, 1987	27.11.1987
3.	The Shipping Development Fund Committee (Abolition) Amendment Bill, 1987	2.12.1987
4.	The Metro Railways (Construction of Works) Amendment Bill, 1987	9.12.1987
5.	The Constitution (Scheduled Tribes) Order (Amendment) Bill, 1987	9.12.1987
6.	The Constitution (Fifty-eighth Amendment) Bill, 1987	9.12.1987
7.	The Auroville (Emergency Provisions) Amendment Bill, 1987	11.12.1987
8.	The Appropriation (No. 5) Bill, 1987	16.12.1987
9.	The Finance (Amendment) Bill, 1987	16.12.1987
10.	The Air (Prevention and Control of Pollution) Amendment Bill, 1987	16.12.1987
11.	The High Court Judges (Conditions of Service) Amendment Bill, 1987	16.12.1987
12.	The Equal Remuneration (Amendment) Bill, 1987	16.12.1987
13.	The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Bill, 1987	16.12.1987
14.	The Administrative Tribunals (Amendment) Bill, 1987	22.12.1987
15.	The All India Council for Technical Education Bill, 1987	23.12.1987
16.	The National Housing Bank Bill, 1987	23.12.1987
17.	The Railway Claims Tribunal Bill, 1987	23.12.1987

## APPENDIX V

### LIST OF BILLS PASSED BY THE LEGISLATURES OF STATES AND UNION TERRITORIES DURING THE PERIOD 1 OCTOBER TO 31 DECEMBER 1987

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#### STATES

##### ANDHRA PRADESH LEGISLATIVE ASSEMBLY

1. The A.P. Mandala Praja Parishads, Zilla Praja Parishads and Zilla Abhivrudhi Sameeksha Mandals (Second Amendment) Bill, 1987.
2. The Andhra Pradesh Gram Panchayats Law (Amendment) Bill, 1987.
3. The University of Health Sciences (Second Amendment) Bill, 1987.
4. The Andhra Pradesh Sports Authorities Bill, 1987.
5. The Andhra Pradesh University Acts (Amendment) Bill, 1987.
6. The Andhra Pradesh Rashtra Karshak Parishad and Allied Bodies (Amendment) Bill, 1987.
7. The Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Bill, 1987.

##### HARYANA VIDHAN SABHA

- \*1. The Punjab Agricultural Produce Markets (Haryana Amendment) Bill, 1987.
- \*2. The Haryana Co-operative Societies (Amendment) Bill, 1987.
- \*3. The Haryana Appropriation (No. 5) Bill, 1987.
- \*4. The Haryana Public Wakfs (Extension of Limitation) Bill, 1987.
- \*5. The Haryana Municipal (Amendment) Bill, 1987.
- \*6. The Haryana Urban Development Authority (Amendment) Bill, 1987.
- \*7. The Haryana General Sales Tax (Second Amendment and Validation) Bill, 1987.
- \*8. The Punjab Passengers and Goods Taxation (Haryana Amendment and Validation) Bill, 1987.
- \*9. The Haryana Legislative Assembly (Facilities to Members) Second Amendment Bill, 1987.
- \*10. The Haryana Canal and Drainage (Amendment) Bill, 1987.

##### HIMACHAL PRADESH VIDHAN SABHA

1. The Himachal Pradesh Requisition of Immovable Property Bill, 1987.
2. The Himachal Pradesh Appropriation (No. 5) Bill, 1987.
3. The Himachal Pradesh Lokayukta (Third Amendment) Bill, 1987.
4. The Code of Criminal Procedure (Himachal Pradesh Amendment) Bill, 1987.

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\* Awaiting assent.

