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EDITORIAL NOTE

There has been considerable conceptual confusion in regard to the use and connotation of the terms 'subordinate legislation' and 'delegated legislation'. Even though they have sometimes been used interchangeably, they do not really mean the same thing. The first article included in this issue seeks to clarify the position with the help of various judicial pronouncements on the subject.

The article by Shri T. Hanumanthappa deals with a specific aspect of the privileges of the members of Legislatures, *viz.* the privilege of freedom from arrest. Here again, the theme is studied in depth with reference to the constitutional position and the judgments of the Supreme Court and the High Courts.

Of the important 'Parliamentary and Constitutional Developments' discussed under the usual feature, mention may be made of the 1977 General Elections to Lok Sabha and the birth of the Janata Party and its emergence as the new ruling party. The March 1977 elections which attracted world-wide interest and attention indicated the strength and maturity of parliamentary democracy in this country. That a party in power for 30 years was rejected by the electorate, clearly demonstrated how the real arbiters of a nation's destiny in our democracy are the people themselves.

At the State level, new Ministries were formed in Gujarat and Meghalaya and, after a brief spell of President's rule, in Orissa. Minor ministerial changes or reshuffling of portfolios also took place in Haryana, Karnataka, Kerala, Punjab and Uttar Pradesh. The legislators in Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh became entitled to pension and new Governors were appointed in Himachal Pradesh and Orissa.

In Bangladesh, the Chief of the Army Staff and Deputy Chief Martial Law Administrator assumed charge of the Chief Martial Law Administrator. In Burundi, the ten-year old Government of President Michel Micombero which came to power after abolition of monarchy in 1966 was itself overthrown by a group of army officers led by Lt. Col. Jean Baptiste Bagaza. In Mauritius, Sir Secwoosagar

Ramgoolam formed a new coalition government. Chad became an empire with Mr. Salah Addin Bokassa as its first emperor. Besides these developments, some cabinet and governmental changes also took place in Angola, Belgium, Bolivia, Central African Republic, Ecuador, Egypt, Iran, Iraq, Irish Republic, Israel, Japan, Lebanon, Malta, Mexico, Mongolia, Nauru, Nigeria, Peru, Poland and the United Kingdom.

The results of the elections held recently in a number of countries have been remarkable in the sense that they returned the ruling party to power in Egypt, Grenada, Jamaica, Pakistan, and Singapore. In the Presidential election in the U.S.A., however, President Ford lost to the Democratic candidate Mr. Jimmy Carter. According to the new President of the United States, incidentally, the Indian elections "should be an inspiration" to the rest of the world.

—S. L. SHAKDHER.

SUBORDINATE LEGISLATION IN INDIA

LARRDIS

Supreme and Subordinate Legislation

Legislation is either supreme or subordinate. The former is that which proceeds from the supreme or sovereign power in the State, and which is therefore incapable of being repealed, annulled or controlled by any other legislative authority. Subordinate legislation is that which proceeds from any authority other than the sovereign power, and is therefore dependent for its continued existence and validity on some superior or supreme authority.¹

The expression 'subordinate legislation' would thus mean the act of making the statutory instruments by the subordinate body in exercise of the power conferred by the legislature, and the statutory instruments themselves. It conveys the idea that the authority making the legislation is subordinate to the legislature.

*In Delhi Laws Act Case*², Mukherjea, J. observed:

"Subordinate legislation not only connotes the subordinate or dependent character of the agency which is entrusted with the power to legislate, but also implies the subordinate or ancillary character of the legislation itself, the making of which such agent is entrusted with."

¹John Salmond, *Jurisprudence*, 9th edition, (London: Sweet & Maxwell, Limited 1937), p. 210.

²A.I.R. 1951 S.C. 332 (p. 400).

Subordinate and Delegated Legislation

Explaining the difference between "Subordinate Legislation" and "Delegated Legislation", Kania, C.J., in *Delhi Laws Act Case* observed:

"When a legislative body passes an Act it has exercised its legislative function. The essentials of such function are the determination of the legislative policy and its formulation as a rule of conduct..... The legislature having.... made its laws, it is clear that every detail for working it out and for carrying the enactments into operation and effect may be done by the legislature or may be left to another subordinate agency or to some executive officer. While this also is sometimes describes as a 'delegation' of legislative powers, in essence it is different from delegation of legislative power which means a determination of the legislative policy and formulation of the same as a rule of conduct. I find that the word 'delegation' is quite often used without bearing this fundamental distinction in mind."³

In this connection, Fazl Ali, J. in the same case observed:

"...the expressions 'delegated legislation' and 'delegating legislative power' are sometimes used in a loose sense, and sometimes in a strict sense. These expressions have been used in a loose sense or popular sense in the various treaties or reports dealing with the so-called delegated legislation."

"There can be no doubt that if the legislature completely abdicates its functions and sets up a parallel legislature transferring all its power to it, that would undoubtedly be a real instance of delegation of its power. In other words, there will be delegation in the strict sense if legislative power with all its attributes is transferred to another authority."

Need for Subordinate Legislation

Most of the modern socio-economic legislations passed by the legislature lay down the guiding principles and the legislative policy. The legislatures because of limitation imposed upon them by the time factor hardly go into matters of detail. Provision is, therefore, made for subordinate legislation to obtain flexibility, elasticity, expedition and opportunity for experimentation. The practice of empowering the executive to make subordinate legislation,

³*Ibid.* (p. 338).

⁴*Ibid.* (p. 355).

⁵*Ibid.*

within a prescribed sphere has evolved out of practical necessity and pragmatic needs of a modern Welfare State.⁶

Dua, J. delivering the judgement of the Supreme Court in *M/s. Tata Iron and Steel Co. Ltd. v. Workman of M/s. Tata Iron & Steel Co. Ltd.* observed:⁷

“Now, the increasing complexity of modern administration and the need for flexibility capable of rapid readjustment to meet changing circumstances, which cannot always be foreseen in implementing our socio-economic policy pursuant to the establishment of a welfare State as contemplated by our Constitution, have rendered it convenient and practical, nay necessary, for the legislatures to have frequent resort to the practice of delegating subsidiary or ancillary powers to delegates of their choice. The parliamentary procedure and discussion in getting through a legislative measure in the legislatures is usually time consuming. Again such measures cannot provide for all possible contingencies because one cannot visualize various permutations and combinations of human conduct and behaviour. This explains the necessity for delegated or conditional legislation. Due to the challenge of the complex socio-economic problems requiring speedy solution the power of delegation has by now as per necessity become a constituent element of legislative power as a whole.”

Permissible limits of Delegation

One of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws cannot be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain; and by the constitutional agency alone the laws must be made until the Constitution itself is changed. The power to whose judgment, wisdom and patriotism this high prerogative has been entrusted cannot relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved, nor, can it substitute the judgment, wisdom and patriotism of any other body for

⁶*Gwalior Rayon Mills Mfg. (Wvg.) Co. Ltd. V. Asstt. Commissioner of Sales Tax* A.I.R. 1974 S.C. 1660 (Khanna, J. at p. 1667). (Also see *Vasanlal Maganbhai Sanjanwala V. Union of India*, A.I.R. 1961 S.C. 4; *M/s. Tata Iron and Steel Co. Ltd. V. Workman of M/s. Tata Iron and Steel Co. Ltd.* A.I.R. 1972 S.C. 1917).

⁷A.I.R. 1972 S.C. 1917 (Also see *Vasanlal Maganbhai Sanjanwala V. State of Bombay*, A.I.R. 1961 S.C. 4).

those to which alone the people have seen fit to confide this sovereign trust.⁸

The maxim that power conferred upon the legislature to make laws cannot be delegated to any other authority does not, however, preclude the legislature from delegating any power not legislative, which it may itself rightfully exercise. It may confer an authority in relation to the execution of a law which may involve discretion, but such authority must be exercised under and in pursuance of the law. The legislature must declare the policy of the law and fix the legal principles which are to control in given cases; but an administrative officer or body may be invested with the power to ascertain the facts and conditions to which the policy and principles apply. If this could not be done there would be infinite confusion in the laws, and in an effort to detail and to particularise, they would miss sufficiently both in provision and execution.⁹

According to John Locke, when Parliamentary representatives have been chosen and the authority to make laws has been delegated to them, they have no right to redelegate it. Jeremy Bentham in *'The Limit of Jurisprudence Defined'* distinguishes between laws which belong to the legislator by conception being his work alone, and laws which belong to him by pre-adoption being the joint work of the legislator and the 'Subordinate power-holder'. In the latter case, the legislator 'sketches out a sort of imperfect mandate which he leaves to the subordinate holder to fill up'. To economise its own time and to take advantage of expert skill in administration, Parliament is content to lay down principles and to leave the details (frequently experimental or requiring constant adjustment in the light of experience) to some responsible minister or public body.¹⁰

After the Constitution of India came into force in 1950, the Supreme Court of India was faced in 1951 with the question of permissible limits of delegation of legislative power in the famous case of *'In re Delhi Laws Act.'*¹¹ In this case, the question of delegation of legislative power was elaborately dealt with and all relevant rulings were considered. As many as seven judges participated in

⁸Ibid., p. 228.

⁹Cooley's *Constitutional Limitations*, 8th edition, Vol. I, p. 224.

¹⁰See Foreword by Sir Cecil Carr to Hewitt's *"The Control of Delegated Legislation,"* 1973 Edition.

¹¹A.I.R. 1951, S.C. 332.

the decision and seven opinions were delivered exhibiting a cleavage of judicial opinion on the question of limits to which the Legislature in India should be permitted to delegate legislative power. The opinions of the judges on this subject are set out below:

Kania, C. J. observed:

“While the Constitution creates the Parliament and although it does not in terms expressly vest the legislative powers in the Parliament exclusively, the whole scheme of the Constitution is based on the concept that the legislative functions of the Union will be discharged by the Parliament....¹²

“...the power of delegation, in the sense of the legislature conferring power, on either the executive government or another authority ‘to lay down the policy underlying a rule of conduct’ is not permitted.”

“...the legislature in India, Canada, Australia and U.S. of America has to lay down a rule of conduct. In doing so it may, in addition, lay down conditions, or state facts which on being fulfilled or ascertained according to the decision of another body or the executive authority, the legislation may become applicable to a particular area. This is described as conditional legislation. The legislature may also, in laying down the rule of conduct, express itself generally if the conditions and circumstances so require. The extent of the specific and detailed lines of the rule of conduct to be laid down may vary according to the circumstances or exigencies of each case. The result will be that if, owing to unusual circumstances or exigencies, the legislature does not choose to lay down detailed rules or regulations, that work may be left to another body which is then deemed to have subordinate legislative powers.”¹⁴

Mukherjea, J. observed:

“...as regards constitutionality of the delegation of legislative powers the Indian legislature cannot be in the same position as the omnipotent British Parliament and how far delegation is permissible has got to be ascertained in India as a matter of construction from the express provisions of the Indian Constitution. It cannot be said that an unlimited right of delegation is inherent in the legislative power itself. This is not warranted by the provisions of the Consti-

¹²A. I. R. 1951 S. C. 332 (p. 346), *Supra*.

¹³*Ibid.*

¹⁴*Ibid.*, (p. 347).

tution and the legitimacy of delegation depends entirely upon its being used as an ancillary measure which the legislature considers to be necessary for the purpose of exercising its legislative powers effectively and completely. The legislature must retain in its own hands the essential legislative functions which consist in declaring the legislative policy and laying down the standard which is to be enacted into a rule of law, and what can be delegated is the task of subordinate legislation which by its very nature is ancillary to the statute which delegates the power to make it. Provided the legislative policy is enunciated with sufficient clearness or a standard laid down the Courts cannot and should not interfere with the discretion that undoubtedly rests with the legislature itself in determining the extent of delegation necessary in a particular case."¹⁶

Mahajan J. (as he then was) observed:

"Parliament has no power to delegate its essential legislative functions to others, whether the State Legislatures or executive authorities, except of course, functions which really in their true nature are ministerial."¹⁶

Fazl Ali, J. said that—

"...the Legislature must normally discharge its primary legislative function itself and not through others," but that "it may utilise any outside agency to any extent it finds necessary for doing things which it is unable to do itself or finds it inconvenient to do. In other words, it can do everything which is ancillary to and necessary for the full and effective exercise of its power of legislation."¹⁷

Patanjali Sastri, J. was of the view that in the absence of a constitutional inhibition, delegation of legislative power, however, extensive, could be made so long as the delegating body retains its own legislative power intact.¹⁸ Das, J. said that the power of delegation is necessary for, and ancillary to, the exercise of legislative power and is a component part of its content. The only qualifica-

¹⁶*Ibid.* (p. 404). As regards the above passage, Khanna J. (speaking for himself, Alagiriswami and Bhagwati, JJ) in *Gwalior Rayon Mills Mfg. (Mfg.) Co. Ltd. v. Assistant Commissioner of Sales Tax* (A.I.R. 1974 S.C. S.C. 1660) says that "the correct position of law, if we may say so with all respect, is what was enunciated by Mukherjea, J. in the *Delhi Laws Act Case*".

¹⁶A.I.R. 1951 S.C. 332 (p. 389).

tion upon the power to delegate is that the legislature may not abdicate or efface itself, that is to say, may not, without preserving its own capacity intact, create and endow with its own capacity a new legislative power not created or authorised by the Act to which it owes its existence¹⁹. Bose, J., said that the Indian Parliament can leave to another person or body the introduction or application of laws which are or may be in existence at that time in any part of India which is subject to the legislative control of Parliament, whether those laws were enacted by Parliament or by a State Legislature set up by the Constitution.²⁰

Thus, there was difference of opinion on the question of permissible limits within which an Indian legislature could delegate its legislative power. However, in *Hari Shankar Baqla v. M.P. State*,²¹ the Supreme Court unanimously deduced a binding rule from its earlier decision in the Delhi Laws Act case. Mahajan C. J., who delivered the judgement of the Court²² in the Bagla's case, observed thus:

"It was settled by the majority judgement in the Delhi Laws Act that essential powers of legislation cannot be delegated. In other words, the Legislature cannot delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct. The legislature must declare the policy of the law and the legal principles which are to control any given cases and must provide a standard to guide the officials or the body in power to execute the law."

The question about the limits of permissible delegation of legislative power has arisen before the Supreme Court in a number of other cases also. Thus, in *Municipal Corporation of Delhi v. Birla Cotton Spinning and Weaving Mills, Delhi*,²³ Wanchoo, C. J., (speaking for himself and Shelat, J.) observed:

"The principle is well established that essential legislative function consists of the determination of the legislative policy and its formulation as a binding rule of conduct and cannot be delegated by the legislature. Nor is there any unlimited right of delegation, inherent in the legislative power itself.

¹⁹*Ibid.*, pp. 424-425.

²⁰*Ibid.*, p. 439.

²¹A.I.R. 1954, S.C. 465.

²²Mahajan, C.J. delivered the judgement of the Court for himself, and Mukherjee, Bose, Bhagwati and Venkatarama Ayyar, JJ.

²³A.I.R. 1968 S.C. 1282.

This is not warranted by the provisions of the Constitution. The legislature must retain in its own hands the essential legislative functions and what can be delegated is the task of subordinate legislation necessary for implementing the purposes and objects of the Act. Where the legislative policy is enunciated with sufficient clearness or a standard is laid down, the courts should not interfere. What guidance should be given and to what extent and whether guidance has been given in a particular case at all depends on a consideration of the provisions of the particular Act with which the Court has to deal including its preamble. Further, it appears to us that the nature of the body to which delegation is made is also a factor to be taken into consideration in determining whether there is sufficient guidance in the matter of delegation”.

Two recent cases may also be noted. In *M/s. Tata Iron and Steel Co. Ltd. v. Workmen of M/s. Tata Iron & Steel Co. Ltd.*,²³ Dua, J., delivering the judgement of the Supreme Court, observed:

“The legal position as regards the limitation of this power is, however, no longer in doubt. The delegation of legislative power is permissible only when the legislative policy and principle are adequately laid down and the delegate is only empowered to carry out the subsidiary policy within the guidelines laid down by the legislature. The legislature, it must be borne in mind, cannot abdicate its authority and cannot pass on to some other body the obligation and the responsibility imposed on it by the Constitution. It can only utilise other bodies or authorities for the purpose of working out the details within the essential principles laid down by it. In each case, therefore, it has to be seen if there is delegation of the essential legislative function or if it is merely a case in which some authority or body other than the legislature is empowered to work out the subsidiary and ancillary details within the essential guidelines policy and principles laid down by the legislative wing of the Government”.

In *Gwalior Rayon Mills Mfg. (Wvg.) Co. Ltd. v. Assistant Commissioner of Sales Tax*,²⁴ Khanna, J. (speaking for himself, Alagiri-swami and Bhagwati, JJ) observed:

“...our Constitution-makers have entrusted the power of legislation to the representatives of the people, so that the

²³*Ibid.* (p. 1244).

²⁴A.I.R. 1972 S.C. 1917.

²⁵*Ibid.* (p. 1922).

²⁶A.I.R. 1974 S.C. 1660.

said power may be exercised not only in the name of the people but also by the people speaking through their representatives. The rule against excessive delegation of legislative authority flows from, and is a necessary postulate of, the sovereignty of the people. The rule contemplates that it is not permissible to substitute in the matter of legislative policy the views of individual officers or other authorities, however competent they may be, for that of the popular will as expressed by the representatives of the people.

"... the view taken by this court in a long chain of authorities is that the legislature in conferring power upon another authority to make subordinate or ancillary legislation must lay down policy, principle or standard for the guidance of the authority concerned.

"We are also unable to subscribe to the view that if the legislature can repeal an enactment, as it normally can, it retains enough control over the authority making the subordinate legislation and, as such, it is not necessary for the legislature to lay down legislative policy, standard or guidelines in the statute".

Whether a power delegated by the legislature to the executive has exceeded the permissible limits in a given case depends on its facts and circumstances. That question does not admit of any general rule. It depends upon the nature of the power delegated and the purposes intended to be achieved."

The tendency on the part of the courts is to uphold the power of subordinate legislation and it is only rarely that a statutory provision has been struck down on the ground of "excessive delegation." Some of the important cases are discussed below. The cases are given according to chronological order.

In *Delhi Laws Act case*,¹ the President made a reference under article 143 of the Constitution asking the Supreme Court's opinion on the validity of Section 7 of the Delhi Laws Act, 1912, Section 2 of the Part C States (Laws) Act, 1950 and the Ajmer-Merwara (Extension of Laws) Act, 1947. In each of these Acts, the Central Legislature had empowered an executive authority under its legislative control to extend, at its discretion, certain laws to an area which was also under the legislative sway of the Centre. However, there were variations in the type of laws the executive authority was

¹*Sitaram Bishambhar Dayal v. State of U.P.* A.I.R. 1972 Supreme Court 1168.

²A.I.R. 1951 S.C. 332, *supra*.

authorised to select for extension under the said Acts, and in the modifications which it was empowered to make in them. As many as seven judges participated and seven opinions were delivered. For different situations indicated below the majority opinion of the Court was as follows:—

- “(i) By a majority of six to one, the Court held that it was permissible for the executive authority, at its discretion, to apply without modification (save incidental changes such as name and place) the whole of any Central Act *already in existence* in any part of India under the legislative sway of the Centre, to the new area;
- (ii) By a majority of five to two, the Court held that it was permissible for the executive authority to select and apply a Provincial Act in similar circumstances.
- (iii) By a majority of five to two, the Court held that it was permissible for the executive authority to select *future Central as well as Provincial Laws* and apply them in a similar way.
- (iv) By a majority of four to three, it was held that a provision, which authorised the executive authority to repeal laws already in force in an area and either to substitute nothing in their place or substitute other laws, Central or Provincial, with or without modification, was *ultra vires*³⁰.”

In *Rajnarain Singh v. Chairman, Patna Administration Committee*,³¹ the appellants impugned the validity of section 3(1) (f) of the Patna Administration Act, 1915 (as amended in 1928), as also the notification issued in 1951. Section 3(1) (f) provided that the Government could extend to a particular area any section of the Bihar and Orissa Municipal Act, 1922 subject to such restriction and modification as the Government might think fit. Under this authority, the Government issued a notification in 1951 picking out section 104 (relating to the levy of taxes) of the Bihar and Orissa Municipal Act, 1922 and applying it to the designated area. The Supreme Court held that section 3(1) (f) was valid, subject to the qualification that restrictions and modifications did not involve any essential

³⁰See Observations of Bose, J., in *Rajnarain Singh v. Chairman, Patna Administration Committee* A.I.R. 1954 S.C. 569.

³¹A.I.R. 1954 S.C. 589.

change in the Act or in the policy of the Act. As to the notification of 1951, it was held that the Government applied the provisions of section 104 (relating to the levy of taxes) of the Municipal Act without observing the formalities imposed by sections 4, 5 and 6 of that Act, thus cutting across one of the essential features of the Act, touching a matter of policy and was therefore beyond the authority conferred by section 3(1) (f). The policy was to give to the inhabitants a chance of being heard and filing objections before the imposition of a tax, but what had been done in the instant case was that the tax had been imposed without giving to the people concerned a hearing and this was regarded by the court a change of policy.

In *Bhatnagars & Co. v. Union of India*²² was involved section 3(1) (a) of the Imports and Exports (Control) Act, 1947 authorising the Central Government to prohibit or restrict the import or export of goods of any specified description by order. The Supreme Court held the statute valid on the ground that the underlying policy was to be found in the preceding statute, the Defence of India Act, 1939, whose provisions the statute in question purported to continue. The only reference made to the old provision by the Act in question was in section 4 under which all orders made under the Defence of India Ruls, 1939 were to continue in force so far as not inconsistent with the Act.

In *Sardar Inder Singh v. State of Rajasthan*,²³ Venkatarama Ayyar, J. observed that it was competent to the legislature to pass a law and prescribe the duration which appeared to the legislature to be then necessary having regard to the circumstances then existing, and to confer on an outside authority a power to extend the duration for a further period if that authority was satisfied that the state of facts which called for the legislation continued to exist. When that power was exercised by the outside authority, the law that would operate was the law which was enacted by the legislative authority in all its completeness as regards "place, person, laws, powers" and it was clearly conditional and not delegated legislation and was valid. He expressed the dissent of the court from the decision in *Jatindra Nath Gupta's* case. In *Jatindra Nath Gupta v. State of Bihar*,²⁴ it was held by Kania C.J. and by Mahajan and Mukherjea

²²A.I.R. 1957 S.C. 478.

²³A.I.J. 1957 S.C. 510.

²⁴(1949) F.C.R. 595.

JJ. (Fazl Ali, J. dissenting) that the power to extend the duration of an Act with or without modification was an essential legislative power and could not be delegated by the legislature to an outside authority.

In *Pandit Banarsi Das Bhanot v. State of Madhya Pradesh*³⁶, section 6(2) of the Berar Sales Tax Act, 1947 which empowered the State Government to amend the schedule of the Act, providing for exemption from sales tax, was impugned on the ground of impermissible delegation of legislative power. In effect, the power conferred on the executive was to subject the exempted goods to taxation and *vice versa*. The Supreme Court held that the power conferred by section 6(2) was "in consonance with the accepted legislative practice relating to the topic, and is not unconstitutional." The court stated a very wide proposition, namely, "it is not unconstitutional for the legislature to leave it to the executive to determine details relating to the working of taxation laws, such as the selection of persons on whom the tax is to be laid, the rates at which it is to be charged in respect of different classes of goods, and the like".³⁷

In *D.S. Garewal v. State of Punjab*,³⁷ the Supreme Court upheld the validity of section 3 of the All-India Services Act, 1951. The Act is an extremely brief one as it has only four sections. The first section deals with the short title, the second defines the expression "All-India Services", the third gives power to the Central Government to frame rules to regulate recruitment and the conditions of service in the All-India Services after consultation with the States concerned and requiring that all rules so framed must be laid before Parliament subject to such modifications as the Houses might make therein. Section 4 provides, that "all rules in force immediately before the commencement of this Act shall continue to be in force and shall be deemed to be rules made under this Act." It was urged that the All-India Services Act laid down no legislative policy at all and everything was left to the Central Government. But on a "close reading of section 4 of the Act and its scope, purpose and effect", the court held that Parliament had not failed to lay down a policy and formally to enact it into a binding rule of conduct. "Section 4 did lay down", observed Wanchoo J., who delivered the

³⁶A.I.R. 1958 S.C. 909.

³⁷*Ibid.* (at p. 913).

³⁸A.I.R. 1959 S.C. 512.

court's opinion, " that the existing rules will govern the two All-India Services in the matter of regulation of recruitment and conditions of service, and in so far as it did so, it determined the legislative policy and set up a standard for the Central Government to follow and formally enacted it into a binding rule of conduct". Section 3 was interpreted by the court as authorising the Government to frame rules in future which might have the effect of adding to, altering, varying or amending the rules accepted under Section 4 as binding. Considering the facts that the Central Government was required to consult State Governments before making the rules which had to be laid before Parliament and were subject to modification by the two Houses, the court held that "Parliament has in no way abdicated its authority but is keeping strict vigilance and control over its delegate".

In *Western India Theatres Ltd. v. Municipal Corporation, Poona*,³⁸ the Supreme Court upheld the grant by the legislation to municipalities of a general power to impose "any other tax for the purposes of this Act" subject to prior approval of Governor-in-Council. Rejecting the contention that the delegation was "unguided, uncanalised and vagrant" as there was nothing in the Act to prevent the municipalities from imposing any tax they liked, the Supreme Court stated that the obligations and functions of the municipalities were set forth in the Act itself and therefore the taxing power, being subject to the 'purposes of the Act' was granted in relation to those functions and obligations only. Then there was the limitation and the condition of prior approval of the nature and object of the tax by the Governor-in-Council which did, in the opinion of the court, lay down a principle and fix a standard sufficient to prevent the delegation from being in excess of the permissible limits.

In *Hamdard Dawakhana v. Union of India*,³⁹ was involved section 3 of the Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 which authorised the Government to frame rules forbidding the advertisement of medicines for the cure of certain specified venereal and other diseases. The court held the provision bad, as no criteria, standards, or principles had been laid down in the Act for specifying the other diseases in the rules and so the power to make rules was held to be unguided and uncontrolled.

³⁸A.I.R. 1959 S.C. 586.

³⁹A.I. 1960 S.C. 554.

In *Corporation of Calcutta v. Liberty Cinema*,⁴⁰ the validity of section 548(2) of the Calcutta Municipal Act, 1957 which empowered the Corporation to levy fees "at such rates as may from time to time be fixed by the Corporation" was challenged on the ground of excessive delegation as it provided no guidance for the fixation of the amount. The majority of the Supreme Court upheld the provision relying on the decision in *Pandit Banarsi Das Bhanot v. State of Madhya Pradesh*⁴¹ holding that the fixation of rates of tax, not being an essential legislative function, could be validly delegated to a non-legislative body, but observed that when it was left to such a body the legislature must provide guidance for such fixation. The Court found the guidance in the monetary needs of the Corporation for carrying out the function entrusted to it under the Act.

In *Municipal Board, Hapur v. Raghuvendra Kripal*⁴² the validity of the U.P. Municipalities Act, 1916 was involved. The Act had empowered the municipalities to fix the rate of tax and, after having enumerated the kinds of taxes to be levied, prescribed an elaborate procedure for such a levy and also provided for the sanction of the Government. Section 135(3) of the Act provided that a notification of the imposition of a tax under the Act shall be conclusive proof that the tax has been imposed in accordance with the provisions of the Act. This provision, it was contended, was *ultra vires* because there was an abdication of essential legislative functions by the legislature with regard to the imposition of tax inasmuch as the State Government was given the power to condone the breaches of the Act and to set at naught the Act itself. This, it was contended, was an indirect exempting or dispensing power. Hidayatullah, J., speaking for the majority of the Supreme Court said that regard being had to the democratic set-up of municipalities which need the proceeds of these taxes for their own administration, it is proper to leave to these municipalities the power to impose and collect these taxes. He further said that apart from the fact that the Board was a representative body of the local population on whom the tax was levied, there were other safeguards by way of checks and controls by the Government which could veto

⁴⁰A.I.R. 1965, S.C. 1107.

⁴¹A.I.R. 1958 S.C. 909, *supra*.

⁴²A.I.R. 1966 S.C. 693.

the action of the Board in case it did not carry out the mandate of the legislature.

In *Jalan Trading Co. Pvt. Ltd. v. Mill Mazdoor Sabha*,⁴³ (known as "Bonus Case") section 37 of the Payment of Bonus Act, 1965, authorised the Central Government to provide by Order for removal of doubts and difficulties in giving effect to the provisions of the Act, subject to the qualification that the order should not be inconsistent with the purposes of the Act. By a majority of 3 to 2 it was held that the section was void for impermissible delegation of legislative power. Shah J., who delivered the majority judgment, observed:

"If in giving effect to the provisions of the Act any doubt or difficulty arises, normally it is for the legislature to remove that doubt or difficulty. Power to remove the doubt or difficulty by altering the provisions of the Act would in substance amount to exercise of legislative authority and that cannot be delegated to an executive authority".

In *Shama Rao v. Union Territory of Pondicherry*,⁴⁴ the petitioner impugned section 2(1) of the Pondicherry General Sales Tax Act, 1961, which authorised the State Government to apply the Madras General Sales Tax Act, 1959, to Pondicherry by a notification. Accordingly, a notification was issued, bringing the Madras Act into force in Pondicherry from April 1, 1966. Before the notification was issued, the Madras Act had been amended, so the notification applied the Madras Act, as amended, to Pondicherry. While Shama Rao's petition was pending before the Supreme Court, the Pondicherry General Sales Tax (Amendment) Act, 1966, was passed retrospectively applying the Madras Act as amended to Pondicherry, from 1st April 1966. By a majority of 3 to 2, the Supreme Court held that both the original and the amending Pondicherry Acts were invalid. The reason which prevailed with the majority in striking down the Pondicherry Act was the total surrender in the matter of sales tax legislation by the Pondicherry Legislature in favour of the Madras Legislature.

⁴³A.I.R. 1967 S.C. 671.

⁴⁴A.I.R. 1967 S.C. 1480.

In *Devi Dass Gopal Krishna v. State of Punjab*,⁴⁰ the question was whether section 5 of the Punjab General Sales Tax Act, 1948, which empowered the State Government to fix sales tax at such rates as it thought fit, was bad. The Supreme Court struck down the Section on the ground that the legislature did not lay down any policy or guidance to the executive in the matter of fixation of rates. Subba Rao, C.J., speaking for the Court, pointed out that the needs of the State and the purpose of the Act would not provide sufficient guidance for the fixation of rates of tax. He pointed out the danger inherent in the process of delegation:

“An overburdened legislature or one controlled by a powerful executive may unduly overstep the limits of delegation. It may not lay down any policy at all; it may declare its policy in vague and general terms; it may not set down any standard for the guidance of the executive, it may confer an arbitrary power on the executive to change or modify the policy laid down by it without reserving for itself any control over subordinate legislation. This self-effacement of legislative power in favour of another agency either in whole or in part is beyond the permissible limits of delegation”.

In *Municipal Corporation of Delhi v. Birla Cotton Spinning and Weaving Mills*,⁴¹ the main question was about the constitutionality of delegation of taxing powers to municipal corporations. The Delhi Municipal Corporation Act (66 of 1957), by Section 113(2) had empowered the Corporation to levy certain optional taxes. Under section 150, power was given to the Corporation to define the maximum rate of tax to be levied, the classes of persons and the description of articles and property to be taxed, the system of assessment to be adopted and the exemptions, if any, to be granted. The majority of the Supreme Court held the delegation to be valid. They expressed the view that it was essential for the legislature to lay down the legislative policy and standards, before it could delegate the task of subordinate legislation to another body. Wanchoo, C.J., observed that there were sufficient guidance, checks and safeguards in the Act which prevented excessive delegation. The learned

⁴⁰A.I.R. 1967 S.C. 1895.

⁴¹A.I.R. 1968 S.C. 1232.

Chief Justice observed that statements in certain cases to the effect that the power to fix rates of taxes is not an essential legislative function were too broad and that "the nature of the body to which delegation is made is also a factor to be taken into consideration in determining whether there is sufficient guidance in the matter of delegation". According to the learned Chief Justice, the fact that delegation was made to an elected body responsible to the people including those who paid taxes provided a great check on the elected councillors imposing unreasonable rates of tax. He then said:

"The guidance may take the form of providing maximum rates of tax upto which a local body may be given the discretion to make its choice or it may take the form of providing for consultation with the people of the local area and then fixing the rates after such consultation. It may also take the form of subjecting the rate, to be fixed by the local body, to the approval of Government, which acts as a watch-dog on the actions of the local body in this matter on behalf of the legislature. There may be other ways in which guidance may be provided".

In *Sita Ram Bishambhar Dayal v. State of Uttar Pradesh*,¹ section 3D(1) of the U.P. Sales Tax Act, 1948 had provided for levying taxes at such rates as may be prescribed by the State Government not exceeding the maximum prescribed therein. The appellant challenged the validity of section 3D(1), *inter alia*, on the ground of impermissible delegation of legislative power.

In rejecting the challenge, Hegde, J., delivering the judgment of the Court observed:

"It is true that the power to fix the rate of a tax is a legislative power but if the legislature lays down the legislative policy and provides the necessary guidelines, that power can be delegated to the executive. However much one might deplore the 'New Despotism' of the executive, the very complexity of the modern society and the demand it makes on its Government have set in motion forces which have made it absolutely necessary for the legislatures to entrust more and more powers to the execu-

¹A.I.R. 1972 S.C. 1161.

tive. Text book doctrines evolved in the 19th century, have become out-of-date”.

In *Gwalior Rayon Mills Manufacturing (Wvg.) Co. Ltd. v. Assistant Commissioner of Sales Tax*,⁴⁸ section 8(2) (b) of the Central Sales Tax Act, 1956 was challenged, *inter alia*, on the ground of impermissible delegation of legislative power. It had been argued on behalf of the appellants that the fixation of rate of tax is a legislative function and as the Parliament had under section 8(2) (b) of the Act, not fixed the rate of Central Sales Tax but had adopted the rate applicable to the sale or purchase of goods inside the appropriate State in case such rate exceeded 10 per cent, the Parliament had abdicated its legislative function.

This challenge was repelled in the concurring judgments delivered by Khanna, J., and by Mathew, J. Khanna, J., was of the view that the adoption of the rate of local sales tax for the purpose of the Central Sales Tax as applicable in a particular State did not show that the Parliament had in any way abdicated its legislative function. Where a law of Parliament provided that the rate of central sales tax should be 10 per cent or that of the local sales tax whichever be higher, a definite legislative policy could be discerned in such a law, the policy being that the rate of central sales tax should in no event be less than the rate of local sales tax. A law made by Parliament containing the above provision could not be said to be suffering from the vice of excessive delegation of legislative power.

Limitations on Authority making Subordinate Legislation

Authority vested with the power of making subordinate legislation has to act within the limits of its power and cannot transgress the same. The initial difference between subordinate legislation and the statute laws lies in the fact that a subordinate law-making body is bound by the terms of its delegated or derived authority and that Court of law, as a general rule, will not give effect to the rules thus made, unless satisfied that all the conditions precedent to the validity of the rules have been fulfilled.⁴⁹

⁴⁸A.I.R. 1974 S.C. 1660.

⁴⁹*Hukam Chand etc. v. Union of India* A.I.R. 1972 Supreme Court, 2427.

Validity of a rule, whether it is declared to have effect as if enacted in the Act or otherwise, is always open to challenge on the ground that it is unauthorised.⁵⁰

Where an executive authority is given power to frame subordinate legislation within stated limits, rules made by such authority, if outside the scope of the rule-making power, cannot be deemed to be valid merely because such rules have been placed before the legislature and are subject to such modification, amendment or annulment, as the case may be, as the legislature may think fit. The process of such amendment, modification or annulment is not the same as the process of legislation and in particular it lacks the assent either of the President or the Governor of the State, as the case may be. Therefore, notwithstanding the subordinate legislation being laid on the Table of the House of Parliament or the State Legislature and being subject to such modification, annulment or amendment as they may make, the subordinate legislation cannot be said to be valid unless it is within the scope of the rule-making power provided in the statute.⁵¹

Unlike legislation made by a sovereign Legislature, subordinate legislation made by a delegate cannot have retrospective effect unless the rule-making power in the concerned statute expressly or by necessary implication confers power in this behalf.⁵²

⁵¹*Kerala State Electricity Board v. Indian Aluminium Co.*, A.I.R. 1976 Supreme Court, 1031.

⁵²*The State of Madhya v. Tikama Das*, A.I.R. 1975 Supreme Court 1429. (Also See *Income Tax Officer, Alleppey v. M. C. Ponnose* A.I.R. 1970, S.C. 385).

FREEDOM FROM ARREST AND THE COURTS

T. HANUMANTHAPPA

Article 194 of the Constitution of India deals with the powers, privileges, and immunities of the State Legislatures and their members. Similarly, article 105 deals with the powers, privileges and immunities of the Houses of Parliament and of the members and committees thereof. Article 194 reads as follows:—

“194. Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof:—

- (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislatures, there shall be freedom of speech in the Legislature of every State.
- (2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.
- (3) In other respects the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be those of that House and of its members and committees at the commencement of section 34 of the Constitution (Forty-Second Amendment) Act, 1976 and as may be evolved by such House of the Legislature of a State, so far as may be, in accordance with those of the House of the People and of its members and committees where such House is the

Legislative Assembly and in accordance with those of the Council of States, and of its members and committees where such House is the Legislative Council.

- (4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature."

It is evident from clauses (1) and (2) of article 194 that a member of the State Legislature enjoys freedom of speech in the Legislature and that he is not liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof. According to clause (3) the powers, privileges and immunities of a House, its members and its committees in other respects shall be those that were available to that House, its members and its committees at the commencement of Section 34 of the Constitution (Forty-Second Amendment) Act, 1976. Further, the clause also provides that the House may also evolve privileges in accordance with the privileges of the Houses of Parliament, i.e., the Legislative Assembly in accordance with those of the House of the People and the Legislative Council in accordance with those of the Council of States. This means that the State Legislatures cannot evolve more or different privileges than the Houses of Parliament. We will have to ascertain now what privileges were available at the commencement of section 34 of the Constitution Amendment Act.

Clause (3) of article 194 before it was amended by the 1976 Amendment Act stood as follows:—

- (3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution".

Since no Legislature had defined the other privileges, the privileges of the House of Commons, its members and committees thereof were available to the Legislature its members and committees

thereof. At the commencement of the Constitution Amendment Act, therefore, the powers, privileges and immunities of the House of Commons were available to the State Legislatures. The amended clause (3) has provided that the Legislatures will continue to enjoy the privileges etc., that were available at the commencement of the Amendment Act.

Article 105 deals with the powers, privileges and immunities of each House of Parliament and its members and committees thereof. Clauses (1), (2) and (4) of this article are more or less similar to clauses (1), (2) and (4) of article 194. Clause (3) as amended by the Constitution (Forty-Second Amendment) Act reads as follows:

“(3) In other respects, the powers, privileges and immunities of each House of Parliament and of the members and committees of each House shall be those of that House and its members and committees at the commencement of section 21 of the Constitution (Forty-Second Amendment) Act, 1976 and as may be evolved by such House of Parliament from time to time.

It is clear from this clause also that whatever privileges were enjoyed by each House of Parliament at the commencement of the Constitution Amendment Act will continue to be available, and, in addition, each House may evolve other privileges also. Though reference to the House of Commons has been deleted the privileges of the House of Commons are continued by the Constitution Amendment Act.

Freedom from Arrest was one of the privileges available to the members at the commencement of the Constitution Amendment Act. A constant reference to the scope of this privilege as it existed in the House of Commons prior to January 26, 1950 is inevitable as the members of the Legislature were enjoying this privilege by virtue of the Constitutional provisions prior to the Forty-Second Constitution Amendment Act and which privilege is continued by this Amendment.

The object of this privilege is to secure the safe arrival and regular attendance of members on the scene of their parliamentary duties. The scope of the privilege is very much limited. It is available to the members during the continuance of a session and forty days before its commencement and after its conclusion. It was never held

to protect members from the consequences of treason, felony, or breach of the peace. It did not extend to the writing and publishing of seditious libels. The privilege cannot be claimed for any indictable offence. The privilege does not also protect a member from being committed to prison for contempt of court. But the members can claim the privilege of freedom from arrest for civil process or for a debt due. There are certain arrests which are not for committing any specific offence. Those arrests are for preventing a person from committing an offence. Such arrests are not for a civil debt or a civil cause. The privilege does not apply to such preventive arrests also. The Committee of Privileges of the House of Commons came to this conclusion in the case of detention of Captain Ramsay, a member of the House of Commons. After considering the law of privilege and the decided cases, that committee come to the conclusion that "the precedents lend no support to the view that members of Parliament are exempted by privilege of Parliament from detention under Regulation 18B of the Defence (General) Regulations, 1939. Preventive arrests under statutory authority by executive order is not within the principle of the cases to which the privilege from arrest has been decided to extend; to claim that the privilege extends to such cases would be either the assertion of a new parliamentary privilege or an unjustified extension of an existing one, no question of any infringement of the privilege of freedom of speech arises".