## JAMMU &amp; KASHMIR LEGISLATIVE COUNCIL

1. The J & K (Prevention of Unfair Means) Examination Bill, 1987.
2. The Constitution of Jammu & Kashmir (20th Amendment) Bill, 1987.
3. The J & K Mulberry Protection (Amendment) Bill, 1987.
4. The J & K State Evacuees (Administration of Property) (Amendment) Bill, 1987.
5. The Transfer of Property (Second Amendment) Bill, 1987.
6. The Jammu & Kashmir Fruit Nurseries (Licensing) Bill, 1987.
7. The Jammu & Kashmir Common Lands (Regulation) (Amendment) Bill, 1987.

## KERALA LEGISLATIVE ASSEMBLY

1. The Code of Civil Procedure (Kerala Amendment) Bill, 1987.
2. The Kerala Panchayat (Amendment) Bill, 1987.
3. The Kerala Municipalities (Second Amendment) Bill, 1987.
4. The Kerala Municipal Laws Amendment (Second Amending) Bill, 1987.
5. The Kerala Municipal Corporations (Amendment) Bill, 1987.
- \*6. The Kerala Blind School Society, Alwaye (Taking Over of Management) Bill, 1987.
7. The Kerala Appropriation (No. 3) Bill, 1987.
8. The Kerala Appropriation (No. 4) Bill, 1987.
9. The Kerala Appropriation (No. 5) Bill, 1987.
10. The Kerala Appropriation (No. 6) Bill, 1987.
11. The Kerala Appropriation (No. 7) Bill, 1987.
12. The Kerala Appropriation (No. 8) Bill, 1987.
13. The Kerala Appropriation (No. 9) Bill, 1987.
- \*14. The Kerala Coir Workers' Welfare Fund Bill, 1987.
15. The Payment of Salaries and Allowances (Amendment) Bill, 1987.
- \*16. The Kerala Cashew Workers Relief and Welfare Fund (Amendment) Bill, 1987.
- \*17. The Kerala Public Men's (Investigations and Inquiries) Bill, 1987.

## RAJASTHAN LEGISLATIVE ASSEMBLY

1. Rajasthan Viniyog (Sankhya-3) Vidheyak, 1987.
2. Rajasthan Viniyog (Sankhya-4) Vidheyak, 1987.
3. Rajasthan Abnidhriti (Dwitiya Sanshodhan) Vidheyak, 1987.
4. Rajasthan Vikraya Kar (Sanshodhan) Vidheyak, 1987.
5. Rajasthan Stamp Vidhi (Anukulan) (Sanshodhan) Vidheyak, 1987.

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\* Awaiting assent.

- 6 Rajasthan Vishvavidyalaya (Sanshodhan) Vidheyak, 1987.
- 7 Rajasthan Nyayalaya Fees tatha Vaad Mulyankan (Sanshodan) Vidheyak, 1987.
- 8 Rajasthan Nagarpalika (Sanshodhan evam Vidhi Manyakaran) Vidheyak, 1987.
- 9 Jaipur Vikas Pradhikaran (Sanshodhan) Vidheyak, 1987.
- 10 Rajasthan Parisar (Kiraya tatha Bedakhli Niyantran) (Sanshodhan) Vidheyak, 1987.
- 11 Rajasthan Krishi Vishvavidyalaya Bikaner Vidheyak, 1987.
- 12 Rajasthan Nagar Sudhar (Sanshodhan) Vidheyak, 1987.
- 13 Rajasthan Bhu-Rajasv (Dwitiya Sanshodhan) Vidheyak, 1987.
- 14 Kota Khula Vishvavidyalaya Vidheyak, 1987.
- 15 Mohan Lal Sukhadia Vishvavidyalaya (Sanshodhan) Vidheyak, 1987.
- 16 Rajasthan Viniyog (Sankhya-5) Vidheyak, 1987.
- 17 Ajmer Vishvavidyalaya Vidheyak, 1987.
- 18 Rajasthan Sati Nivaran Vidheyak, 1987.
- 19 Rajasthan Bhu-dan Yajna (Sanshodhan) Vidheyak, 1987.

TAMIL NADU LEGISLATIVE ASSEMBLY

- \*1. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Bill, 1987.
2. The Tamil Nadu Medical University (Amendment) Bill, 1987.
- \*3. The Tamil Nadu Motor Vehicles (Special Provisions) Bill, 1987.
4. The Tamil Nadu State Housing Board (Amendment) Bill, 1987.
5. The Tamil Nadu Cinemas (Regulation) Third Amendment Bill, 1987.
6. The Tamil Nadu Contingency (Second Amendment) Bill, 1987.
7. The Tamil Nadu Agricultural Produce Markets and the Tamil Nadu Agricultural Produce Markets (Amendment and Special Provisions) Amendment Bill, 1987.
8. The Tamil Nadu Payment of Salaries (Amendment) Bill, 1987.
- \*9. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Bill, 1987.
- \*10. The Pachaiyappa's Trust (Taking over of Management) Second Amendment Bill, 1987.
- \*11. The Pachaiyappa's Trust and the Scheduled Public Trusts and Endowments (Taking over of Management) Third Amendment Bill, 1987.
12. The Tamil Nadu Advocates Welfare Fund Bill, 1987.
13. The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers (Amendment) Bill, 1987.
14. The Tamil Nadu Exhibition of Films on Television Screen through Video Cassette Recorders (Regulation) Amendment Bill, 1987.

15. The Tamil Nadu General Sales Tax (Fifth Amendment) Bill, 1987.
16. The Tamil Nadu Appropriation (No. 3) Bill, 1987
17. The Tamil Nadu Payment of Pension to Tamil Scholars and Miscellaneous Provisions (Amendment) Bill, 1987.
- \*18. The Tamil Nadu Debt Relief (Second Amendment) Bill, 1987.
19. The Tamil Nadu Entertainments Tax (Third Amendment) Bill, 1987.
20. The Tamil Nadu General Sales Tax (Sixth Amendment) Bill, 1987.
21. The Tamil Nadu General Sales Tax (Validation) Bill, 1987.
22. The Tamil Nadu Appropriation (No. 4) Bill, 1987.
23. The Tamil Nadu Appropriation (No. 5) Bill, 1987.

UTTAR PRADESH VIDHAN SABHA

1. The Uttar Pradesh Cooperative Societies (Third Amendment) Bill, 1987.
2. The Uttar Pradesh Urban Local Self-Government Laws (Second Amendment) Bill, 1987.
3. The Uttar Pradesh Appropriation (Supplementary 1987-88) Bill, 1987.

UTTAR PRADESH LEGISLATIVE COUNCIL

1. The Uttar Pradesh Urban Local Self Government Laws (Second Amendment) Bill, 1987.
2. The Uttar Pradesh Cooperative Societies (Third Amendment) Bill, 1987.
3. The Uttar Pradesh Appropriation (Supplementary 1987-88) Bill, 1988.

UNION TERRITORIES

DELHI METROPOLITAN COUNCIL

The Delhi Motor Vehicles Taxation (Amendment) Bill, 1987.

PONDICHERRY LEGISLATIVE ASSEMBLY

1. The Pondicherry Housing Board (Amendment) Bill, 1987.
2. The Pondicherry Buildings (Lease and Rent Control) Amendment Bill, 1987.

## APPENDIX VI

## ORDINANCES ISSUED DURING THE PERIOD 1 OCTOBER TO 31 DECEMBER 1987

S.No.	Subject	Date of promulgation	Date on which laid before the House	Date of Cessation	Remarks
1	2	3	4	5	6
CENTRAL GOVERNMENT					
1.	The Auroville (Emergency Provisions) Amendment Ordinance, 1987 No. 8 of 1987	28.10.87	6.11.87	—	Replaced by Legislation
2.	The Delhi Municipal Corporation (Second Amendment) Ordinance, 1987 (No. 9 of 1987)	24.12.87	23.2.88	Shall cease to operate at the expiration of six weeks from the reassembly of Parliament	—
3.	The Delhi Administration (Amendment) Ordinance, 1987 (No. 10 of 1987)	—do—	—do—	—do—	—
STATE GOVERNMENTS					
ANDHRA PRADESH					
	The Andhra Pradesh Mandala Praja Parishads, Zilla Praja Parishads and Zilla Abpivrudhi Sameeksha Mandals (Second Amendment) Ordinance, 1987.	8.9.87	11.12.87	—	Replaced by Legislation