The only privilege the members of the House of Commons can claim is the freedom from arrest in civil cases. But even this has lost much of its importance as arrest for civil debt has been abolished in England. Whenever a member is arrested or detained the authority effecting the arrest etc. has to inform the House to which the member belongs of the fact and cause of arrest or detention. Otherwise it would be treated as a breach of privilege.

The members of the State Legislatures in India and members of the Indian Parliament can, therefore, claim privilege for civil arrests only. They cannot claim any privilege for other arrests like criminal offences, preventive detention etc. After the Constitution came into force some members of the State Legislatures and Parliament have been arrested and detained under the Preventive Detention Act. In one case a member was arrested for certain offences committed by him. He was detained pending trial as bail had been refused. Such members have approached the Courts for the redressal of their grievances.

When a member is arrested or detained either for a criminal offence or under Preventive Detention Act the question arises as to which forum he should resort to to vindicate his rights, i.e., should the member raise the matter in the House or should he go to a court of law. The arrest is made by the Executive. If a member is claiming that the arrest or detention is a breach of privilege he should naturally raise the same in the House itself. But the members have resorted to courts for various reasons without getting the matter raised in the House. The courts have also asserted that they have a right to deal with privilege cases also.

The Madras High Court in *In the Matter of Venkateswarlu*¹ has asserted that it had power to deal with matters where the privilege or immunity of a member was involved. It has relied on two English cases, viz. *Goudy V. Duncombe*² and *Holiday St. Alv. Colonel Pitt*³.

It also stated that article 226 provided the Courts with all powers which a High Court of Justice in England has under the common law for the issue of prerogative writs and that if they are satisfied that the arrest or detention of a member contravened the rights, privileges or immunities, they would unhesitatingly issue the writ and direct the member's release as has been done by the English Courts.

But sometime later one of the Judges of the Madras High Court in *In re Anandan*⁴ opined that the judgment in *Venkateswarlu's* case was premature. Mr. Justice Somasundaram was of opinion that the obligation to ascertain and determine the privileges of a member rested primarily in the first instance with the House and House only and the jurisdiction of the Court came in only later, i.e., when the House failed to perform its duties or refused to perform its duties or performs it contrary to clause (3) of article 194 of the Constitution.

The position in the House of Commons as given in May's *Parliamentary Practice* is as follows:

"The House of Commons claims that its admitted right to adjudicate on breaches of privilege implies in theory the right to determine the existence and extent of the privi-

¹A.I.R. 1951 Madras 289.

²(1847) 1 Ex 430 : 154 ER 183.

³2 Strange 986 : 93 ER 985.

⁴A.I.R. 1952 Madras 117.

leges themselves. It has never expressly abandoned its claim to treat as a breach of privilege the institution of proceedings for the purpose of bringing its privileges into discussion or decision before any court or tribunal elsewhere than in Parliament. In other words, it claims to be the absolute and exclusive judge of its own privileges, and that its judgments are not examinable by any other court or subject to appeal.

On the other hand, the Courts regard the privileges of parliament as part of the law of the land, of which they are bound to take judicial notice. They consider it their duty to decide any question of privilege arising directly or indirectly in a case which falls within their jurisdiction and to decide it according to their own interpretation of the law.

The decisions of the courts are not accepted as binding by the House in matters of privilege, nor the decisions of the House by the courts. Thus the old dualism remains unresolved. In theory 'there may be at any given moment two doctrines of privileges, the one held by the Courts, the other by either House, the one to be found in Law Reports, the other in Hansard; and there is no way of resolving the real point at issue should the conflict arise'⁵.

In none of the cases that came up before the Courts the House or its Officer was made a party to the suit. The contention of the members was that the Government had violated the privilege. All the same the matter should have been raised in the House and the House alone should consider whether there was any privilege at all and if there was one whether it had been violated. In the case of Captain Ramsay it was raised in the House and the House gave a decision that no privilege was involved.

Before the Courts various pleas were raised by the members and the Courts considered those pleas and decided them. In *In re Venkateswarlu* it was held by a Division Bench of the Madras High Court that a member of the State Legislature cannot have the immunity from arrest in the case of preventive detention order. Similarly, in the case of *In re. Anandan Nambiar*, it was held by the Madras High Court that once a member of the Legislative Assembly is arrested and lawfully detained, though without actual trial, under any Preventive Detention Act, there can be no doubt that under the law as

⁵Sir Erskine May, *Treatise on the Law, Privileges and Usage of Parliament*, Eighteenth edition, pp. 196-197.

it stands, he cannot be permitted to attend the sittings of the House. In *Ansumali V. State of West Bengal* the Calcutta High Court has elaborately considered this point and has held that a member of the House of the Central or State Legislature cannot claim as such member any immunity from arrest under the Preventive Detention Act. Dealing with the argument that a member of Parliament cannot by reason of his detention, be prevented from exercising his rights as such Member, Harries C. J., observed that if this argument was sound, it followed that persons convicted of certain offences and duly elected must be allowed to perform their duties and could not be made to serve their sentence during the life of a Parliament.

Another point raised in this case was that no member of Parliament could be detained or imprisoned unless it was a disqualification, in view of clause (4) of article 101 which states that a member of Parliament who is absent for sixty days or more may vacate his seat. The court did not accept this contention.

In *Ananda V. Chief Secretary of Madras* the contention was that Rule 30(1) (b) of the Defence of India Rules, 1962 was invalid on the ground that it contravened the constitutional rights of members of Parliament under the provisions of the Constitution of India by preventing them from participating in the business of Parliament but the Supreme Court held that "the rights accruing to the members after they are elected are not Constitutional rights in the strict sense and they are not fundamental rights at all; it may be that sometimes in discussing the significance or importance of the right of freedom of speech guaranteed by article 105(1) and (2) it may have been described as a fundamental right but the totality of rights cannot claim the status of fundamental rights at all and the freedom of speech is a part of the privileges falling under article 105 and a plea that a breach has been committed of any of these privileges cannot, of course, be raised in view of the decision of the Committee of Privileges of the House of Commons; Besides the freedom of speech to which article 105(1) and (2) refer, would be available to a member of Parliament when he attends the session of the Parliament. If the order of detention validly prevents him from attending a session of Parliament no occasion arises for the exercise of the right of freedom of speech and no complaint can be made that the said right has been invalidly invaded. A member of Parliament can claim no special status higher than that of an ordinary citizen insofar as a valid order of detention is concerned and is as much liable to be arrested and detained under it as any other citizen".

In *Kunjan Nadar V. The State*, the Travancore-Cochin High Court held that where a member of the Legislative Assembly has been arrested and detained and his detention is legal and under due process of law, he cannot claim that his detention should be subordinated to his right to attend the proceedings of the Legislative Assembly. It further held that so long as the detention is legal the danger of his losing his seat under article 190(4) or the certainty of his losing his daily allowance cannot possibly form the foundation for relief against the normal or probable consequences of that detention.

The question of the right of correspondence, by a member detained, with the Legislature was raised before Madras High Court in *In re. Anandan*. The Court observed:

'As long as a detenu continues to be a member of Legislature, drawing the emoluments of his office, receiving summons to attend, he is entitled to the rights of correspondence with the Legislature, and to make representations to the Speaker and the Chairman of the Committee of Privileges and no executive authority has any right to withhold such correspondence. This right as it appears to us, flows not merely from principles of natural justice, but as a continuing member of the House he would appear to be entitled to this privilege under article 194(3) of the Constitution under which English Parliamentary practice has to be followed until a law is enacted... Captain Ramsay was permitted to correspond with the House of Parliament while under detention.'

Actually there is no such right in England. In 1908 a member enquired of the Speaker whether a member who had been in prison on a conviction for contempt of court was entitled to receive the House of Commons papers and to communicate with the officers of the House. The Speaker observed: 'The ordinary papers which are issued to every member of the House will be issued to the hon. member for North Westmeath in the usual way. Whether he will be permitted to receive them, or whether he will be entitled to carry on any correspondence is a matter over which I have no control. That must be a matter of prison discipline....' When further asked to clarify the position the Speaker observed: 'I have no control over the prison officials. If the letter reaches me, I shall presume that the officials have passed it....'

Captain Ramsay had been allowed to write to the Speaker with the permission of the prison authorities and to attend the Committee of Privileges and consult books in the Library. But there

was a special order of the House of Commons which was based on the power of the House to call for persons, papers and records. It may be noted that the Committee of Privileges of Lok Sabha in *Kansari Haldar's* case in 1958 observed that in law members detained under Preventive Detention laws do not carry to the prison any privileges of the House to which they belong.

A brief account of the cases referred to above is given below.

*In the matter of Pillalamarri Venkateswarlu:*⁶ Shri Pillalamarri Venkateswarlu, a member of the Madras Legislative Assembly (1946—52) was arrested on November 7, 1948 under the Madras Maintenance of Public Order Act and detained in jail. In his petition before the Madras High Court he contended that he had been in illegal detention and prayed for release on the ground that he enjoyed the privileges, rights and immunities which a member of the House of Commons of United Kingdom enjoyed. He also prayed that he may be allowed to attend the Legislature after taking whatever precautions that may be necessary in the circumstances. The judgment of the Court was delivered by Govinda Menon, J.

A doubt was raised in the High Court as to whether the Court had the power to issue writs such as *habeas corpus* etc., when the point in dispute related to the rights, privileges and immunities of a member of the House of Legislature, for it was thought that matters like that should be within the sole purview and jurisdiction of the Speaker of the Legislative Assembly. The Court, therefore, examined the precedents in the United Kingdom to find out whether the High Court of Justice in England had ever entertained or interfered in such matters. It found in two cases that the High Court had the right of interfering when privileges or immunity of a member of Parliament had been infringed.

The first case is of *Goudy V. Duncombe*.⁷ In this, Duncombe had been arrested on September 2, 1947 in execution of a warrant for default in payment of a debt. On an application made by him for discharge on the ground that he had been elected as a member of Parliament on July 28, 1947 and that Parliament had been prorogued to October 12, he was discharged. On an application to set aside the discharge order the Court, after going through various authorities, was of the opinion that whatever might be the convenient

⁶A.I.R. 1951 Madras 269.

⁷(1847) 1 Ex. 430; 154 E.R. 183.

period in the earlier days, a period of forty days before and after the meeting of the Parliament had for about two centuries at least been considered the convenient or the actual time to be allowed. The court therefore confirmed the order of discharge.

In *Holiday Et. Al. V. Colonel Pitt*,⁸ it was held that members of Parliament have privilege of return after its dissolution and that they may be discharged on motion without filing common bill. Even in that case nobody thought of disputing the right of the High Court to enforce the rights, privileges and immunities of a member of Parliament when justice demanded it.

In view of these two authorities from United Kingdom the Court was of the opinion that when parliamentary rights, privileges or immunities were infringed by the arrest of a member it was open to the court to interfere and set right the matter and that article 226 of the Constitution clothed them with all the powers which a High Court of Justice in England had under common law for the issuing of prerogative writs.

The chief ground on which the petitioner wanted to be released was that as a member of the Madras Legislative Assembly he enjoyed the privileges, rights and immunities which a member of the House of Commons of the United Kingdom enjoyed in accordance with the practice and procedure obtaining in the Parliament at Westminster at the commencement of the Constitution of India. The court examined article 194 of the Constitution which dealt with powers, privileges and immunities of the Legislature, its members and committees. According to clause (3), the Legislature could by law define the privileges and till they were so defined, they were to be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of the Constitution.

Since the Legislature had not enacted a law defining the privileges of its members it followed that every member of the Madras Legislative Assembly had the same powers, privileges and immunities which a member of the House of Commons at Westminster was entitled to on January 26, 1950. The Court then proceeded to find out the privileges of a member of the British Parliament as on that day. In Anson's *Law and Custom of the Constitution*⁹ it is stated thus:

"The first of these is freedom from arrest for the persons of members during the continuance of session, and for forty

⁸2 strange 986; 93 E.R. 895.

⁹Vol I, Fifth edition, 1922 p. 163.

days before its commencement and after its conclusion. The object of the privilege was doubtless to secure the safe arrival and regular attendance of members on the scene of their Parliamentary duties. The privilege itself may perhaps relate back to the Saxon rule that such persons as were on their way to the 'gemot' were in the King's peace. It never was held to protect members from the consequences of treason, felony or breach of the peace. In 1763 both Houses resolved, in the case of Mr. Wilkes, that it did not extend to the writing and publishing of seditious libels and since that time the rule has been considered settled that 'privilege is not claimable for any indictable offence'. Nor does privilege protect a member from being committed to prison for contempt of court. A Committee of privileges was appointed to deal with the case of Mr. Long Wellesley in 1831: he had taken a ward in Chancery, his own daughter, out of the jurisdiction and had been committed for contempt by the Lord Chancellor, Lord Brougham. The Committee reported that his claim of privilege ought not to be admitted.'

Sir Erskine May states as follows on the subject:

'It will be convenient to begin with the sphere in which enjoyment of freedom from arrest is unquestioned, namely, in civil suits, setting out the extent to which this privilege has been limited or defined by statutes and resolutions of either House, then similarly to define the sphere in which freedom from arrest does not exist, namely, in criminal process and to conclude with an account of the extent to which the privilege has been extended by analogy from members to other persons, such as witnesses, in virtue of their relations to parliament.'¹⁰

Regarding the duration of privilege May states as follows:

"With regard to Members of House of Commons 'the time of privilege' has been repeatedly mentioned in the statutes, but never explained. It is stated by Blackstone and others and has been the general opinion (founded, probably upon the ancient law and custom by which writs of summons for a Parliament were always issued at least

¹⁰May, *op. cit.*, p. 91.

forty days before its appointed meeting), that the privilege of freedom from arrest remains with a member of the House of Commons, for forty days after every prorogation, and forty days before the next appointed meeting and this extent of privilege has been allowed by the Court of Law on the ground of usage and universal opinion."¹

From these precedents and authorities the court came to the conclusion that for a period of forty days prior to the meeting and forty days subsequent to the conclusion of the meeting, a member of Parliament enjoyed immunity from being arrested for a civil debt, i.e., if there is a decree against him, or, if he is sought to be arrested before judgment, he can certainly claim the immunity and freedom from arrest. At the same time, it was clear that such immunity cannot extend or be contended to operate, where the member of Parliament is charged with an indictable offence.

The court then examined the facts of the case to determine if the member had been arrested for an indictable offence. The member had been arrested under the Madras Maintenance of Public Order Act, which was a preventive measure and not a punitive one. The court then proceeded to find out whether there was any precedent, where a member of the House of Commons who had been subject to preventive detention, had the privilege of freedom from arrest extended to him.

A case apposite in point was that of Captain Ramsay, who was a member of British Parliament in 1940. Captain Ramsay was detained under Regulation 18B of the Defence (General) Regulation 1939. Captain Ramsay approached the Speaker of the House of Commons alleging that by his detention his immunity from arrest as member of the House of Commons had been infringed. On this, the Speaker referred the matter to the Committee of Privileges. The Committee examined the Secretary of State for the Home Department who had issued the order for detention and Sir Gilbert Campion, Clerk of the House of Commons. The Committee considered the entire history of the privileges of Members of Parliament and opined that 'it is plain that arrest in civil proceedings is a breach of privilege and that arrest on criminal charge for an indictable offence is not'. The Committee observed that this statement did not cover preventive detention by order of the executive

¹Ibid, p. 90.

authority. The Committee also discussed the principle laid down by the House of Commons as early as 1641 and found that privilege of Parliament is granted in regard to the service of the Commonwealth and is not to be used to the danger of the Commonwealth'.

The Committee noted the following statement made by Sir Gilbert Campion:

"It is certain that during this period (the last two hundred years) privilege from arrest has not been successfully claimed except in civil cases".

The Committee also adverted to a statute passed by the British Parliament in 1881, namely, the Protection of Person and Property (Ireland) Act, 1881 which gave the Irish Executive power to arrest and detain person suspected of high treason, felony etc., or of acts tending to interfere with or disturb the maintenance of law and order in Ireland. Sub-section(3) of Section 3 of the Act provided that 'If any member of either House of Parliament be arrested under this Act the fact shall be immediately communicated to the House of which he is a member, if Parliament is sitting at the time, or if Parliament be not sitting, then immediately after Parliament reassembles in like manner as if he had been arrested on a criminal charge'. The Committee came to the following conclusion:

"The precedents lend no support to the view that Members of Parliament are exempted by privilege of Parliament from detention under regulation 18B of the Defence (General) Regulations, 1939. Preventive arrest under statutory authority by executive order is not within the principle of the cases to which the privilege from arrest has been decided to extend. To claim that the privilege extends to such cases would be either the assertion of a new parliamentary privilege or an unjustified extension of an existing one. No question of any infringement of the privilege of freedom from arrest arises".

The Committee came to the conclusion that the arrest of Captain Ramsay was not a breach of privilege. It was of opinion that the arrest of a Member of Parliament in order to effect preventive detention would be lawful and not a breach of privilege.

The Madras High Court did not accept the contention of the Counsel for the Petitioner that the conditions that were obtaining in England in 1940 cannot be said to be analogous to the state of our

country at the present juncture and that the decision under Regulation 18B or the circumstances under which that Regulation was in force in England cannot be used as analogy in our country now. The court citing a previous case which was founded on the observations of the House of Lords in *Liversidge v. Anderson*¹² was of the opinion that the words of Regulation 18B and the interpretation thereon can be applied to the interpretation of Section 2(1)(a) of the Madras Maintenance of Public Order Act under which the petitioner was detained.

The Court held that if on January 26, 1950 a member of the House of Commons of the United Kingdom at Westminster had no immunity as a result of parliamentary privilege from being arrested and detained under a preventive detention regulation (rule 18B) the provisions of which are somewhat analogous to the provisions of the Madras Maintenance of Public Order Act, it follows that under article 194(3) a member of the State Legislature cannot have that privilege and that the court cannot issue a writ of *Habeas Corpus*.

*In re. Anandan*¹³: Shri K. Anandan Nambiar, a member of the Madras Legislative Assembly (1946—1952) was arrested on May 4, 1949 and detained under the Madras Maintenance of Public Order Act. He applied for the issue of a writ by way of *mandamus* or other appropriate writ to declare and enforce his right to attend the sittings of the Legislative Assembly then in progress either freely or with such restrictions as may be reasonably imposed. He also complained that his letters to the Legislature addressed to the Chairman of the Committee of Privileges had been withheld by the Superintendent, Central Jail and sought a declaration of his right to communicate with the Legislature in his capacity as a member without let or hindrance from prison. The petitioner did not press his first point, viz. that he, as a member, had a privilege of immunity from preventive detention in view of the decision of the Madras High Court in *In re Venkateswarlu* where it had been held, following the decision in the *Ramsay* case, that a member could claim no privilege from arrest and detention under the Preventive Detention legislation.

Two separate judgments were delivered.

Mack, J. after referring to *Venkateswarlu's* case and briefly dealing with the privileges in the House of Commons held that a

¹²(1942) A.C. 206.

¹³A.I.R. 1952 Madras 117.

member of the Legislative Assembly can claim no privilege from arrest and detention under Preventive Detention legislation. Once a member of a Legislative Assembly is arrested, though without actual trial under any Preventive Detention Act, there can be no doubt that under the law as it stands, he cannot be permitted to attend the sittings of the House. A declaration by the High Court that he is entitled to do so, even under armed escort is entirely out of question.

The Counsel for the petitioner urged that the very basis of the sovereignty of the people would be undermined and imperilled if a member of a Legislature was deprived of his right to sit in it and if the electorate were to be for years deprived of any representation in the House. It was held that the position both for the petitioner and his electorate had no doubt been most unfortunate but that by itself could give the petitioner no legal right to the relief he now sought to attend the Legislature while under detention.

The Judge conceded the contention of the Counsel that if a party in power detains a political opponent or continues his detention with the *malafide* object of stifling the opposition and prejudicing the party to which he belongs in a forthcoming election, there would be an undermining of the basis of the Constitution.

As regards the right of a detenu to correspond with the Legislature it was held as follows:

“This is in our opinion well-founded. As long as a detenu continues to be a member of a Legislature, drawing the emoluments of his office, receiving the summons to attend, he is entitled to the right of correspondence with the Legislature and to make representations to the Speaker and the Chairman of the Committee of Privileges and no executive authority has any right to withhold such correspondence.”

The Court also considered the Madras Security Prisoners Rules framed under the Preventive Detention Act regulating correspondence permissible to detenu and held that “during the period of his detention, a detenu, who continues to be a member of the Legislative Assembly has a right to correspond with the House” and that this right “flows not merely from the principles of natural justice which will be violated by such letters being withheld but as a continuing member of the House he would also appear to be entitled to this privilege under article 194(3) of the Constitution under which English parliamentary practice has to be followed until a law is enacted by the Legislature defining the powers, privileges

and immunities of the House, its committees and its members. Capt. Ramsay was permitted to correspond with the House of Parliament while under detention and was also given a personal hearing in an elaborate enquiry conducted by the Committee of Privileges." The court accordingly declared the right of the petitioner as a member of the Legislative Assembly to correspond without let or hindrance with the Speaker and the Chairman of the Committee of Privileges through the Secretary of the Legislature during his period of detention.

Somasundaram, J. while agreeing with the orders proposed by Mack, J. stated that the judgment in *In re Venkateswarlu* was premature as the obligation to ascertain and determine the privileges of a member of the House rested primarily and in the first instance with the House and House only and the jurisdiction of the Court came in only later, i.e., when the House failed to perform its duties or refused to perform its duties or performed its duties contrary to clause 3 of article 194. The Judge said that the House cannot be found fault with for anything done or not done as the letter dated the 13th August, 1951 written by the petitioner to the Chief Secretary (copy of which was sent to the Speaker) had not even been placed before it for its consideration.

On the question of the right of a member under detention to correspond with the Legislature he agreed with the observations made by Mack, J.

A writ of *mandamus* was issued directing the Chief Secretary to Government and the Superintendent of the Central Jail to forward to the House any letters from the petitioner held up on executive orders, so that the Legislative Assembly may deal with them in accordance with parliamentary law and practice prevailing in England by which the Legislature is bound. In other respects the petition was dismissed.

Ansumali Vs. State of West Bengal:¹⁴ Three members of the West Bengal Legislative Assembly and one member of the Council of States had been detained under the Preventive Detention Act. The point raised was whether persons returned as members of a State Legislative Assembly or the Council of States can be detained under the provisions of the Preventive Detention Act whilst their membership of the Assembly or the Council of States continued.

¹⁴A.I.R. 1952 Col, 633.

The Judgment of Harries, C.J. was agreed to by Das, J.

The Counsel for the petitioners contended that persons duly elected as members of either House of the Legislature were entitled to freedom from arrest during such membership, as election as a member of either House entitled important and onerous duties and that persons elected would be unable to represent their constituents or perform the duties which they were elected to perform unless during their membership they had at all times free access to the House and freedom to perform the manifold duties which devolved upon members of a Legislative Assembly or the Council of States.

The Court stated that the claim made by the detenus of freedom from arrest during their membership of either House of the Legislature was a claim to a privilege or immunity and therefore was governed by article 105 of the Constitution and that under clause (3) of article 105, the powers, privileges and immunities of members might be defined by law by Parliament and until they were so defined, they should be similar to the powers, privileges and immunities of members of the British Parliament.

The Counsel further argued that Parliament under powers given by the Constitution had defined the qualifications for membership of either House and further had laid down the disqualification for such membership and that as preventive detention under the Preventive Detention Act neither disqualified a person from being so elected nor from continuing to be a member if so elected, such detention therefore could not be enforced to prevent a person duly elected and not disqualified from performing the duties of a duly elected member.

After examining the relevant provisions of the Constitution (articles 84 and 102) and the Representation of the People Acts, 1950 and 1951 (ss. 16 and 19 of the Representation of the People Act, 1950 and ss. 5, 6, 7 and 8 of the Representation of the People Act, 1951) the Court observed:

'It will be seen from these provisions that preventive detention does not disqualify a member and there can be no doubt that a person against whom an order under the Preventive Detention Act has been made can be elected as a member of either House of the Legislature and if so elected such an order does not disqualify him from membership. Further, if the order was made during, his membership such would not disqualify him.'

The Counsel next contended that the Preventive Detention Act must have been well known to the Constituent Assembly and to Parliament when the Representation of the People Acts were passed and as they did not make an order for preventive detention a disqualification then Parliament must have intended that such order should not, in any way, prevent a person duly elected from performing his duties. In other words, the Counsel stated that when a person is qualified to be elected and having been elected is not disqualified for any reason from sitting then no executive order or in fact no order of a Court can prevent him from sitting and from performing the manifold duties, which devolve on a member of either House.

The Court observed that if the above argument was sound then it followed that persons convicted of certain offences and duly elected must be allowed to perform their duties and could not be made to serve their sentence during the life of Parliament and added:

‘Under articles 21 and 22 of the Constitution of India if a person, whoever he may be, has been convicted of an offence under the law in a trial in accordance with the procedure laid down by law, or if a person, whoever he may be, has been detained by an order made under some valid law, the procedure of that law being properly followed, such conviction or detention is valid. Articles 21 and 22 do not exempt members of either House of a Legislature and apply to all.’

The Counsel urged that the provisions of the Representation of the People Act are expressly made under the Constitution and therefore an exception to articles 21 and 22 must be allowed. But the Court stated:

‘The various articles of the Constitution must be construed as a whole and effect, if possible, must be given to all of them. It would be impossible to hold that articles 21 and 22 of the Constitution do not apply to members of the Legislature who have been convicted and sentenced to shorter terms of imprisonment and to persons detained under valid orders made under the Preventive Detention Act. The Constitution of India deals with the qualifications for membership and disqualifications for membership in articles 84 and 102 and it deals with the privileges and immunities of members in article 105. The makers of our Constitution, therefore, drew a

sharp distinction between the qualifications and disqualifications of the members and their privileges and immunities. The Representation of the People Acts of 1950 and 1951 merely deal with the qualifications and disqualifications of members. They do not purport to deal with the privileges and immunities of members. The Acts in question have been passed under powers given in articles 84 and 102 of the Constitution. The Constitution envisages express legislation on these questions of privileges and immunities and mere legislation on qualifications and disqualifications will not touch the question. The Parliament has not yet defined any privileges or immunities of members. All that it has done is to lay down what should be the qualifications of a member and what will disqualify him. If he is not disqualified he will continue as a member with such privileges and immunities as now exist. As no legislation has yet been passed affecting such powers and immunities, the rights, privileges and immunities of members of either House of the Legislature are those of the members of Parliament of the United Kingdom. Disqualification is a very different matter from any particular immunity claimed by members. If a member is not disqualified he remains a member. Whether as such member he can claim any particular immunity must depend upon express law relating to such immunities."

Since the other privileges and immunities are the same as those of the members of the House of Commons till they are defined, the court examined the privileges of the members of the House of Commons. It stated: 'It is clear that at the present time in England the privilege of freedom from arrest is limited to civil cases and has not been allowed to interfere with the administration of criminal justice.'

After examining the provisions in May's *Parliamentary Practice* the court stated: 'It appears... that preventive detention partakes more of a criminal than of a civil character. The Preventive Detention Act only allows persons to be detained who are dangerous or likely to be dangerous to the State. It is difficult to contend that an order of preventive detention is of a civil character. They are orders made when persons are suspected of serious criminal activities directed at the welfare of the State and of the community. It is true that such orders are made when a criminal charge possi-

bly could not be established, but the basis of the orders are a suspicion of nefarious and criminal or treasonable activities.'

After perusing the report of the Committee of Privileges of the House of Commons in *Ramsay's* case the Court stated: 'It is to be observed that Parliament took no action in respect of the detention of Captain Ramsay which continued for many years. It seems to follow therefore that the English Parliament claims no privilege for its members against preventive detention or against executive order made under legislative authority. If no such privilege exists or is claimed...in the United Kingdom then it follows that no such privilege exists at the present moment in India.'

The Counsel again urged that the Defence of the Realm Act in England under which Captain Ramsay had been detained was a temporary statute enacted to meet the emergency created by the War, whereas in India the emergency created by the last Great War had long since passed. The court stated that the Indian Act like the English Act was a temporary one and had been enacted in India because of the belief of the Legislature that India was passing through a state of emergency even at the present moment.

The next contention was that in India, unlike in England, the seat of a member of Parliament who is absent for sixty days or more may be declared vacant under article 101(4) and that by reason of this no member of Parliament can be detained or imprisoned unless such is a disqualification. The Court observed:

"Under article 101(4) the absence of a member for sixty days without permission of the House does not automatically lead to the vacation of the seat. The House in such a case may declare the seat vacant. But it may not, and it is impossible to believe that a House of Parliament would declare a seat vacant by reason of absence where the cause of absence was due to detention or imprisonment, unless the House thought that the conduct of the person concerned was such as really to make him unfit to be a member of the House. Though there is no such provision in England it cannot be overlooked that the House of Commons in England may expel a person for reasons which do not disqualify him and declaring a seat vacant under article 101(4) of the Constitution is action very similar to expulsion and, therefore, action under that clause may never be taken except for good cause. That being so, the existence of Clause (4) of article 101 does not really make the position in India materially different from that obtaining in England."

Finally, the Court observed: 'Even assuming that privilege could be claimed because it was recognised in England, such could only be claimed within a period of forty days from the summoning of Parliament. In England the immunity from arrest existed for forty days before the sitting of parliament and for forty days after prorogation. Hence where the Assembly of a State has not been summoned it would be premature to claim such a privilege.

The application for writs were dismissed by the Court.

*A. Kunjan Nadar V. The State*¹⁵: Shri A. Kunjan Nadar, a member of the Travancore-Cochin Legislative Assembly, had been arrested for certain cognisable and non-cognisable offences and two criminal cases were pending against him. Bail had been refused and he was an under-trial prisoner.

A petition was filed before the Travancore-Cochin High Court praying for a writ of *mandamus* directing the State Government to enable him to attend the session of the Legislative Assembly commencing on January 25, 1955.

The Counsel for the petitioner contended that the petitioner had a paramount right to attend the proceedings of the Legislative Assembly and his detention though admittedly legal and under due process of law should be subordinated to that right. The court observed that they were not aware of the existence of any such right and that their attention had not been drawn to any constitutional or statutory provision in that behalf.

The court after considering the provisions of article 194 and the privileges in England stated that the privilege of freedom from arrest was not claimed in England in respect of criminal offences or statutory detention and that the said freedom was limited to civil cases and had not been allowed to interfere with the administration of criminal justice or emergency legislation.

The counsel for petitioner though conceding that the claim made by the petitioner was unavailable to a member of the House of Commons in the United Kingdom, stated that the petition was based on the assumption that a wider privilege existed in this country by virtue of article 190(3)(a) and article 191(1)(e) of the Constitution and S. 7(b) of the Representation of the People Act 1951. The Court examined these provisions.

¹⁵A.I.R. 1955 T.C. 154.

According to article 190(3):

“If a member of a House of the Legislature of a State—

- (a) becomes subject to any of the disqualifications mentioned in clause (1) of article 191;...his seat shall thereupon become vacant.”

Article 191(1) provides:

“A person shall be disqualified for being chosen and for being a member of the Legislative Assembly or Legislative Council of a State—

- (e) if he is so disqualified by or under any law made by Parliament.”

Under Section 7 of the Representation of the People Act, 1951:

“A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

- (b) if, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release.”

But it had not been contended that the member's seat had become vacant or the petitioner was disqualified for being chosen or for being a member. The Court rejected the above argument as devoid of relevance or substance and stated that the grounds on which disqualification may be incurred and a seat vacated have had nothing to do with the existence or otherwise of a privilege or immunity.

The counsel next contended that the petitioner stood in real danger of his seat being declared vacant by the House if he was not allowed to attend the next session of the Legislative Assembly as under article 190(4) if a member is absent for a period of sixty days or more the House may declare his seat vacant. He also contended that by his non-attendance the petitioner would be losing the allowance of Rs. 10 per day.

The court held that so long as the detention is legal—and in this case there was no dispute about its legality—the danger of the petitioner losing his seat or the certainty of his losing his daily

allowance cannot possibly form the foundation for relief against the normal or probable consequences of that detention.

The petition was dismissed.

*Ananda V. Chief Secretary, Government of Madras*¹⁰: Shri K. Anandan Nambiar and Shri A. Umanath, Members of Lok Sabha, were arrested and detained by the Government of Madras under orders passed under Rule 30(1) (b) and (4) of the Defence of India Rules, 1962. The validity of the detention order was challenged on the ground that Rule 30(1) (b) under which the detention order had been passed was invalid and in the alternative that the order was not valid because it had been passed *mala fide* and was otherwise not justified by the relevant rules.

The Additional Solicitor-General raised a preliminary objection that the writ petitions were incompetent in view of the order issued by the President on November 3, 1962 suspending the right of any person to move any court for the enforcement of the rights conferred by articles 14, 21 and 22 of the Constitution. The Court observed:

“In construing the effect of the order of the President dated 3-11-1962...issued under articles 359(1) of the Constitution, it is necessary to bear in mind the general rule of construction that where an order purports to suspend the fundamental rights granted to the citizens by the Constitution, the said order must be strictly construed in favour of the citizens' fundamental rights. This order can be invoked only in cases where persons have been deprived of their rights under articles 14, 21 and 22 under the Defence of India ordinance or any rule or order made thereunder. So long as the Presidential Order remains in force the validity of the Ordinance, rule or order made thereunder cannot be questioned on the ground that they contravene articles 14, 21 and 22: but this limitation will not preclude a citizen from challenging the validity of the Ordinance, rule or order made thereunder on any other ground. If the petitioner seeks to challenge the validity of the Ordinance, rule or order made thereunder on any ground other than the contravention of articles 14, 21 and 22, the Presidential Order cannot come into operation. The challenge to the Ordinance, rule or order made thereunder cannot also be raised on the ground of the contravention of article 19, because as soon as a Proclamation of Emergency is issued by the President, under article 358 the provisions of article 19 are automatically suspended.”

¹⁰A.I.J. 1966 S.C. 657.

Relying on *Makhan Singh Tarsikka V. State of Punjab*¹⁷ the Court stated:

“A citizen would not be deprived of his right to move the appropriate Court for a writ of *habeas corpus* on the ground that his detention has been ordered *mala fide*. Similarly, if a detenu... contends that the operative provisions of the Defence of India Ordinance under which he is detained suffer from the vice of excessive delegation, the plea thus raised by the detenu cannot, at the threshold be said to be barred by the Presidential Order....

If the detenu who is detained under an order passed under R.30(1) (b) contends that the said order has been passed by a delegate outside the authority conferred on him by the appropriate Government under S.40 of the Defence of India Act, or it has been exercised inconsistently with the conditions prescribed in that behalf, a preliminary bar against the competence of the detenu's petition cannot be raised under the Presidential order, because the last clause of the Presidential order would not cover such a petition....”

The Court therefore held that a petition under article 32 of the Constitution challenging the validity of an order of detention of the petitioner under Rule 30 (1) (b) of the Defence of India Rules, 1962 on grounds other than those based on articles 14, 19, 21 and 22 was competent and not barred by virtue of the Presidential Order.

The Counsel for the petitioner, Shri Setalvad quoting from articles 79 to 105 of the Constitution urged: “So far as it [Rule 30(1) (b) of the Defence of India Rules framed under section 3(2) (15) of the Defence of India Act] permits a member of Parliament to be detained, it contravenes the constitutional rights of members of Parliament. A member of Parliament has constitutional rights to function as such member and to participate in the business of the House to which he belongs. He is entitled to attend every session of Parliament, to take part in debate and to record his vote. So long as a member... is qualified to be such member, no law can validly take away his right to function as such member. The right to participate in the business of legislative chamber to which he belongs is his constitutional right and the constitutional right of a member can be regarded as his fundamental right and inasmuch as the relevant rule authorises the detention of a legislator preventing him from exercising such right, the rule is invalid. In the alternative, the rule should be treated as valid in regard to persons

¹⁷A.I.R. 1964, S.C. 381.

other than those who are members of legislatures, and in that sense the part of it which touches the members of legislatures should be severed from the part which affects other citizens and the invalid part should be struck down."

The Court observed:

"Rule 30(1) (b), Defence of India Rules, 1962 insofar as it permits detention of members of Indian Legislature is not invalid on the ground that it contravenes alleged constitutional rights of members of Parliament under the provisions of the Constitution of India by preventing them from participating in the business of Parliament. Rights accruing to members of Parliament after they are elected are not constitutional rights at all. It may be that sometimes in discussing the significance or importance of right of freedom of speech guaranteed by article 105(1) and (2), it may have been described as a fundamental right, but the totality of rights cannot claim the status of fundamental rights at all, and the freedom of speech is a part of the privileges falling under article 105 and a plea that a breach has been committed of any of these privileges cannot of course, be raised in view of the decision of the Committee of Privileges of the House of Commons. Besides, the freedom of speech to which article 105(1) and (2) refer, would be available to a member of Parliament when he attends the session of the Parliament. If the order of detention validly prevents him from attending the session of Parliament no occasion arises for the exercise of the right of freedom of speech and no complaint can be made that the said right has been invalidly invaded. A Member of Parliament can claim no special status higher than that of an ordinary citizen insofar as a valid order of detention is concerned and is as much liable to be arrested and detained under it as any other citizen."

The decisions in *In re. Venkateswarlu, in the matter of Anandan Nambiar and Ansumali V. State of West Bengal* were perused and the Court observed: "We ought to add that in all these cases the learned judges took notice of the fact that freedom from criminal arrest was not treated as constituting a privilege of the member of the House of Commons in England."

The Counsel, Shri Setalvad further urged that a member of Parliament is entitled to exercise all his constitutional rights as such member unless he is disqualified and referred to the provisions

of article 102 of the Constitution and S. 7 of the Representation of the People Act.¹⁸

The Court observed:

“... If a person is convicted of an offence and sentenced to less than two years, clearly such conviction and sentence would not entail disqualification.... It is true that the conviction of a person at the end of a trial is different from the detention of a person without a trial; but so far as their impact on the alleged constitutional rights of the members of Parliament is concerned there can be no distinction. If a person who is convicted and sentenced has necessarily to forego his right of participating in the business of the Legislature to which he belongs, because he is convicted and sentenced, it would follow that a person who is detained must likewise forego his right to participate in the business of the Legislature. Therefore, the argument that so long as the member of Parliament has not incurred any disqualification, he is entitled to exercise his rights as such member cannot be accepted.”

The counsel, Shri Chatterjee challenged the validity of the detention order on several grounds. The first contention was that the Presidential order was invalid as it was issued by the President by virtue of the power conferred on him by article 359(1) and was not an executive action of the Government of India and as such article 77 would not apply. Not impressed by this argument the Court stated: ‘In our opinion article 77(2) which refers to orders and other instruments made and executed in the name of the President were wide enough to include the present order.’

The Court held that the order issued in accordance with the provisions of article 77(2) could not be challenged as invalid on the ground that article 77 would not apply.

The next contention was that the detention of the petitioners in Central Jail, Cuddalore was invalid as the detention order indicated their detention in Central Jail, Thiruchirapalli. The Court held that there was no substance in this contention as the Government of Madras had produced an order dated the 30th December changing the venue of detention.

¹⁸S. 7 provides that if a person is convicted of any offence and sentenced to imprisonment for not less than two years, he would be disqualified for membership, unless a period of five years or as such less period as the Election Commission may allow in any particular case, has elapsed since his release.

It was further contended that the orders were passed *malafide* for the purpose of stifling the Opposition and that the Chief Minister of Madras did not satisfy himself before passing the orders of detention but was influenced by the Union Home Minister. After examining the affidavit filed by the Chief Minister of Madras and the statements made by the Union Home Minister on the matter, the Court found that there was no inconsistency or conflict between the statements of the Union Home Minister and the affidavit of the Chief Minister of Madras and held that there was no substance in the grievance made by Mr. Chatterjee that the impugned orders of detention passed against the petitioners were made either *malafide* or without the proper satisfaction of the detaining authority.

The petitions were dismissed.

PARLIAMENTARY EVENTS AND ACTIVITIES

THE SIXTH GENERAL ELECTION*

After the broadcast by the then Prime Minister Shrimati Indira Gandhi on January 18, 1977 announcing the Government's decision to go to the polls, the President dissolved the Fifth Lok Sabha on the same date i.e. fourteen months before the expiry of the term of the House, which had been extended for the second time upto March 17, 1978. Fresh elections were ordered to be held all over the country for 542 elective seats of the House.

On January 20, the Union Government announced relaxation of the emergency rules and lifted curbs on legitimate political activity as well as press censorship, to ensure free and fair elections to the Lok Sabha. The State Governments were asked to expedite the release of political detenus under the Maintenance of Internal Security Act and allow public meetings freely for normal political activity and electioneering purposes.

A significant dimension to the elections to Lok Sabha was the coming together of four non-communist opposition parties, viz., the Congress (O), the Jan Sangh, the Bhartiya Lok Dal and the Socialist Party, to function as a single Janata Party, and the emergence of the new party 'Congress for Democracy' led by the former Union Minister of Agriculture, Shri Jagjivan Ram as an ally of the Janata Party.