					Replaced by Legislation
2.	The Andhra Pradesh Gram Panchayat Laws (Amendment) Ordinance, 1987.	26.9.87	11.12.87	—	—do—
3.	The University of Health Sciences (Second Amendment) Ordinance, 1987.	29.9.87	—do—	—	—do—
4.	The Andhra Pradesh Sports Authorities Ordinance, 1987.	24.10.87	—do—	—	—do—
5.	The Andhra Pradesh University Acts (Amendment) Ordinance, 1987.	8.11.87	—do—	—	—do—
6.	The Andhra Pradesh Rashtra Karshak Parishad and Allied Bodies (Amendment) Ordinance, 1987.	14.11.87	—do—	—	—do—
		GUJARAT			
1.	The Gujarat Contingency Fund (Temporary Increase) Ordinance, 1987.	21.10.87	—	—	—
		HARYANA			
1.	The Punjab Passengers and Goods Taxation (Haryana Amendment and Validation) Ordinance, 1987.	31.8.87	21.12.87	—	Bill passed by the Assembly. Governor's assent awaited.
2.	The Haryana Municipal (Amendment) Ordinance, 1987.	—do—	—do—	—	—do—
3.	The Haryana Urban Development Authority (Amendment) Ordinance, 1987.	11.9.87	—do—	—	—do—

1	2	3	4	5	6
4.	The Haryana Canal and Drainage (Amendment) Ordinance, 1987.	16.9.87	--do--	--	--do--
5.	The Haryana Legislative Assembly (Facilities to Members) Second Amendment Ordinance, 1987.	30.11.87	--do--	--	--do--
HIMACHAL PRADESH					
1.	The Himachal Pradesh Requisition of Immovable Property Ordinance, 1987.	30.9.87	22.12.87	3.2.88	Replaced by Legislation
KARNATAKA					
1.	The Karnataka Agricultural Produce Marketing (Regulation) (Second Amendment) Ordinance, 1987.	19.11.87	--	--	--
2.	The Karnataka Entertainment Tax (Amendment) Ordinance, 1987.	29.11.87	--	--	--
3.	The Karnataka State Universities (Amendment) Ordinance, 1987.	16.12.87	--	--	--
KERALA					
1.	The Gandhiji University (Dissolution of Senate and the Syndicate) Ordinance, 1987.	24.12.87	--	--	--
RAJASTHAN					
1.	Rajasthan Seti (Nivaran) Adhyadesh, 1987.	1.10.87	27.10.87	--	--

	TAMIL NADU			
1.	Pechaiyappa's Trust (Taking Over of Management) Second Amendment Ordinance, 1987.	2.10.87	9.11.87	Replaced by Legislation
UTTAR PRADESH				
1.	The Uttar Pradesh Contingency Fund (Amendment) Ordinance, 1987	3.10.87	30.12.87	9.2.88
2.	The Uttar Pradesh Urban Local Self Government Laws (Second Amendment) Ordinance, 1987	14.12.87	—do—	7.1.88
3.	The Uttar Pradesh Cooperative Societies (Amendment) Ordinance, 1987	—do—	—do—	—do—