Since neither the Janata Party nor the Congress for Democracy were political parties recognised by the Election Commission, their

*Contributed by the Research and Information Division of Larrdis, Lok Sabha Secretariat, this note is based primarily on newspaper report and no responsibility is accepted for the accuracy of data or views included.

candidates contested elections in all parts of the country on BLD symbol (farmer with a plough) except in Tamil Nadu and Pondicherry where their candidates used the Congress (O) symbol. The Janata Party entered into an electoral understanding with other organisations like the Akali Dal in Punjab, DMK in Tamil Nadu and the Communist Party (Marxist) in some States. The Congress Party had electoral understanding with AIADMK in Tamil Nadu, National Conference in Jammu and Kashmir and C.P.I. in States such as West Bengal.

The Contests: The Congress had set up 493 candidates, the Janata Party 384, while its ally the Congress for Democracy had fielded only 39 candidates. Other parties who had put up candidates were CPI-91; CPI (M)-53; All India Anna DMK-21; Akali Dal 9; Peasants and Workers Party-6; RPI (Khobragade Group)-6; and the Jammu and Kashmir National Conference-3. The other regional parties in the field included the Muslim League and the Muslim League (Opposition) in Kerala, the Kerala Congress and the Kerala Congress (Pillay Group), the Socialist Unity Centre of India, the Forward Bloc, the Maharashtratravadi Gomantak Party, the Manipur People's Party, the Revolutionary Socialist Party and the United Democratic Front of Nagaland. There were 1222 Independents, some of them supported by different parties bringing the total number of candidates to 2439.

Dates of Election. The Sixth General Election was spread over four days from March 16 to 20, 1977, excluding March 17, 1977 on which there was no poll. On March 16, 1977 nearly 60 per cent, of the total electorate, from 300 full constituencies and 240 segments of 52 other constituencies went to the poll. 34 constituencies and 106 segments of other constituencies went to polls on March 18, 117 full constituencies and 130 segments on March 19 and the remaining 26 constituencies and 36 segments of other constituencies on March 20, 1977.

The election results: The Congress party which had more than a two-thirds majority in the Fifth Lok Sabha secured 152 seats against its previous strength of 352 in the new House of 542 elective seats (in addition to which two members of the Anglo-Indian community may be nominated by the President). The other parties which suffered serious set-back at the polls were the DMK and the CPI. The DMK which had 12 members in the dissolved House could get only one seat. The CPI secured 7 seats against 23 in the previous House and its representation is now confined to the

State of Kerala and Tamil Nadu only. The CPI(M)'s strength also declined from 25 in the Fifth Lok Sabha to 22 in the Sixth Lok Sabha.

The Janata Party and the Congress for Democracy together secured an absolute majority by winning 269 and 28 seats respectively. Among the smaller parties that showed vastly improved performance compared to 1971 were All India ADMK and the Akali Dal. The AIADMK which contested from Tamil Nadu and Pondicherry captured 19 seats as against its strength of six in the dissolved House. The Akali Dal which was unrepresented in the dissolved House brought in eight members from Punjab.

The gains of other parties in the elections were: Peasants and Workers Party—5; Revolutionary Socialist Party—3; Muslim League—2; National Conference—2; Kerala Congress—2; Maharashtra Gomantak Party—1; United Democratic Front—1; DMK—1 and Independents—5. In a House of 542 elective seats there were 3 vacancies on March 25, 1977, the first day of the First session of the Sixth Lok Sabha. Details of these were: Mandi (Himachal Pradesh)—1; Ladakh (J&K)—1; Ferozepur (Punjab)—1*. In the first two, the poll was scheduled for May 24, 1977 while in the third one repoll had been ordered by the Chief Election Commissioner.

Voting Pattern.—Of the total electorate of 320,050,694, the votes polled were 193,746,527 i.e. 60.54 per cent. Although it was 5 per cent more than the turnout in the 1971 elections to Lok Sabha, yet it fell short of the record turnout of 61.33 in the fourth general election in 1967.

Of the total of 60.54 per cent i.e., 193,746,527 votes polled; 5,307,617 or 2.74 per cent were declared invalid.

Votes polled by the national parties were: Janata-CFD—81,355,333 (43.17 per cent); Indian National Congress—65,088,520 (34.54 per cent); CPI—5,310,775 (2.82 per cent); CPI(M)—8,103,723 (4.30 per cent).

Other parties, including regional parties secured 17,247,100 votes or 9.15 per cent and Independents 11,333,459 votes or 6.02 per cent.

The Congress party failed to get a single seat in the northern States of Bihar, Haryana, Himachal Pradesh, Punjab and Uttar Pradesh and the Union Territory of Delhi. In Rajasthan and Madhya Pradesh it could secure just one seat each. The party's

*This seat was won by the Akali Dal in the repoll held on April 26, 1977, raising the Party's strength to 9.

tally in the States of Jammu and Kashmir, West Bengal and Orissa was 2, 3 and 4 seats respectively. It, however, made respectable showing in Gujarat, Kerala, Maharashtra and Tamil Nadu where it won 10 out of 26 seats, 11 out of 20 seats, 20 out of 48 seats and 14 out of 39 seats respectively. The three States where the Congress party fared extremely well were Andhra Pradesh, Karnataka and Assam, where it secured 41 out of 42 seats, 26 out of 28 seats and 10 out of 14 seats respectively.

The Janata-CFD secured cent per cent seats in Bihar, Haryana and Uttar Pradesh. It got 96 per cent of the seats in Rajasthan, (24 out of 25 seats), 92 per cent in Madhya Pradesh (37 out of 40 seats), 75 per cent in Orissa (15 out of 21 seats). A respectable showing was in Gujarat where it got 16 out of the 26 seats. The Janata-CFD combine could not, however, do well in Assam, Maharashtra and West Bengal where it won only 3 out of 14 seats, 19 out of 48 seats and 14 out of 42 seats respectively. The States where the showing of these parties was the poorest were Karnataka and Andhra Pradesh where they secured only 2 out of 28 and 1 out of 42 seats respectively.

INSTALLATION OF NEW JANATA PARTY GOVERNMENT

Following the defeat of the Congress party in the elections to the Sixth Lok Sabha, the Prime Minister Shrimati Indira Gandhi tendered her resignation and that of her colleagues in the Council of Ministers to the Acting President, Shri B. D. Jatti on March 22. On March 24, Shri Morarji Desai was unanimously elected leader of the Janata Parliamentary Party in its meeting in the Central Hall of Parliament after a consensus had been evolved in his favour in the presence of Shri Jayaprakash Narayan and Acharya J. B. Kripalani.

Shri Desai's name was proposed for leadership by Shri Raj Narain and seconded by Shri Atal Bihari Vajpayee. There were many others who lent their support to Shri Desai. They included Shri George Fernandes, Shrimati Chandrawati, Shri Lallu Prasad Yadav, Shri Arif Beg, Shri P. Ramachandran, Shri Chandrashekhar and the Akali leader, Shri Prakash Singh Badal.

Later, on the same day, at a simple ceremony in the Ashoka Hall of Rashtrapati Bhavan, Shri Morarji Desai was sworn in as the country's first non-Congress Prime Minister by the Acting President, Shri B. D. Jatti. 14 members of Shri Morarji Desai's Cabinet were

sworn in on March 26, 1977 and 5 others on March 28 by the Acting President. The names of the Ministers sworn in and their portfolios are as under:

Shri Morarji R. Desai, *Prime Minister* and all Ministries and Departments not specified below; Chaudhuri Charan Singh, *Home Affairs*; Shri Jagjivan Ram: *Defence*; Shri L. K. Advani: *Information and Broadcasting*; Shri Prakash Singh Badal: *Agriculture and Irrigation*; Shri H. N. Bahuguna: *Chemicals and Fertilisers*; Shri Sikandar Bakht: *Works and Housing, and Supply and Rehabilitation*; Shri Shanti Bhushan: *Law, Justice and Company Affairs*; Shri Pratap Chandra Chunder: *Education, Social Welfare and Culture*; Shri Madhu Dandavate: *Railways*; Shri Mohan Dharia: *Commerce and Civil Supplies and Cooperation*; Shri George Fernandes: *Communications*; Shri Purshottam Kaushik: *Tourism and Civil Aviation*; Shri Raj Narain: *Health and Family Welfare*; Shri H. M. Patel: *Finance and Revenue and Banking*; Shri Biju Patnaik: *Steel and Mines*; Shri P. Ramachandran: *Energy*; Shri Atal Behari Vajpayee: *External Affairs*; Shri Ravindra Varma: *Parliamentary Affairs and Labour*; Shri Brij Lal Verma: *Industry*.

HOMAGE TO SHRI FAKHRUDDIN ALI AHMED

President Fakhruddin Ali Ahmed died on February 11, 1977 after a massive heart attack. Shri Ahmed was one of those leaders who were fashioned on the anvil of India's freedom struggle. His rise to the nation's highest office on August 24, 1974 had come as a climax to an illustrious political career which spanned more than forty years.

The Sixth Lok Sabha assembled on March 26, 1977 under the shadow of the grievous loss and mourned the death of Shri Fakhruddin Ali Ahmed. Speaking on the occasion, the Prime Minister, Shri Morarji Desai said:

"The late President was a staunch nationalist from his early years and was one of the finest gentlemen in our political life. Selfless modest but firm in his loyalty to the ideals which have built up our nation, he won the affection of our people. I was privileged to know him and work with him for many years. He had remarkable gift for maintaining his equanimity in moments of stress and crisis. Through his culture and unflinching courtesy he added new dignity to the office of the President of India.

The Lok Sabha also remembers him as a conscientious parliamentarian.

His passing away has deprived the nation of a guide and statesman of rare quality."

Shri Desai moved the following resolution:

"That the Lok Sabha expresses its profound sorrow at this sudden death of the President of India, Shri Fakhruddin Ali Ahmed, and pledges itself to promote the high ideals of patriotism, national unity, secularism and the service of humanity which he upheld."

The Leader of the Opposition, Shri Y. B. Chavan paying homage to the departed leader said that Shri Ahmed was a great son of India who had participated in the national struggle for Independence and he was one of the few men to whom it was given to serve the country before the Independence and even during the post-Independence period of reconstruction of modern India.

Shri Jagjivan Ram said that the late Shri Fakhruddin Ali Ahmed was an embodiment of all that was good in the Indian culture. Besides being a statesman, he possessed excellent qualities of head and heart. He not only believed in secularism but practised it and it was this quality of his character which had endeared him to the nation. He was a sportsman and like a true sportsman he took to both victory and defeat with equanimity. He had been in the Central Cabinet and those who had worked with him, knew that he could handle a job well and was able to instil confidence and affection amongst his colleagues and subordinates. His death had created a void which it was difficult to fill.

Other members who joined in paying homage to the late President on behalf of their parties and groups were Shri Samar Mukerjee, Shri K. Mayathevar, Shri G. S. Banatwala, Shri Samar Guha, Shri P. K. Deo, Shri Skariah Thomas, Choudhri Balbir Singh and Shri P. G. Mavalankar.

Associating himself with the sentiments expressed by the Prime Minister, Leader of the Opposition and leaders of Opposition Groups, the Speaker Shri N. Sanjiva Reddy said that Shri Fakhruddin Ali Ahmed was an illustrious statesman who symbolised the best traditions of India's composite culture. During his association with Parliament he had endeared himself to all sections of the House by his parliamentary skill and amiable nature.

The Speaker requested members to rise in their places to show their approval of the Resolution moved by the Prime Minister and

to observe a minute's silence as a mark of respect to the memory of the late President. After the members stood for a short while the resolution was declared to be adopted by the House.

Earlier, in the Rajya Sabha at its sitting held on February 28, 1977 obituary references were made to the passing away of Shri Fakhruddin Ali Ahmed by Shri Kamalpathi Tripathi, Leader of the House, Shri Bhupesh Gupta, Shri Lal K. Advani, Shri Raj Narain, Professor Ramlal Parikh, Shri Vishwanatha Menon, Shri N. H. Kumbhare, Shri K. A. Krishnaswamy, Shri G. Lakshmanan, Shri Hamid Ali Schamnad and Shri D. K. Barooah. The Deputy Chairman also associated himself with the sentiments expressed on behalf of all sections of the House. The following resolution moved by Shri Kamalpathi Tripathi, Leader of the House, was adopted:—

“The Rajya Sabha, assembled under the shadow of a national tragedy, expresses its profound sense of sorrow at the sudden death of the President of India, Shri Fakhruddin Ali Ahmed and pledges itself to promote the high ideals of patriotism, national unity, secularism and the service of humanity which he upheld.”

The House observed two minutes' silence, all members standing, as a mark of respect to the memory of the deceased President.

ELECTION OF SPEAKER

Shri Neelam Sanjiva Reddy was unanimously elected Speaker of the Sixth Lok Sabha, when the House met on March 26, 1977 under the Chairmanship of the Speaker *pro tem* Shri D. N. Tiwary. The motion proposing the name of Shri Reddy was moved by the Prime Minister, Shri Morarji Desai and seconded by the Leader of the Opposition, Shri Y. B. Chavan. As there was no other candidate for this office, the motion was adopted unanimously and the Speaker *pro tem* formally announced the election of Shri Sanjiva Reddy as Speaker and invited him to occupy the Chair. Shri Reddy was thereafter conducted to the Chair by the Prime Minister, Shri Morarji Desai and the Leader of the Opposition, Shri Y. B. Chavan.

Warm felicitations were offered to Shri Reddy on his election to the office of the Speaker, by the Prime Minister, the Leader of the Opposition, Leaders of the other groups and some Independent members. Felicitating Shri Reddy, the Prime Minister, Shri Desai said:

“Shri Reddy occupies an eminent place in national life by dint of his contribution to the freedom movement and

his distinguished and varied services over the years. Besides his reputation as administrator, he is a veteran parliamentarian. His Speakership of the Fourth Lok Sabha is remembered for the dignity, fairplay and the unflinching good humour which he brought to the discharge of the duties of this high office. By electing him again as Speaker, the Sixth Lok Sabha has found the right person for the right place.

The Lok Sabha is the repository of the sovereignty of the people. The Speaker is the custodian of the authority of the Lok Sabha. The people of India have just given expression to their will with fearlessness and faith and in a manner that the whole world has applauded. Great things are expected from the new Parliament. It has not only to undo the wrongs that had crept into the body-politic and governmental functioning but to ensure that the hopes of the millions are fulfilled speedily through wise and practical economic and social policies. It is our good fortune to have a person of Shri Reddy's vast experience and maturity to conduct our deliberations. . . . I offer my own felicitations and those of all sections of the House, and the country at large, to Shri Sanjiva Reddy."

Congratulating Shri Reddy on his election to the high office, the Leader of the Opposition, Shri Y. B. Chavan observed:

"Mr. Speaker, Sir, you are not new to this office. You have held this office with distinction in the stormy years of 1967—69. I am sure, your wisdom, your skill will certainly be of immense use to the conduct of business of this honourable House. The purposeful and dignified working of this sovereign body is of supreme importance to Indian democracy and, therefore, as a Speaker, I am sure, you have a very important part to play.

Offering his felicitations, Shri Jagjivan Ram said that it was a matter of pride for the House, to have a great Speaker like Shri Reddy. Those who were members of the Fourth Lok Sabha knew in what competent and skillful manner, Shri Reddy used to conduct the proceedings of the House. Even when he could not accommodate a member, he did it in such a manner that there was no illwill.

Others who offered their felicitations to Shri Reddy were Shri George Mathew of Kerala Congress; Shri Samar Mukherjee, Leader of the CPI (M); Shrimati Parvathi Krishnan of the CPI; Shri Arvind Bala Pajanor of All India Anna DMK; Shri Laxmi Narayan Nayak of Janata Party; Shri A. V. P. Asai Thambi of DMK; Shri P. K. Deo and Shri P. G. Mavalankar, both Independents.

Replying to the felicitations, the Speaker, Shri N. Sanjiva Reddy said:

"I am deeply grateful to the Hon. members of the House for the confidence they have reposed in me by selecting me to this exalted office of the Speaker of the Lok Sabha.

I would also like to express my grateful thanks to the Leader of the House, the Leader of the Opposition and the Leaders of various groups for the kind words they have spoken about me.

I am well aware of the heavy responsibilities which I am required to shoulder in the discharge of my duties and this, I must frankly admit, has made me somewhat overwhelmed and, shall I say, a little diffident. But in view of the generosity you have shown by electing me, I do hope that I shall prove worthy of the great trust that has been reposed in me.

I am not unaware of the special obligation of the Speaker to protect the rights of all sections of the House, especially of the Members on the Opposition benches. I, on my part, would like to assure the House that I shall never allow myself to forget that responsibility to regulate the proceedings of the House in a way that would be in keeping with the highest traditions of this noble institution and further enhance the prestige and dignity of the office of the Speaker.

ELECTION OF DEPUTY SPEAKER

Shri Godey Murahari former Deputy Chairman of the Rajya Sabha and now a member of the Sixth Lok Sabha, was unanimously elected to the office of the Deputy Speaker on April 1, 1977. The motion for his election was proposed by the Leader of the Opposition, Shri Y. B. Chavan and seconded by Shri Ravindra Verma, Minister of Parliamentary Affairs. After the motion had been moved and adopted unanimously, the Speaker declared Shri Murahari duly elected as the Deputy Speaker.

Felicitating Shri Murahari on his election, the Prime Minister said:

"I offer my congratulations to Shri Godey Murahari on his election as Deputy Speaker. I hope and trust that he will conduct the proceedings of this House with fairness and in true democratic Parliamentary traditions. I assure him of the full co-operation from all members of this House."

Congratulating Shri Murahari, the Leader of the Opposition, Shri Y. B. Chavan observed:

“Shri Godey Murahari is not new to the parliamentary line. Though he is sitting in this House for the first time, he has been a member of the other House where he has functioned as the presiding officer and that too, very fairly and effectively and to the satisfaction of all sections of the House. I have no doubt that the same traditions he will continue to maintain and I can assure him, as the Prime Minister did, of our full co-operation.”

Similar sentiments were expressed by Shri Samar Mukherjee of the CPI(M), Shrimati Parvathi Krishnan of the CPI and Shri Ebrahim Sulamian Sait of the Muslim League while offering their fullest cooperation to the Deputy Speaker.

The Speaker, Shri Sanjiva Reddy, joined the Leader of the House and the leaders of opposition groups in offering felicitations to Shri Murahari and said:

“I am happy to join hon. Members in felicitating Shri Godey Murahari on his election as the Deputy Speaker of this august House. My congratulations to him. Shri Murahari comes to this House with a rich experience of parliamentary life in the other House.

To me personally, it is a matter of satisfaction to have an experienced colleague like Shri Murahari to share the responsibilities of the Chair. In Parliamentary democracy, presiding officers are naturally expected to maintain high standards of impartiality and integrity in the performance of their duties so as to inspire confidence among all sections of the House and among all members irrespective of their party affiliations. While ensuring the orderly conduct of the business and its timely completion, we have to take particular care to see that all sections of the House have adequate opportunity to put forward their viewpoints and have no legitimate cause for grievances on that account. I again heartily congratulate Shri Murahari and wish him well.”

Expressing his gratefulness to his colleagues in offering felicitation to him, Shri Murahari said:

“I know that as Deputy Speaker of this House I will have to exercise the utmost impartiality that is expected of presiding officer and I shall endeavour to do so as I did in the other House. Let me assure everybody in this House—whether they are sitting on the other side or this side—that as far as I am concerned, henceforward I be-

long to all sections of the House and not to any particular section."

Addressing the Speaker, Shri Murahari said:

"As far as you are concerned, I have had some association with you while being in Parliamentary delegations or otherwise and all my experiences have been very pleasant. I know that in the conduct of my duties here as Deputy Speaker you will be guiding me as an elder brother and giving me the utmost affection that I can get from anybody, especially in view of the earlier association that we have had while you were Speaker of this House."

ELECTION OF DEPUTY CHAIRMAN OF RAJYA SABHA

On March 30, 1977, on a motion moved by Shri L. K. Advani, Minister of Information and Broadcasting and seconded by Shri Om Mehta, Shri Ram Niwas Mirdha was unanimously elected as Deputy Chairman of the Rajya Sabha. Shri Mirdha's name was also proposed by Shri Ranbir Singh and Shri V. B. Raju.

Announcing Shri Mirdha's unanimous election amidst cheers from all sections of the House, Shri Banarsi Das, who was in the Chair expressed his confidence that the House would have full faith in the competence and impartiality of the new Deputy Chairman.

Felicitating Shri Mirdha on his election, the Leader of the House, Shri L. K. Advani said he was happy that Shri Mirdha had taken upon himself a high responsibility. Referring to Shri Mirdha's functioning as presiding officer of the Rajasthan Assembly with impartiality, Shri Advani felt sure that Shri Mirdha had great capacity to do justice for the post.

The leaders of various groups in the House who also joined in offering their felicitations to Shri Mirdha on behalf of their parties were Sarvashri Om Mehta, Bhupesh Gupta, Vishwanatha Menon, M. Kamalanathan, V. V. Swaminathan, Hamid Ali Schamnad, U. K. Lakshamana Gowda and N. H. Kumbhare.

Replying to the felicitations, Shri Mirdha said:

"I express my deep gratitude to the hon. members for electing me to this exalted office of Deputy Chairman of this august House and for reposing confidence and faith in me. I express my grateful thanks to the Leader of the House, the Leader of the Opposition, leaders of the other

groups and the Independent members for their affection and for the good words they have said about me today. I am profoundly overwhelmed by the sentiments that they have expressed.

I am fully aware of the heavy responsibilities which I am required to shoulder in the discharge of my duties. But the kind sentiments expressed by hon. members from both sides of the House embolden me to look to the future with confidence and courage. I would always endeavour to uphold the high traditions that have been established by my esteemed predecessors in this House. I would always try to uphold the rights and the privileges of hon. members and it will be my continuous and incessant endeavour to regulate the proceedings of the House in a way that would be in keeping with the highest traditions of this noble institution and further enhance the prestige and the dignity of the office of the Deputy Chairman."

CONFERENCES AND SYMPOSIA*

Conference of Secretaries of Legislative Bodies in India: The Twenty-third Conference of Secretaries of Legislative Bodies in India was held on January 13 and 14, 1977, at New Delhi under the chairmanship of Shri S. L. Shakhder, Secretary-General, Lok Sabha. Besides him, 27 Secretaries of State Legislatures attended the Conference. After the Chairman's Address, the Conference discussed the 'Report of the Committee of Secretaries (Hanumanthappa Committee) on Staffing Pattern in the Legislature Secretariats'.

FOREIGN PARLIAMENTARY DELEGATIONS IN INDIA

Visit of Clerk of the National Assembly of Zambia: Mr. N. M. Chibesakunda, Clerk of the National Assembly of Zambia visited India from December 20 to 31, 1976 as our guest. During his stay in New Delhi, he called on the Speaker of Lok Sabha and the Minister of Works and Housing and Parliamentary Affairs. He had discussions with the Secretary-General of Lok Sabha and the Secretaries of the Ministry of Law, Justice and Company Affairs regarding constitutional amendments. He also called on the Secretary of the Planning Commission. Besides New Delhi, he visited Jaipur and Bombay. A luncheon party was hosted by the Secretary-General of Lok Sabha in his honour on December 21, 1976.

*Contributed by the Conference Branch, Lok Sabha Secretariat

Visit of Yugoslav Parliamentary Delegation: In response to an invitation from India, a thirteen-member Yugoslav Parliamentary Delegation led by H. E. Mr. Kiro Gligorov, President of the Federal Assembly of Yugoslavia (i.e. the Speaker of Yugoslav Parliament) visited India from January 4 to 10, 1977. During their visit, the delegation called on the Vice-President, Prime Minister, Speaker of Lok Sabha, Minister of External Affairs, Minister of Finance and the Deputy Chairman of the Planning Commission. The Speaker, Lok Sabha and Shrimati Bhagat hosted a dinner in their honour on January 4. The delegation visited Parliament House on the 4th January and attended a meeting between the delegates and Members of Parliament to discuss matters of mutual interest. Besides Delhi, the delegates were taken to some places of industrial and cultural interest, viz. Bangalore and Agra.

Visit of Japanese Parliamentary Delegation: In response to an invitation from India, a seven-member Japanese Parliamentary Delegation led by H. D. Mr. Kenzo Kono, President of the House of Councillors, i.e. the Upper House of the Parliament of Japan visited India from January 18 to 20, 1977. During their visit the delegation called on the President, Vice-President, Prime Minister, Speaker of Lok Sabha, Deputy Chairman of Rajya Sabha and the Deputy Minister for External Affairs. The Speaker, Lok Sabha hosted a dinner in their honour on January 18. Besides Delhi, the delegates visited Agra.

BUREAU OF PARLIAMENTARY STUDIES AND TRAINING*

(i) *Appreciation Courses for I.A.S. and I.F.S. Probationers:* The series of Appreciation courses in parliamentary procedures and practices for Indian Administrative Service and Indian Foreign Service Probationers was inaugurated by Shri B. R. Bhagat, Speaker, Lok Sabha on January 27, 1977. In his inaugural Address, Shri Bhagat stated that in our political system "a primacy of place" has been accorded to "Parliament as the people's institution. It is on the legislative floor that the diverse interests and competing forces in the system must meet for an ongoing dialogue, for a creative consensus, leading to nationally acceptable policies, to emerge. Parliament is the central stage of action; it is the prime mover in change. And it is the legislators who are the living link between

*Contributed by the Bureau of Parliamentary Studies and Training Lok Sabha Secretariat.

the people and Government through Parliament. It is they who with their ears close to the ground, swept about all the time by the swirls and eddies of public opinion, are in a position to provide the field insights and indicate the winds of change."

Emphasising that in free India the image of administrators had to change from that of "cold executioners of remotely-decided policy" to one of "agents of popular will", Shri Bhagat observed:

"For the civil servant the days of cloistered existence are over; he can no longer operate in a political or socio economic vacuum. Even as a condition of his effectiveness, he has to comprehend the social modes and mores of the people, their emotional commitments and psychological motivations and drives in a traditional and pluralistic society like ours; he has to recognise and reckon with the role of ideology in political processes; he has even to understand the dispersal and disposition of emerging centres of power, of elitist groups who play decisive leadership roles in the political system. I say all this only to emphasize that there is a political and emotional context to Administration, divorced from which a civil servant today cannot realistically function."

Congratulating the Secretary-General of Lok Sabha, Shri S. L. Shakhder, for the initiative taken in designing these courses and stressing the need therefor, Shri Bhagat said that it was necessary for the administrative and foreign service personnel to imbibe early in their career "the basic spirit of our representative democracy and develop a genuine respect for the parliamentary institution" so that "their thinking is oriented and their functioning attuned to the requirements and the tenor and temper of parliamentary democracy for the realization of a better life for the common man and an equitable socio-economic order."

Earlier, in his welcome address, the Deputy Chairman, Rajya Sabha, Shri Godey Murahari, observed:

"The main objective before the administrators today is to promote rapid development through the involvement of the people in this process. The new tests of administration thus call for an understanding of the requirements and aspirations of the people. To that extent, this training programme envisaged by the Bureau will no doubt provide to the new entrants to the Indian Administrative and Foreign Services the much-needed direct exposure to the operational mechanics of Parliamentary institutions."

In his vote of thanks, the Secretary-General, Lok Sabha, Shri S. L. Shakdher, said that the number and variety of training and appreciation courses that have been organised by the Bureau in the short period of its existence for various levels of officers both in the Parliamentary as well as the Executive branches are "clear enough testimony of the sincerity and the speed" with which the Bureau is trying to reach the goals set for it. The organisation of the present series of courses for Indian Administrative and Foreign Services probationers is "an important mile-stone in the short career of the Bureau" which would continue to forge ahead and establish "still higher standards in serving the people of India through their elected representatives".

The first Appreciation Course for 68 I.A.S. probationers was held from January 27 to 31, 1977 and the second for 72 I.A.S. probationers from February 23 to 26, 1977.

The Appreciation Course for 26 I.F.S. probationers, which was of six days' duration, was held from March 14 to 21, 1977.

(ii) *Appreciation courses in Parliamentary processes and procedures for Officers of the rank of Deputy Secretary and Under-Secretary of the Government of India:* After the four courses held till December, 1976, two more courses for officers of the rank of Deputy Secretary and Under Secretary of the Government of India was held, i.e. Fifth Course, attended by 25 Officers, from January 11 to 17, 1977 and the Sixth Course, attended by 35 Officers, from February 9 to 17, 1977.

(iii) *Intensive and Foundational courses in parliamentary processes and procedures for Section Officers and Parliament Assistants in the Ministries of the Government of India:* The series of Intensive and Foundational Courses in parliamentary processes and procedures for Section Officers and Parliament Assistants in the Ministries of the Government of India, was organised by the Bureau from January 3, 1977. In his inaugural Address to the course participants on January 3, 1977, the then Minister of Information and Broadcasting *inter-alia* stated:

"The task which the Bureau has undertaken is gigantic. It is by no means a small task; nor could it be taken up by a less courageous team than we have in the Bureau....
"It requires all the talent and all the hard work."

Referring to the experience of officers who had attended Courses at the Bureau, he stated:—

“I have had occasion to talk to some of the Officers who attended the earlier courses and I am very happy to say that they were not only in full praise of the all-round good work that is being done, but they were fully satisfied and felt rewarded by attending these courses.”

Evaluation: At the Evaluation Sessions held at the conclusion of each of the above courses and in their daily diaries/observation sheets, the participants expressed their appreciation at the efficient manner in which the courses were planned and executed. They stated that the courses had been very educative, informative and fruitful and that they had immensely benefited from the talks delivered by experts and senior parliamentary officials. They were able to resolve many of their doubts and difficulties and the knowledge gained would enable them to deal with parliamentary work with greater efficiency and expedition.

Other courses/programmes: Other courses and programmes undertaken by the Bureau for Parliamentary officials were as follows:—

- (i) Two-week Foundational Course, of 1½ hrs. duration daily, in English typewriting and General English for newly recruited L.D.Cs. (22 participants).
- (ii) Two-week Refresher Courses, of 1½ hrs. duration daily for (a) Stenographers and (b) Junior Stenographers. (34 Stenographers and 32 Junior Stenographers).
- (iii) Two-week Refresher Courses, of 1½ hrs. duration daily, for Hindi Stenographers and Foundational Course in Hindi shorthand for L.D.Cs. (2 Stenographers and 1 LDC).
- (vi) Two-week course in Rapid Reading Procedure and Practices from March 21 to April 5, 1977, organised in collaboration with the Central Institute of Indian Language, Mysore. (16 participants including 4 Officers of the Cabinet Secretariat).

In addition to the above, programmes were specially designed by the Bureau, on specific requests, for training of two Officers from State Legislatures—one from Maharashtra Legislature Secretariat and the other from U.P. Vidhan Parishad—an office procedures in

regard to the payment of salaries, allowances and pensions to Members of Parliament and Officers and staff of the Lok Sabha Secretariat and the working of O & M Unit of the Secretariat. Also 39 students of the Department of Journalism, Poona University, who visited the Bureau on January 15, 1977, were provided facilities to comprehend the general aspects of working of the Indian Parliament.

PRIVILEGE ISSUES*

LOK SABHA

Alleged wrong statement about detention of political leaders:
On April 1, 1977, Shri Jyotirmoy Bosu, sought to raise a question of privilege against Shri T. N. Kaul, former Ambassador of India in U.S.A. for certain remarks made by him on a television network in U.S.A. in July 1975, about detention of political leaders. While raising the matter, Shri Bosu stated that on July 11, 1975, after the Proclamation of Emergency, Shri T. N. Kaul, the then Indian Ambassador in U.S.A., in an interview telecast by the N.B.C., one of the national television networks of the USA said: 'Political leaders had not been jailed but detained in houses.' This was a gross distortion of truth and it wholly contradicted publications already made in Part II Bulletins of Lok Sabha under orders and authority of the Speaker notifying arrests and detentions of a number of political leaders in the Opposition. By this action, he had committed a serious breach of privilege of the House as well as of the members detained in jails. Shri Bosu requested that the matter be referred to the Privileges Committee for proceeding further into it¹

The Minister of External Affairs, Shri Atal Bihari Vajpayee, said that a clarification was called for from Shri T. N. Kaul. According to Shri Kaul, he had no intention of distorting the facts and his remarks in the television interview were based on the information then available with him. He had also submitted that he had not seen the Parliamentary Bulletins referred to by Shri Jyotirmoy Bosu and stated that if his remarks based on incomplete information had hurt anyone it was unfortunate but he had no intention of making a wrong statement.²

The Speaker, Shri N. Sanjiva Reddy, reserved his ruling.

*Contributed by Committee Branch I, Lok Sabha Secretariat.

¹Lok Sabha Debates, April 1, 1977.

²Ibid, original in Hindi.

On April 7, 1977, the Speaker disallowed the question of privilege and ruled, *inter alia*, as follows:

"I have carefully considered the matter. In order to constitute a breach of privilege, the impugned statement should relate to the proceedings of the House or to Members in the discharge of their duties as Members of Parliament. It may be seen that the impugned statement of Shri Kaul related to political leaders and not to Members of Parliament as such, although Members of Parliament are also political leaders.

Secondly, Shri Kaul's remarks were made in July 1975, when the Fifth Lok Sabha was in existence. The matter cannot be raised as a privilege issue in the Sixth Lok Sabha.

In the circumstances, no question of privilege is involved in the matter."³

Handcuffing of a Member by Police: On August 6, 1974, a member, Shri Jagannathrao Joshi, complained in Lok Sabha that according to a news report in the *Nav Bharat Times* of that date, Shri Ishwar Chaudhry, MP was handcuffed when he was taken from jail to the court on the previous day⁴. Subsequently, on August 14, 1974, Shri Ishwar Chaudhry himself raised this matter in the House and stated *inter alia* as follows:—

"I was arrested along with some other *satyagrahis* for demonstration in front of the Bihar Vidhan Sabha....After remaining in jail for two months, for the first time, I along with other *satyagrahis*, was produced before the Magistrate in Bihar, in handcuffs, on the 5th August, 1974. The prisoners were tied with a rope....Perhaps, because there was not enough rope I was not tied with it. We were brought back from the Court in the evening in handcuffs. in the same condition in which we had gone there....I feel, all this was done with malice to humiliate me. I feel that when a representative of the people is handcuffed its purpose is to insult him before the people. I was not a person to run away, nor had I gone to jail with that idea. I had gone to jail of my own violation. *Kaul and Shakdher* have stated in very clear words that

³Lok Sabha Debates 7-4-77.

⁴L.S. Deb., August 6, 1974 c.c. 125-126 (original in Hindi).

only those prisoners should be handcuffed who are likely to run away. But since we had gone there of our own violation, there was no possibility of our running away. I feel, it is contemptuous not only of me but of all the elected representatives.”⁵

The Speaker, thereupon, observed *inter alia*, as follows:—

“I am very sorry this has happened. As I see from the previous practice, Government had issued instructions not to handcuff MPs, and especially *satyagrahis* who go there voluntarily. They would not run away. The man is not a thief to run away. I am really surprised at this. Besides this handcuff, what matters is the humiliation it causes. In political life, many people have their own views. They may not agree with the party which is ruling. Even partymen sometimes do not agree amongst themselves and they offer *satyagrahas*. Personally, I feel so much resentment at this....So I feel that now that we have our own government, at least we should have some code to be followed. If a member of Parliament is not handcuffed and he runs away, I do not think anybody will approve his conduct....So we must consider it....I will ask for the Home Minister’s statement on it. Later on, we will sit together and see as to how to settle this affair.”⁶

On August 30, 1974, the Deputy Minister in the Ministry of Home Affairs, Shri F. H. Mohsin, made a factual statement in the matter in the House. After some discussion, the Speaker, while referring the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha hoped that the Committee would take all aspects of the question into consideration, not only in regard to this particular case, but also to lay down certain procedures for future guidance. In his view, those days had gone when handcuffs were used. The position was very clear about Members of Parliament. It would examine this in all aspects. As far as others were concerned, he hoped that the views of the Committee would be considered and some decisions taken so that all respectable citizens who were voluntary *satyagrahis* or

⁵L.S. Deb., August 14, 1974, cc. 203—208. (Original in Hindi)

⁶*Ibid.*

who occupied good positions in public life or who were good journalists, jurists, doctors, writers or educationists were treated well.⁷

The Committee of Privileges, after examining, in person, Shri Ishwar Chaudhry, MP, Shri Bhubneshwar Sharma, Acting Jailor of Phulwaro Sharif Jail (where Shri Ishwar Chaudhry, MP was handcuffed), Shri Rajendra Singh, Havildar-in-charge of the escort party (which handcuffed Shri Ishwar Chaudhry, MP); and Shri R. N. Dash, Secretary, Home Department, Government of Bihar, in their Nineteenth Report presented to the House on August 31, 1976 reported *inter alia* as follows:—

- (i) "The Committee of Privileges (Second Lok Sabha), in their Fifth Report, laid on the Table of the House on the 27th September, 1958, had recommended that the Ministry of Home Affairs might be requested 'to again bring the contents of their Circular No. F.2|13|57-P.IV, dated the 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them, especially in the case of Members of Parliament in view of their high status'. In pursuance of that recommendation, the Ministry of Home Affairs had issued necessary instructions to all the State Governments|Union Territories on the 24th January, 1959, for their guidance. Subsequently, those instructions were again reiterated by the Ministry of Home Affairs to all concerned on the 21st February, 1968, urging the authorities concerned that while dealing with an arrested Member of Parliament, the fact that a person arrested is a Member of Parliament must be borne in mind by the police and by other authorities. Recently, the Ministry of Home Affairs have issued a further circular letter dated the 8th November, 1974, to all the State Governments and Union Territories pointing out to them that ordinarily there should be no occasion 'to handcuff prisoners such as *satyagrahis*, persons occupying good positions in public life and professionals like journalists, jurists, doctors, writers, educationists'."
- (ii) "The Committee have been informed by the Government of Bihar *vide* their letter dated the 23rd December, 1975 that the substance of the above instructions regarding handcuffing of prisoners issued by the Ministry of Home Affairs from time to time, is also incorporated in the Bihar and

⁷L.S. Deb., August 30, 1974, cc. 165—172.

Orissa Police Manual. The rules and principles of handcuffing by police are contained in rules 241, 242, 562, and 563 of the Bihar and Orissa Police Manual. The underlying principle enunciated in those rules is that the restraint used in respect of prisoners classified as superior or of upper division shall be treated in a dignified way. In other words, the prisoners should not be subjected to more restraint than is necessary to prevent their escape. The Government of Bihar have also stated that 'prominent persons including legislators, doctors, journalists, jurists, advocates, writers, educationists etc. referred to by the Government of India are, in normal course, classified into superior or upper divisions, and hence, they accordingly belong to the exempted categories'. Recently, the Government of Bihar have issued a circular letter dated the 23rd December, 1975, to the authorities concerned reiterating 'the principle already contained in the Police Manual that handcuffs should be used only under exceptional circumstances as indicated in the rules, and not as a matter of routine'."

- (iii) "The Committee have noted the findings and conclusions of the inquiry instituted by the Government of Bihar on the 1st December, 1975, into the incident leading to the handcuffing of Shri Ishwar Chaudhry, M.P. on the 5th August, 1974. The report of the inquiry officer has described the circumstances under which Shri Ishwar Chaudhry, M.P., was handcuffed by the Police escort party and has fixed responsibility on six officers of the Government of Bihar involved in the incident. The Committee note that the Government of Bihar have accepted the inquiry report on the subject and have ordered departmental action against the concerned six officers and staff for their alleged lapses resulting in the unfortunate incident of handcuffing of Shri Ishwar Chaudhry, M.P.

In this connection, the Government of Bihar, while forwarding the above inquiry report to the Committee, have *inter alia* stated:—

"The rules and instructions of the State Government clearly provide that the Members of Parliament, while under arrest, are to be treated as prisoners in the superior category or in upper division, as the case may be, and they are not to be handcuffed, as a matter of course.

These instructions have been followed even now, but for the single isolated incident relating to Shri Ishwar Chaudhry. Although, large number of legislators including Members of Parliament have been arrested in Bihar in the past few years, we have never had any complaint of this type in the past, and this particular incident of handcuffing of Shri Ishwar Chaudhry was rather unfortunate, for which the State Government regret. Apparently, the handcuffing was not intentional but mostly due to lack of alertness and to some extent carelessness and negligence. The State Government have also issued another circular to all concerned to exercise special care in future so that no such unfortunate incident happens again."

- (iv) "The Committee find that a thorough probe was made by the Government of Bihar into the facts and circumstances leading to the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, only after the Committee examined in person the Home Secretary of Government of Bihar and desired him to make a detailed inquiry into the matter. This inquiry, instituted by the Government of Bihar on the 1st December, 1975 at the instance of the Committee, has revealed carelessness, negligence and lapses committed by the concerned police and jail officials involved in this incident. The Committee regret that the thorough probe into this unfortunate incident was made by the Government of Bihar after a lapse of more than 15 months since the question of privilege was first raised in Lok Sabha on the 6th August, 1974 and only after the Committee pursued the matter with that Government. The Committee feel that this thorough inquiry should have been instituted by the Government of Bihar immediately after the question of privilege was raised in the Lok Sabha and the matter was brought to the notice of the Government of Bihar. If that had been done, it would have undoubtedly helped the committee to arrive at their conclusions much earlier."
- (v) "After careful consideration of the facts and circumstances of the case, the Committee are of the view that it is unnecessary, for purposes of this case, to go into the larger question whether handcuffing of a Member of Parliament as such constitutes a breach of privilege or contempt of the House."