## APPENDIX VII

## A. PARTY POSITION IN LOK SABHA (As on 2 March 1988)

Sl. No.	Name of State/ Union Territory	Seats	Cong.(I)	Telugu Desam	CPI(M)	Other Parties	Unattached	Indepen- dents	Total	Vacancies
1	2	3	4	5	6	7	8	9	10	11
<b>STATES</b>										
1.	Andhra Pradesh	42	6	29	1	3(a)	1	1	41	1
2.	Arunachal Pradesh	2	2						2	
3.	Assam	14	5			7(b)	1	1	14	
4.	Bihar	54	46			5(c)		1	52	2
5.	Goa	2	2						2	
6.	Gujarat	26	23			2(d)			25	1
7.	Haryana	10	6			2(e)			8	2
8.	Himachal Pradesh	4	4						4	
9.	Jammu and Kashmir	6	2			3(f)			5	1
10.	Karnataka	28	24			4(g)			28	
11.	Kerala	20	12		1	5(h)	1		19	1
12.	Madhya Pradesh	40	39				1		40	
13.	Maharashtra	48	44			3(i)		1	48	
14.	Manipur	2	2						2	
15.	Meghalaya	2	1						1	1
16.	Mizoram	1	1						1	
17.	Nagaland	1								1
18.	Orissa	21	20			1(j)			21	
19.	Punjab	13	6			5(k)	2		13	
20.	Rajasthan	25	23						23*	1
21.	Sikkim	1				1(l)			1	
22.	Tamil Nadu	39	24			13(m)	1		38	1

23.	Tripura	2	..	2	..	2	..	2	..	2	..
24.	Uttar Pradesh	85	80	..	1(n)	83	2	83	2	83	2
25.	West Bengal	42	16	18	8(o)	42	..	42	..	42	..
UNION TERRITORIES											
26.	Andaman & Nicobar Islands	1	1	1	..	1	..	1	..	1	..
27.	Chandigarh	1	1	..	..	1	..	1	..	1	..
28.	Dadra & Nagar Haveli	1	..	..	..	1	..	1	..	1	..
29.	Daman and Diu	1	1	..	..	1	..	1	..	1	..
30.	Delhi	7	7	7	..	7	..	7	..	7	..
31.	Lakshadweep	1	1	1	..	1	..	1	..	1	..
32.	Pondicherry	1	1	1	..	1	..	1	..	1	..
NOMINATED (Anglo-Indian)		2	..	..	..	2	..	2	..	2	..
		545	400	22	63	530*	7	530*	7	530*	14

\* Excluding the Speaker

- (a) Janata—1; CPI(M)—1; and BJP—1.
- (b) AGP—6; and PTCA—1.
- (c) Janata—3; and CPI—2.
- (d) Janata—1; and BJP—1.
- (e) Lok Dal—2.
- (f) J&K National Conference—3.
- (g) Janata—4.
- (h) Muslim League—2; Kerala Congress—2; and Janata—1.
- (i) Janata—2; and Peasants and Workers Party of India—1.
- (j) Janata—1.
- (k) Akali Dal (Badal)—3; and Akali Dal (Barnala)—2.
- (l) Sikkim Sangram Parishad—1.
- (m) AIADMK—11; and DMK—2.
- (n) Lok Dal—1.
- (o) CPI-3; RSP—3; and Forward Bloc—2.

## B. PARTY POSITION IN RAJYA SABHA (As on 1 March 1988)

Sl. No.	States/Union Territories	Seats	Cong.(I)	Janata	CPI(M)	BJP	Others	Unattached	Total	Vacancies
1	2	3	4	5	6	7	8	9	10	11
STATES										
1.	Andhra Pradesh	18	6	1			11(a)		18	
2.	Arunachal Pradesh	1	1						1	
3.	Assam	7	5				2(b)		7	
4.	Bihar	22	15			3	3(c)		21	1
5.	Goa	1	1						1	
6.	Gujarat	11	10			1			11	
7.	Haryana	5	4				1(d)		5	
8.	Himachal Pradesh	3	3						3	
9.	Jammu & Kashmir	4	2				1(e)	1	4	
10.	Karnataka	12	5	6				1	12	
11.	Kerala	9	3		2				9	
12.	Madhya Pradesh	16	13			3			16	
13.	Maharashtra	19	17	1		1			19	
14.	Manipur	1	1						1	
15.	Meghalaya	1	1						1	
16.	Mizoram	1	1						1	
17.	Nagaland	1	1						1	
18.	Orissa	10	9	1					10	
19.	Punjab	7	5						7	
20.	Rajasthan	10	8			1		1	10	
21.	Sikkim	1								
22.	Tamil Nadu	18	4				14(h)		18	
23.	Tripura	1			1				1	
24.	Uttar Pradesh	34	24	1				1	33	1
25.	West Bengal	16	1		11		3(j)		15	1