- (vi) "The Committee find that the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, in the circumstances of the case, was in utter disregard and in defiance of the clearest instructions of the Ministry of Home Affairs as well as of the Government of Bihar, particularly those governing the Members of Parliament. As such, the action of the concerned officials in handcuffing Shri Ishwar Chaudhry, M.P., was highly improper and deplorable. The conduct of the officials involved in this incident, therefore, deserves to be severely censured. The Committee, however, note that necessary departmental action is being taken by the Government of Bihar against the six officers concerned. The Committee would like to be informed in due course of the action taken by the Government of Bihar against those concerned officers.

The Committee also note that clear instructions about handcuffing of Members of Parliament have already been issued to the authorities concerned both by the Ministry of Home Affairs as well as by the Government of Bihar. The Committee, therefore, are of the opinion that no further action need be taken in the matter by the House."

- (vii) "The Committee hope that the instructions regarding handcuffing of prisoners, issued by the Union Ministry of Home Affairs from time to time, will be strictly and scrupulously followed by all the authorities concerned of the State Governments and Union Territory Administrations and there would ordinarily be no occasion to handcuff prisoners such as Members of Parliament, members of State Legislatures, peaceful *satyagrahis*, persons occupying good positions in public life and professionals like journalists, jurists, doctors, writers and educationists."
- (viii) "The Committee recommend that no further action be taken by the House in the matter."

No further action was taken by the House in the matter.

Alleged aspersions on a Member: On August 23, 1976, Shri Nawal Kishore Sinha, sought to raise a question of privilege against the Editor, Printer and Publisher of *Current*, Bombay, a weekly newspaper, for publishing a news report entitled 'Corrupt Caught' in its issue of

the 21st August, 1976, allegedly casting aspersion on the member
While raising the matter, Shri Sinha stated *inter-alia* as follows:—

“...In its issue of Saturday, August 21, 1976, Vol. XXVII, No. 52 the Printer, Publisher and Editor of *Current Weekly*...has published...my photograph...with the boldest of headings ‘Corrupt Caught’. It has also published a caption ‘Confused Identity’ under my photograph. It hopes to do the impossible by confusing me with one Shri Nawal Kishore Sinha who is at present M.L.A., Bihar and hinting a sinister link between me and the above-mentioned person...As this is most atrocious of lies and a fabrication deliberately meant to involve me, I wish to deny every facet of the same. I was never in any capacity, whatsoever, connected with the things mentioned in that news coverage. The news coverage reveals certain allegations against the Urban Co-operative Bank, Patna of which one Shri Nawal Kishore Sinha presently MLA of Bihar was the Chairman. I was in no way associated or connected with the Bank referred to above. I am the Chairman of the Bihar State Co-operative Marketing Union against which no charge has been preferred and no findings recorded... Sir, by the publication of the above news with my photograph inserted with defamatory intent, I as a member of this august body, have been deprived of the unimpeded use of this House. This news has brought me in a bad light, it has lowered me in public estimation and has deprived me of the peace of mind and heart. It is in view of that, I seek your protection and that of the House for vindication of my honour and dignity as a Member of this House... ”

Therefore, Sir, under the Rules 222 and 223, I seek your protection and that of the House to bring charge of breach of privilege of Parliament against the Printer, Publisher and Editor of *Current Weekly* of Bombay.”

The Speaker, Shri B. R. Bhagat, observed as follows:

“In accordance with the rules of procedure on this matter and the normal practice too, I shall first direct the Printer, Publisher and Editor of this paper, *Current Weekly*, to make their statement or report, whatever it is, on this matter and after their report comes, I will bring this matter again to the House.”

On August 30, 1976, the Speaker informed the House as follows:

“The Editor, Printer and Publisher of *Current Weekly* has in his letter dated the 25th August, 1976, stated as follows:—

‘I was extremely pained to learn that Shri N. K. Sinha, MP felt hurt about his photograph printed on the front page of *Current*. Mr. Sinha is an outstanding public

figure from Bihar and I have the good fortune of knowing him. The Hon. Member is justified in raising the issue of privilege.

I was, however, not our intention to defame him. His name is not mentioned anywhere in the story. Wherever we mentioned the name of Mr. Nawal Kishore Sinha, Chairman of the Urban Bank, we made it a point to add MLA to distinguish him from the aggrieved hon. Member.

The publication of Mr. N. K. Sinha's photograph was one of those queer incidents of journalism where a sub-editor used his discretion late in the night to catch up with printing schedule.

I submit that great damage has nevertheless been done to Mr. N. K. Sinha, M.P. We did not have the slightest intention of involving him and we have no hesitation in expressing our regrets to the hon. Member!"⁸

After a brief discussion, during which Shri Nawal Kishore Sinha stated that he had also received a similar letter from the Editor of the Weekly, the Speaker observed as follows:

"I think in view of this, if the House agrees, we may ask the Editor, Printer and Publisher to publish his regret, the letter which he has written to me and the correction prominently on the front page of the next issue of *Current Weekly*. Thereafter, the matter may be treated as closed."⁹

The Editor, Printer and Publisher of *Current* published his regret and correction on the front page of the weekly in its issue dated 4th September, 1976. Thereafter, the matter was treated as closed.

WEST BENGAL LEGISLATIVE ASSEMBLY

Libel upon a member and reflections upon proceedings of this House: On April 7, 1975, Shrimati Ila Mitra and Shri Kumardipti Sen Gupta, members, raised¹⁰ a question of privilege against *Satyajug*, a Bengali daily, for publishing an article¹¹ in its issue of the 5th April, 1975, containing an alleged libel upon Shrimati Ila Mitra for her speech in the House on the 3rd April, 1975 and reflections upon the proceedings of the House.

⁸Ibid August 30, 1976, cc 185—87.

⁹Ibid.

¹⁰West Bengal Legislative Assembly Debs., April 3, 1975.

¹¹Original in Bengali.

After some discussion, the Speaker, Shri Apurba Lal Mazumdar, ruled¹⁵ *inter alia* as follows:—

“Shrimati Ila Mitra and Shri Kumardipti Sen Gupta have drawn the attention of the House to a feature published in the daily *Satyajug* on the 5th April, 1975 in which some speeches delivered by Shrimati Ila Mitra on the floor of the House on the 3rd April, 1975 have been dealt with. According to Shrimati Ila Mitra and Shri Sen Gupta the manner in which the proceedings of the House particularly the speeches delivered by Shrimati Mitra have been narrated in the said feature, amounts to breach of privilege and contempt of the House. It is a well settled principle that reflection on Members in the execution of their duties is a contempt.....

I have carefully gone through the feature that appeared in the newspaper and which has been the subject matter of controversy. I consider that there are representations of the proceedings of the House in the said feature, particularly the stand taken by Shrimati Ila Mitra in course of the said proceedings, which give a colour not consistent with the dignity of the House, and I feel that the matter needs a thorough probe. Accordingly, I find that there is a *prima-facie* case for taking action against the author of the feature, Editor, Printers and Publishers of the *Satyajug* for breach of privilege and contempt of the House. So in accordance with the provisions of rule 230 of the Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly I refer the matter to the Committee of Privileges for examination, investigation, and report within three months.”

The Committee of Privileges, after considering the written explanations submitted by, and after taking oral evidence of, Shri Jibanal Bandyopadhyaya, Editor, Printer and Publisher of the *Satyajug* and Shri Kalpataru Sen Gupta, its News Editor, in their First Report, stated *inter alia* as follows:—

- “(i)The treatment of the subject-matter of the article really bespeaks of a bad taste on the part of the author. The Committee feels disinclined to dwell further on it as it would only mean washing of a dirty linen in public. The Government also cannot but opine that...the author

¹⁵West Bengal Legislative Assembly Debs. April 7, 1975.

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has transgressed his limits and has made unwarranted comments in a very undignified manner on the proceedings of the House without any material basis at his disposal for making such comments.

- (ii) After a careful consideration of the written statements and the oral evidence of Shri Jibanlal Bandyopadhyay and Shri Kalpataru Sen Gupta, the Committee has come to the conclusion that the impugned article reflecting upon the conduct of Shrimati Ila Mitra on the performance of her duties as a Member of the House, in its tenor and content, amounts to a libel calculated to undermine the dignity of Shrimati Mitra and lower her in the esteem of the public and is an utter violation of the rights and privileges of the House. The Committee has also come to the conclusion that the impugned article also contains adverse reflections on the proceedings of the House and hence constitutes a contempt of the House.
- (iii) After due consideration of all aspects of the case as discussed above, the Committee finds that both Shri Jibanlal Bandyopadhyay, Editor, Printer and Publisher of the *Satyajug* and Shri Kalpataru Sen Gupta, News Editor of the *Satyajug* and Feature Writer—*Deshapremiker Rojnamcha* are guilty of committing a gross breach of privilege and contempt of the House. It has already been mentioned that Shri Bandyopadhyay has admitted his guilt and tendered unqualified apology which certainly is a point that merits consideration. The Committee feels that the ends of justice will be met by accepting the apology tendered by Shri Bandyopadhyay in the spirit it comes. Accordingly the Committee is not inclined to inflict any punishment on Shri Bandyopadhyay.
- (iv) As regards Shri Kalpataru Sen Gupta, News Editor of the *Satyajug* and Feature Writer—*Deshapremiker Rojnamcha*, no such circumstances exist till the time of this Report. In order that the dispensation of justice may be even handed, the Committee feels that a similar opportunity may be made available to Shri Sen Gupta.....

Privilege Issues

(v) The Committee recommends that:—

- (1) No action be taken by the House against Shri Jibanlal Bandyopadhyay, Editor, Printer and Publisher of the *Satyajug*;
- (2) If Shri Kalpataru Sen Gupta, News Editor and Feature Writer—*Deshapremiker Rojnamcha* feels repentant and apologetic upon the development arising out of the tendering of unqualified apology by the Editor himself and sends necessary communication in this regard addressed to the House before the House sits for the next session, he be treated in the same manner and footing as that of the Editor. If, however, Shri Sen Gupta chooses not to take any such step, he should be summoned to the Bar of the House and reprimanded; and
- (3) The letter of apology, dated the 1st December, 1975, sent by Shri Jibanlal Bandopadhyay, Editor, Printer and Publisher of the *Satyajug* together with the context in which it has been sent should be published on the front page of the *Satyajug* as a box news for three consecutive days following the date on which the House finally disposes of the matter.”

After presentation of the Report, on April 20, 1976, the Speaker informed the House that a letter was addressed to Shri Kalpataru Sen Gupta, by the Secretary to the Assembly, and in reply thereto, Shri Sen Gupta addressed on February 12, 1976, a communication to the Secretary, West Bengal Legislative Assembly, which was received by the Secretariat on the 13th February, 1976, and which read as follows:—

‘Dear Sir,

I am in receipt of your letter dated 2nd February, 1976, in which you have informed me that my Editor Shri Jibanlal Bandyopadhyay has ‘sincerely regretted’ the publication of the article in the ‘*Satyajug*’ under caption *Deshapremiker Rojnamcha*..... and ‘apologised’ for the same.

With regard to your query whether in view of this, I have any further submission to make I would like to state that I had in my submission before the Privileges Committee, explained that my article was not intended to

denigrate any individual- or hurt anybody's feelings. But as it did hurt the feelings of an individual, I expressed my regret. I appeal to the West Bengal Legislative Assembly to accept my explanation and the honesty of my motive and in view of the letter of my Editor to find its way to close the matter!"

On April 21, 1976, Shri Haridas Mitra, Chairman, Committee of Privileges, moved a motion which was adopted by the House, for consideration of the Committee's report. Shri Mitra then moved the following motion which was also adopted by the House:—

"That this House agrees with the recommendations contained in the First Report of the Committee of Privileges of the Seventh Legislative Assembly and that since the communication sent by Shri Kalpataru Sen Gupta, News Editor and Feature Writer, *Deshapremiker Rojnamcha* does not disclose that he felt repentant and apologetic, he be summoned to the Bar of the House and reprimanded."

On the April 23, 1976, Shri Kalpataru Sen Gupta was brought to the Bar of the House by the Marshal and was reprimanded¹³ by the Speaker as follows:—

"Shri Kalpataru Sen Gupta, this House has adjudged you guilty of committing a gross breach of privilege and contempt of the House for writing an article entitled *Deshapremiker Rojnamcha* which was published in the Bengali Daily *Satyajug* on the 22nd Chaitra, 1381 (B.S.) corresponding to the 5th April, 1975. This article, in its tenor and content, amounts to a libel calculated to undermine the dignity of an Hon'ble Member of this House and lower her in the esteem of the public and is an utter violation of the rights and privileges of this House. The article also contains adverse reflections of the proceedings of this House and constitutes a contempt of the House. As News Editor and Feature Writer you had a high responsibility to exercise utmost caution and discretion in commenting on the performance of duties by an Hon'ble Member of the Legislative Assembly in her capacity as such Member and also in commenting on the proceedings of the House. Yet you used words and expressions which are highly objectionable and are directed only to bring Shrimati Ila Mitra, an Hon'ble Member of this House into

¹³*Ibid*, April 23, 1976.

disrepute. The treatment of the subject matter of your article bespeaks of a bad taste and little regard for womanhood. You have also chosen to make unwarranted comments on the proceedings of the House without any material basis. What is still worse, you were given sufficient time for reflection and had the opportunity of sending an appropriate communication to the House in case you felt repentant and apologetic for your doings. But the communication sent by you does not disclose any such attitude on your part.

Therefore, in the name of this House, I reprimand you for committing a gross breach of privilege and contempt of this House."¹⁴

Shri Kalpataru Sen Gupta then withdrew as directed by the Speaker.

HOUSE OF COMMONS (U.K.)

Alleged restraint by a Court prohibiting a person from communicating with his Member of Parliament: On February 23, 1976, Mr. Gorst, a member, sought to raise a question of privilege regarding an injunction made by a court prohibiting the publication of information relating to proceedings before the court. While raising the matter Mr. Gorst stated that it was not his intention to criticise the judiciary, but to ask whether a breach of privilege was involved as a result of an order which had been imposed by a judge, and, if not, whether the importance of the precedent which had been set by the order required the consideration of the Committee of Privileges. Mr. Gorst said:

"The matter in question arises from the following situation. On 13th January a constituent of mine, a Mr. Donald Smith was sent to prison for contempt of a court order forbidding him from seeing his two sons. Two days later I visited him in prison, and thereafter I tabled some Early Day Motions which became the subject of Press reports the following day. Thirteen days later my constituent was released from prison but was ordered not to have any contact with the Press on the subject of his two sons.

¹⁴Ibid April 23, 1976.

Last Friday, When Mr. Smith was granted custody of his two sons, the judge ruled:

'There will be an injunction restraining both parents communicating directly or indirectly to the Press, or any other media, things relating to the wards of court'

I understand that counsel's opinion is that the judge's ruling means that I, as Mr. Smith's Member of Parliament, cannot speak to the Press about this subject as it would be 'indirectly' discussing the children.

It is not a new thing for injunctions to be imposed restraining people from making statements, but I submit, Mr. Speaker, that an injunction of the courts which has the effect of inhibiting or regulating freedom of speech or communication between a constituent and his Member of Parliament is in a different category from any other court ruling, since it surely affects the rights, privileges and responsibilities of a Member of this House.

I believe that we have a duty not only to respond to public opinion but also to consult, discuss and, if necessary, mould it in places outside the precincts of the Palace of Westminster.

The position as I see it is that my constituent can no longer, after three and a half years of doing so, discuss his case with me...

I do not believe that it is in the public interest that Members of Parliament should be prevented from making references of actual cases, especially when the demands of their constituents dictate otherwise. Nor is it right that the only forum for the discussion of public issues should be this House. For example, it would surely be rightly resented if either the Prime Minister or the Leader of the Opposition refused to make any speeches outside Parliament. The public expect speeches to be made outside Parliament.

Consequently, Mr. Speaker, I ask you for your guidance on these three points. The first is whether the matter of the judge's ruling can be investigated as a breach of parliamentary privilege. Secondly, if it cannot can the

matter be referred to the Committee of Privileges for it to consider the implications of a ruling which, in effect, prohibits free communications between a constituent and his Member of Parliament and between a Member of Parliament and Press? Finally, now that the two boys are my constituents, as a result of the judge's order, is it a breach of privilege for the courts effectively to deny them access to their Member of Parliament or to deny their Member of Parliament access to them?¹⁵

The Speaker, Mr. George Thomas, reserved his ruling till the next day. On February 24, 1976, the Speaker disallowing the question of privilege ruled as follows:—

"I have taken into account the provisions of the Administration of Justice Act, 1960, under which the court made its order, and the extent to which communications between hon. Members and their constituents have been held to enjoy the protection of parliamentary privilege.

There is no doubt that in any proceedings in this House in which the hon. Member took part he would enjoy absolute privilege, and I am sure that the House would be jealous to prevent any erosion of freedom of speech in Parliament, by the courts or anybody else. However, I do not, in this case, consider that the operation of the Act of 1960 raises issues which would justify me in giving precedence to the hon. Member's complaint over the Orders of the Day.

My ruling does not of course, prevent the hon. Member from seeking to have the issues raised by this case considered by the House by other means, should he wish to do so."¹⁶

Upon being asked by Mr. Gorst whether the general issues raised could still be considered by the Committee of Privileges, the Speaker observed:

"The House can decide whatever it wishes to send to the Committee of Privileges, but I cannot say that the privi-

¹⁵H. C. (U.K.) *Debs.* February 23, 1976, cc. 36—38.

¹⁶*Ibid.* February, 1976, cc. 194, 95.

lege that extends to Members of Parliament also extends to constituents. I have gone into the matter very deeply during the course of the morning and have been advised about precedents and so on. Therefore, the ruling which I have given must stand."

Alleged reflections on a member in a letter to a newspaper by another member: On March 1, 1976, Mrs. Winifred Ewing, a member, sought to raise a question of privilege against Mr. William Hamilton, another member, for allegedly casting reflections on her conduct in E.E.C. Parliament as a nominee of the House of Commons (U.K.), in a letter published in *The Northern Scot* of the 28th February, 1976. While raising the matter, she stated that the letter was certainly defamatory of her and interfered with the proper execution of her duties as a Member and, therefore, fell within the umbrella of the Committee of Privileges inasmuch as it was alleged therein that I failed to participate in a debate on the fishing industry of the EEC. Apart from this the letter said:

"This gross dereliction of duty by Mrs. Ewing becomes all the more indefensible taken in conjunction with the fact that on that same day she had spoken in defence of her own profession—the lawyers... She is not paid handsomely to be absent—nor, I submit, to represent the views of lawyers rather than fishermen."¹⁷

Mrs. Winifred Ewing said that it was a matter of record and she had with her the official record of the debate in the EEC Parliament to show that she made no speech whatsoever in the defence of lawyers... she further said:

"The second point of privilege in the letter is the reference to handsome payment, both to the hon. Member for Fife, Central and to myself. I am suggesting that as nominees of this House, which the United Kingdom delegation at present is, we were hired by this House—we could be fired by this House—and our nominations all had to be approved by the House. Until the day of direct elections to the EEC comes, I am suggesting that the writ of the Committee of Privileges should extend to such breaches of conduct between one Member of the United Kingdom delegation and another in the course of their duties as nominees.

... We do not have a proper set of rules to protect us in the EEC Parliament... I must surely look to this House for some protection.

¹⁷H.C. (U.K.) *Debs.* March 1, 1976.

The fact is that I have been accused in an inaccurate record relating to, I would suggest, an extension of responsibility which affects me as a nominee of this House.

There must surely be some protection against such damaging statements which prevent delegates from properly exercising their duties."