UNION TERRITORIES

26. Delhi	3	3	..	..	..	..	..	..	..	..	..	..	3
27. Pondicherry	1	1	..	..	..	..	..	..	..	..	..	..	1
NOMINATED	12	4	..	..	..	..	..	..	..	..	..	..	10
	245	148	10	14	9	48	10	239	6				

- (a) Telugu Desam—11.
- (b) Asom Gana Parishad—2.
- (c) CPI—2; and Lok Dal—1.
- (d) Lok Dal—1.
- (e) National Conference—1.
- (f) Kerala Congress—1; Muslim League—1; Janata (G)—1; and CPI—1.
- (g) Akali Dal—2.
- (h) AIADMK—11; and DMK—3.
- (i) Lok Dal—7.
- (j) Forward Bloc—1; RSP—1; and CPI—1.

## C. PARTY POSITION IN THE LEGISLATURES OF STATES AND UNION TERRITORIES

State/Union Territory	Seats	Cong.(I)	Janata	Lok Dal	BJP	Cong.(S)	CPI(M)	CPI	Other Parties	Ind.	Total	Vacancies
1	2	3	4	5	6	7	8	9	10	11	12	13
<b>STATES</b>												
Andhra Pradesh L.A. (As on 1.1.88)	295	52	3	—	8	—	11	10	203(a)	7	294	1
Arunachal Pradesh L.A. (As on 1.1.88)	33	3j	—	—	—	—	—	—	2(b)	—	33	—
Assam L.A. (As on 1.12.87)	126	24	—	—	—	4	2	—	91(c)	4	125	1
Bihar L.A. (As on 8.7.87)	325	195	13	46	17	—	1	12	11(d)	29	324*	—
Bihar L.C. (As on 1.4.87)	96	35	2	4	—	—	—	6	2(e)	1	50*	45
Goa L.A. (As on	—	—	—	—	—	—	—	—	—	—	—	—
Gujarat L.A. (As on 1.8.88)	182	147	14	11	—	—	—	—	—	9	181	1
Haryana L.A. (As on 1.1.88)	90	5	—	60	17	—	1	1	—	5	89*	—
Himachal Pradesh L.A. (As on 1.1.88)	68	57	—	1	7	—	—	—	—	3	68	—
Jammu & Kashmir L.A. (As on 1.10.87)	78	27	—	—	2	—	—	—	45(f)	4	78	—
Jammu & Kashmir L.C. (As on 1.1.88)	36	12	—	—	—	—	—	—	18(g)	—	30	6



Karnataka L.A. (As on 1.1.88)	225	66	139	—	2	—	2	4	3(h)	8	224*	—
Karnataka L.C. (As on 16.11.87)	63	12	17	—	6	—	—	—	—	5	40*	22
Kerala L.A. (As on 1.12.87)	141	33	7	1	—	—	38	16	35(i)	10	140*	—
Madhya Pradesh L.A. (As on 1.10.87)	321	249	5	—	57	—	—	—	1(j)	5	317*	3
Maharashtra L.A. (As on)	—	—	—	—	—	—	—	—	—	—	—	—
Maharashtra L.C. (As on —)	—	—	—	—	—	—	—	—	—	—	—	—
Manipur L.A. (As on 1.7.86)	60	39	—	—	—	—	—	1	12(k)	8	60	—
Meghalaya L.A. (As on 1.1.88)	60	37	—	—	—	—	—	—	19(l)	1	57*	2
Mizoram L.A. (As on 1.1.88)	40	13	—	—	—	—	—	—	27(m)	—	40	—
Nagaland L.A. (As on 1.1.88)	60	34	—	—	—	—	—	—	19(n)	7	60	—
Punjab L.A. (As on 1.10.87)	117	31	1	—	5	—	—	1	72(o)	4	114	3
Rajasthan L.A. (As on 1.1.88)	200	115	10	27	37	—	—	1	—	9	199	1
Sikkim L.A. (As on 1.1.88)	32	1	—	—	—	—	—	—	30(p)	1	32	—
Tamil Nadu L.A. (As on 31.12.87)	235	64	3	—	—	—	4	2	148(q)	1	222*	12
Tripura L.A. (As on 1.10.87)	60	11	—	—	—	—	38	—	8(r)	3	60	—
Uttar Pradesh L.A. (As on 5.1.88)	426	267	20	83(s)	16	—	2	6	5(t)	25	424	2

	1	2	3	4	5	6	7	8	9	10	11	12	13
Uttar Pradesh L.C. (As on 1.1.88)		108	33	—	6	2	—	—	2	9(u)	5	57	51
West Bengal L.A. (As on 1.10.87)		295	39	—	—	—	—	187	11	57(v)	—	294	1
UNION TERRITORIES													
Delhi Metropolitan Council (As on 1.10.87)		61	38	1	1	18	—	—	—	—	—	58	3
Daman & Diu L.A. (As on )		—	—	—	—	—	—	—	—	—	—	—	—
Pondicherry L.A. (As on 1.1.88)		33	19	1	—	—	—	—	—	9(w)	1	30	3

## NOTES: \*Excluding the Speaker.

- (a) Telugu Desam Party—198; Mejlis Ittehad-Ul-Muslimeen-4; and Marxist Communist Party of India—1.  
 (b) People's Party of Arunachal Pradesh—2.  
 (c) Asom Gana Parishad—71; United Minority Front—17; and Plains Tribal Council of Assam—3.  
 (d) Jharkhand Mukti Morcha—9; SUCI—1; and Nominated—1.  
 (e) Samta Party—1; and Jharkhand Mukti Morcha—1.  
 (f) National Conference (Farook)—41; and Muslim United Front—4.  
 (g) National Conference—17; and Awami National Conference—1.  
 (h) Maharashtra Etkaran Samiti—3.  
 (i) Muslim League—15; Indian Congress Socialist (Sarat Chandra Sinha)—6; Kerala Congress—5; Revolutionary Socialist Party—5; and Kerala Congress (Mani Group)—4.  
 (j) Nominated—1.  
 (k) United Democratic Front—10; Manipur People's Party—1; and KNA—1.  
 (l) Hills People Union—16; and Hills State People's Democratic Party—3.  
 (m) Mizo National Front—25; and People's Conference Party—2.

- (n) Nagaland National Democratic Party—18; and Nagaland People's Party—1.
- (o) Shiromani Akali Dal—46; Unattached—3; and Disqualified—23.
- (p) Sikkim Sangram Parishad—30.
- (q) All India Anna Dravida Munnetra Kazhagam—131; Dravida Munnetra Kazhagam—2; All India Forward Bloc—2; and Republican Party of India (Khorbengade)—1.
- (r) Tripura Upajeti Juba Samiti—6; and RSP—2.
- (s) Lok Dal (A)—53; and Lok Dal (B)—30.
- (t) Congress (J)—4; and Nominated—1.
- (u) Rashtriya Shikshak Dal—3; Shikshak Dal—5; and Nirdaliya Vidhyak Dal—1.
- (v) Forward Bloc—26; Revolutionary Socialist Party—18; West Bengal Socialist Party—4; Revolutionary Communist Party of India—1; Forward Bloc (Mandist)—2; Democratic Socialist Party—2; Socialist Unity Centre of India—2; Muslim League—1; and Nominated—1.
- (w) All India Anna Dravida Munnetra Kazhagam—3; Dravida Munnetra Kazhagam—5; and Pondicherry Maanila Makkal Munnai—1.

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