On attention of the Speaker being drawn by Mr. Maxwell Hyslop, another member, to the fact that Mrs. Winifred Ewing had put forward her comments on a letter by another Member without hon. members being put in a position of knowing what was in the letter, the Speaker directed the Clerk of the House to read the letter in the House. After this was done the Speaker reserved his ruling till the next day. On March 2, 1976, the Speaker disallowed the question of privilege and ruled *inter alia* as follows:

"It is not for me to make any comments either upon the political arguments reflected in that letter or upon the manner in which it is written. All I have to say is whether I consider that I ought to give precedence over the Orders of the Day to a motion concerning this complaint. I cannot find any reason for so doing."¹⁸

Alleged reflections by an organisation on a Parliamentary Committee, refusal to give evidence and encouraging other organisations to boycott the Committee: On March 2, 1976, Sir Bernard Braine, a member, raised a question of privilege regarding a press statement made by a spokesman of the National Abortion Campaign Steering Committee appearing in *The Times* and *The Guardian* of that day. While raising the matter, the member stated *inter alia* as follows:

"My complaint is based on reports in *The Times* and *The Guardian* newspapers today, where it is reported that the National Abortion Campaign has refused to give any evidence before the House of Commons Select Committee on Abortion. In *The Times* newspaper a spokesman of the National Abortion Campaign Steering Committee is reported as saying:—

'We will boycott the Select Committee and encourage other organisations to boycott the Committee'.

A little later the spokesman is reported as saying:—

'We hope to discredit the illusion of a fair Select Committee. There is no way that this Committee can look at our evidence logically and fairly'.

¹⁸*Ibid.*, March 2, 1976, c. 1103.

The *Guardian* newspaper report is of a similar nature, and I refer particularly to the following words:—

“The National Abortion Campaign bluntly said ‘We believe that it will serve no purpose to talk to MPs who are already poised to restrict the existing abortion legislation.’”

The House will recall that we set up a Select Committee on 9th February. Accordingly, those statements as reported are, I submit a gross contempt of the House as a whole since the organisation concerned is saying unequivocally, first, that a Committee set up by a majority of the House should be boycotted and, secondly, that it will encourage others not to give evidence to the Select Committee.

I respectfully ask you, Sir, to rule, first, that these statements are, in the words of Erskine May, a ‘reflection on Members’—that is to say, the suggestion is that the House which set up the Select Committee has no authority worthy of respect and is incapable of considering important matters fairly and objectively. Secondly, I would ask you to rule that such statements are calculated to deter other witnesses from giving evidence and are clearly meant to have that effect.”¹⁹

The Speaker, Mr. George Thomas, reserved his ruling till the next day. On March 3, 1976, the Speaker ruled *inter alia* as follows:—

“I have come to the conclusion that, on balance, this is a matter on which the House should have the opportunity to express an opinion. I am, therefore, prepared to give precedence over the Orders of the Day to a motion concerning the complaint.”²⁰

Thereupon, the Lord President of the Council and Leader of the House of the Commons, Mr. Edward Short, moved the following motion which was adopted by the House:—

“That the matter of the complaint made by the hon. Member for Esseze, South-East (Sir Bernard Braine) be referred to the Committee of Privileges.”²¹

¹⁹H.C. (U.K.) *Debs.*, March 2, 1976 cc. 1104-05.

²⁰*Ibid.*, March 3, 1976, c. 1319.

²¹*Ibid.*, c. 1320.

The Committee of Privileges, in their Fourth Report,²² presented to the House on March 16, 1976, stated *inter alia* as follows:

“(i) Your Committee have considered the above reported passages from the following points of view:—

- (a) Does the refusal of the National Abortion Campaign to give evidence before a Select Committee constitute a contempt of the House;
- (b) Are the reported words about the lack of fairness of the Select Committee such that they should be treated as a contempt of the House; and
- (c) Do the reported words about encouraging other organisations to boycott the Committee amount to an attempt to deter prospective witnesses from giving evidence, such that they should be treated as a contempt of the House.

(ii) *The refusal to give evidence.* Your Committee are informed by the Clerk of the House that the Select Committee on Abortion are proceeding by way of inviting interested persons to offer them evidence, and that there has been no formal use of the Committee’s power to send for persons, papers and records. Any person approached on an informal basis to give evidence to a Select Committee is free to decline such an invitation, and the question of contempt does not arise.

(iii) *The reported words about the Committee’s lack of fairness.* Your Committee are in no doubt that a reflection on a Committee’s ability to perform its task fairly is capable of constituting a contempt of the House. In this case Your Committee have considered the words used in the context of the situation that has arisen from the stated intention of six members of the Select Committee not to take part in its proceedings and the desire of potential witnesses to comment on the consequences of this situation. Your Committee draw attention to a passage in the

²²H.C. (1975-76) 275.

Report of the Committee of Privileges of 16 June, 1964, which runs as follows:

'It seems particularly important that the law of parliamentary privilege should not, except in the clearest case, be invoked so as to inhibit or discourage the formation and free expression of opinion outside the House by Members equally with other citizens in relation to the conduct of the affairs of the Nation'.²³

Your Committee do not consider that the reported passages that relate to the Select Committee's ability to be fair should be construed as a contempt of the House.

- (iv) *The reported intention to encourage other organisations to boycott the Committee:* As has already been established, no other organisations are at present in receipt of a formal summons to attend the Select Committee on Abortion, and since it is no offence to decline an informal invitation, Your Committee would not regard encouragement by the National Abortion Campaign of persons like minded with themselves to decline such invitations as an offence either. However, Your Committee's opinion on this matter at this stage should not be regarded as in any way approving attempts to hinder or deter persons from giving evidence before Select Committees. It is open to the Select Committee on Abortion to issue formal summonses, and should they consider in the future that their work is being hampered by attempts to deter witnesses they will no doubt make a report of the circumstances to the House, when the matter may be given further consideration".

No further action was thereafter taken by the House in the matter.

²³H. C. (1963-64) 247. For summary of this case see *Privilege Digest*. Vol. IX (July, 1965) pp. 18-20.

PROCEDURAL MATTERS

LOK SABHA*

Speaker pro-tem: As office of Speaker was to become vacant immediately before first sitting of the Sixth Lok Sabha on March 25, 1977, the Vice-President acting as President by his order dated the 24th March, 1977 appointed Shri D. N. Tiwary, one of the senior-most members, as Speaker pro tem. Shri Tiwary made and subscribed oath before Vice-President acting as President at 10.15 hrs. at Rashtrapati Bhavan on March 25, 1977. Secretary-General, Lok Sabha was also present. Immediately after taking Chair in the House on March 25, 1977, Speaker *pro-tem* first signed the Roll of Members in token of having taken his seat in the House. Shri D. N. Tiwary presided over sittings of Lok Sabha on March 25 and 26, 1977, till a new Speaker was chosen.

Swearing-in of Members: The Speaker *pro tem* nominated to the Panel of Chairmen Sarvashri Digvijaya Narain Singh, Tridib Chaudhuri and K. Raghuramaiah, who had earlier been appointed by the Vice-President Acting as President to be persons, before any of whom the members could make and subscribe the oath or affirmation. The first to take the oath was the Prime Minister, Shri Morarji Desai, followed by the Leader of the Opposition, Shri Y. B. Chavan. The other members then followed in the alphabetical order of their States, and in all 497 members made and subscribed the oath or affirmation on the first day. Besides Hindi and English, regional languages were also used by them for the purpose.

Election of Speaker: In the revised list of business for March 26, 1977, four motions proposing the name of Shri N. Sanjiva Reddy for election of Speaker were entered. Only the first motion was moved by the Prime Minister, Shri Morarji R. Desai, and seconded by

*Contributed by the Table Office, Lok Sabha Secretariat.

Leader of the Opposition, Shri Y. B. Chavan, The other three motions standing in the names of Sarvashri Atal Behari Vajpayee, Madhu Dandavate and Prakash Singh Badal were not moved as they proposed the same name. The motion moved by Shri Morarji R. Desai and seconded by Shri Y. B. Chavan was put to vote and adopted. After having been chosen as Speaker, Shri N. Sanjiva Reddy was conducted to the Chair by the Prime Minister, Shri Morarji R. Desai and the Leader of the Opposition, Shri Y. B. Chavan.

Quorum: On March 28, 1977, Shri Hari Vishnu Kamath, a Member, raised a point of order saying that since there was at present no provision for quorum, the business before the House could not be transacted. He pointed out what he considered to be a vacuum in the Constitution as well as the Rules of Procedure in regard to this matter. It may be recalled that the Constitution (Forty-Second Amendment) Act, 1976 had, *inter-alia*, sought to omit the provisions relating to quorum in article 100 and amend article 118(1) enabling each House to make suitable Rules in that regard. The Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan explained that the provisions relating to quorum, which were in operation, prior to the enactment of the Forty-Second Amendment, still continued, as the provision contained in the Amendment, had not yet been brought into force by necessary notification.

Discussion on adjournment motion: On March 29, the Speaker gave his consent to an adjournment motion tabled by Dr. Karan Singh on the dissolution of the Jammu and Kashmir Legislative Assembly. Although normally such a motion is taken up for discussion at 4.00 P.M. of the day, the Speaker directed that it might be taken up at 5.00 or 5.30 P.M. in view of the more pressing business relating to the Budget. The motion was taken up at 5.00 P.M. and after a discussion was withdrawn by the mover.

Obituary references: After termination of the last session of the Fifth Lok Sabha, which had been dissolved on January 18, 1977, and upto first sitting of the Sixth Lok Sabha on March 25, 1977, President Fakhruddin Ali Ahmed and twelve ex-Members had passed away. It was decided to make obituary reference to the passing away of the late President separately on March 26, 1977 and to the twelve ex-members on the next sitting, *i.e.* 28th March, 1977. Accordingly, an item regarding obituary reference to the passing away of President Ahmed was included in the revised List of Business for March 26, 1977.

After the obituary references made that day by the Prime Minister, Leader of the Opposition, other members and the Speaker, members stood in silence for a short while to show their approval of the resolution moved by the Prime Minister and as a mark of respect to the memory of the late President. Thereafter, the Speaker declared that the resolution had been adopted. As a mark of respect to the memory of President Ahmed, the House was adjourned for the day.

BIHAR VIDHAN SABHA*

Ratification of Constitution Amendment Bill: On November 30, 1976 when the Government resolution on ratification of the Constitution (Forty-fourth Amendment) Bill, 1976 was taken up by the House, some notices of amendment to the resolution were received, which if accepted would have meant ratification of a part of the amendment, and repudiation of another part. The Speaker, Shri Harinath Misra giving his ruling rejected all such notices mainly because ratification in part was an inconceivable proposition.

Obituary references: Formerly, obituary references used too be made in the House first after the Question Hour and the House used to be adjourned thereafter for the next day. A decision, however, was taken during the Eighth Session of the Assembly in consultation with the Chief Minister and other leaders, to make the references only after concluding the day's business and, accordingly, a new practice was started.

Discussion on Financial Bill: When the Patna University Bill, 1976 was taken up by the House on December 20, 1976, a point of order was raised by Shri Ambika Prasad that it was a Financial Bill and that it could not be taken up without the recommendation of the Governor under article 207(3). The Deputy Speaker, Shri Shakoor Ahmed who was in the Chair agreed with the point of order but, with the consent of the House, allowed discussion on the Bill observing that recommendation of the Governor could be awaited till the motion for consideration of the Bill was put to vote. It may be recalled that Rule 119(2) of the Rules of Procedure and Conduct of Business of the Bihar Vidhan Sabha provides that the consideration motion should not be moved before the Governor's recommendation is received.

*Contributed by the Bihar Vidhan Sabha Secretariat.

HIMACHAL PRADESH VIDHAN SABHA*

Removal of a Bill pending before the House from the Register of Bills where a Bill substantially identical has been passed by the House: The Himachal Pradesh Legislative Assembly Members Pension Bill, 1972 (Bill No. 27 of 1972) was passed by the House on December 21, 1972. It was then sent to the Governor, through the Government, for giving his assent. The Governor, however, returned this Bill to the Government with his message dated the 4th December, 1975 under article 200 of the Constitution. The Government sent this message to the Vidhan Sabha Secretariat on September 2, 1976 and this communication from the Government was received after a substantially identical Bill had been introduced and passed by the House on that very day. The title of this identical Bill was "The Himachal Pradesh Legislative Assembly (Allowances of Members) (Sixth Amendment) Bill, 1976 (Bill No. 40 of 1976).

As the House was not in session, the message of the Governor was published in Bulletin Part II under the orders of the Speaker for the information of the members of the Vidhan Sabha in accordance with the provisions contained in Rule 158(1), which reads as follows:—

"158. *Message of Governor.*—(1) When a Bill passed by the House is returned to the House by the Governor with a message requesting that the House should reconsider the Bill or any specified provisions thereof or any such amendments as are recommended in his message, the Speaker shall read the message in the House, if in session, or if the House is not in session, direct that it may be published in the Bulletin for the information of the members."

An interesting point of procedure which cropped up pertained to the course of action to be taken regarding Bill No. 27 of 1972 which stood returned to the Vidhan Sabha alongwith a message from the Governor under article 200. This depended upon the joint interpretation of the provisions of article 200 of the Constitution and Rules 158 and 172 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, which, in a way, led to divergent courses.

Article 200 provides in categorical terms that a Bill so returned by the Governor shall be reconsidered by the House. Rule 158 is

*Contributed by the Himachal Pradesh Vidhan Sabha Secretariat.

to give effect to the provisions of article 200 and lays down that the Bill as passed by the House and returned by the Governor for reconsideration shall be laid on the Table of the House after the message received from the Governor has been published in the Bulletin or, in the alternative, read in the House by the Speaker. Rule 172(2), however, postulates in equally clear terms that a Bill returned by the Governor with a message under article 200 shall be removed from the Register of Bills pending in the House in case a Bill substantially identical has been passed by the House. As stated above, a substantially identical Bill (Bill No. 40 of 1976) was passed by the House on September 2, 1976. Therefore, there were two courses open. One was to lay Bill No. 27 of 1972 on the Table of the House under Rule 158 and thereafter list it for reconsideration by the House during the next session of the Vidhan Sabha. The second course which could be adopted was to remove Bill No. 27 of 1972 from the Register of pending Bills as per the mandatory provisions of Rule 172(2).

The following reasons could be adduced in adopting the first course of action, *i.e.*, to lay Bill No. 27 of 1972 on the Table of the House and thereafter to list it for reconsideration of the House:—

- (i) The word used in article 200 is “shall” which would give rise to the interpretation that a Bill returned by the Governor under article 200 must be reconsidered by the House; and
- (ii) Besides, it can also be said that the message of the Governor so received is sacrosanct and ought to be considered by the House itself.

On the other hand, the following arguments could be built up:

- (i) The provisions of article 200 and Rule 158 do not take note of a situation wherein a Bill substantially identical has been passed by the House before or after the receipt of the message from the Governor under article 200. This specific contingency is looked after by Rule 172(2) which leaves no scope for doubt whatsoever that “Bill returned by the Governor under article 200 is a Bill pending before the House and that it shall be removed from the Register of pending Bills in case a Bill substantially iden-

tical has been passed by the House. Also, it is a general rule of interpretation that a specific provision of law would out-weigh the general provision of law. Rule 172 being of a specific nature, therefore, has to be followed.

- (ii) The underlying idea of Rule 172(2) is to save the valuable time of the House. This is because the intention of the House in going ahead while passing a substantially identical Bill when another Bill on the subject is pending is clearly to ignore the old Bill. The old Bill automatically becomes of no consequence and the factum that it has been returned by the Governor with a message under article 200 would hardly make any difference. If the old Bill is listed again before the House, it can be safely predicted that a motion for its withdrawal would be immediately moved and passed. Its result would again be the removal of the old Bill from the Register of Bills.
- (iii) The substantially identical Bill (Bill No. 40 of 1976) has to be assented to by the Governor before it becomes valid law. The Governor has the option to return it under article 200 in case he feels that the points raised by him in his earlier message while returning the old Bill require re-consideration by the House even now.
- (iv) Bill No. 40 of 1976 was introduced, considered and passed by the House after the Governor had accorded his sanction under article 207 read with Rule 136. It means that he had no objection to the passing of this Bill in spite of the fact that Bill No. 27 of 1972 had been returned by him under article 200.
- (v) Rule 172(2) has been adopted by the House. It is mandatory in nature. Till the time the House decides to delete it or alter it, its provisions have to be followed.

After weighing the arguments on both sides, Bill No. 27 of 1972 was removed from the Register of Bills pending before the House under the orders of the Speaker in accordance with the provisions contained in Rule 172(2).

MEGHALAYA LEGISLATIVE ASSEMBLY*

Recognition of parties.—On December 17, 1976 the Speaker read out a letter received by him from Shri B. B. Lyngdoh and twelve others, who identified themselves as members belonging to the A.P.H.L.C. Party, requesting the Chair to grant recognition to the group headed by Shri B. B. Lyngdoh as the official opposition party inside the House and for extension of other facilities for proper functioning of the group in the business of the House. Shri Maham Singh, Minister for law, opposed the move on the ground that the group could not be recognised as A.P.H.L.C. Party as this party had ceased to exist after its merger with the Congress.

The Chief Minister read out a letter from the Election Commission in this connection and informed the House that the question of existence of the A.P.H.L.C. was under examination of the Commission.

Shri B. B. Lyngdoh made his submission to the effect that till the Election Commission decided the issue, the A.P.H.L.C. continued to exist as a party and hence his party deserved recognition under the existing parliamentary conventions. The Speaker reserved his ruling till the next day, i.e., December 18, 1976 when he announced that he was deferring his ruling on the question of granting recognition of the party led by Shri B. B. Lyngdoh as the official A.P.H.L.C. Opposition party till the next Session of the Assembly allowing, however, Shri Lyngdoh to perform the duties of the Leader of the Opposition.

UTTAR PRADESH VIDHAN SABHA**

Expression of views of the House on a Bill.—The President had referred, under proviso to article 3 of the Constitution of India, the Haryana and Uttar Pradesh (Alteration of Boundaries) Bill, 1976 to the State Legislature for expressing its views thereon. The Bill alongwith the President's reference was laid on the Table of the House on November 1, 1976, and the resolution expressing agreement with the Bill was passed by the House without any amendment on November 3, 1976. The rules of Procedure of the House do not provide specifically about the procedure to be followed in

*Contributed by the Meghalaya Legislative Assembly Secretariat.

**Contributed by the U.P. Vidhan Sabha Secretariat.

such a case. However, the procedure which was followed with the approval of the Speaker was that a resolution expressing agreement with the Bill was moved by the Government and an amendment to it could be moved by way of additions at the end of the said resolution as is done in the case of motion for thanks on the address of the Governor to both the Houses assembled together.

Suspension of Question Hour.—The agenda for the House for December 10, 1976 included questions as well as official and other usual business. However, when the Speaker called the first question of the day, the Minister of Parliamentary Affairs moved a motion requiring that in the sitting of the House on December 10, and 11, only the business relating to ratification of the Constitution (Forty-fourth Amendment) Bill, 1976 should be transacted and that except obituary references, messages or information to be given to the House, application for leave of absence and presentation of Reports of the Committees, no other business (including questions, call attention notices and any other non-official business) should be brought or transacted and all relevant rules of the Rules of Procedure and Conduct of Business of the House on the subject should be suspended to that extent. This motion was moved after an agreement was reached with the opposition parties in an informal consultation in the presence of the Speaker. But Shri Bhikah Lal, Leader of the Communist Party objected to such suspension of the Question Hour and other business. He was supported by the Leader of the Opposition, Chaudhari Charan Singh. Both were of the view that for providing more time for consideration of the resolution ratifying the Constitution (Forty-fourth Amendment) Bill, 1976, the House might sit for one or two days more. The Leader of the House, however referring to the earlier informal agreement and to the procedure followed in the Parliament, insisted on the motion, which was adopted by the House. The Speaker, referring to the observations at the Presiding Officers' Conference, observed in the House that it was not correct to do away with the Question Hour and hoped that in future, this practice of doing away with the Question Hour and suspending the rules of procedure in such a manner would not be followed.

Ratification of Constitution Amendment Bill.—Shri Satya Prakash Malaviya and two other members of the Lok Paksha gave notice of an amendment to the resolution for ratification of the Constitution (Forty-fourth Amendment) Bill, 1976. The amendment sought to add certain words at the end of the resolution requesting Parliament and the Central Government to bring the Bill into effect after

revoking the emergency and holding fresh general election to Lok Sabha. An objection was raised from the Congress benches, to such an amendment being moved to the resolution. The mover of the amendment quoted a ruling of the Speaker of the House given in 1953, in support of his claim to move the amendment. The 1953 ruling referred to by the mover was to the effect that no amendment could be moved in regard to the provisions of the Bill, but verbal amendment could be made in the resolution. After hearing the Chief Minister and some other members and referring to the provisions of article 368, the special procedure for such a resolution provided in rule 182 of the Rules of Procedure of the House, and earlier rulings of 1953, 1954 and 1956 given in the House and also in Bihar and Maharashtra, the Speaker ruled the amendment to be out of order and held that no such amendment to the resolution which sought in any way to modify, control or alter the provisions of the Bill as passed by Parliament, was permissible. The Speaker further held that the proviso to article 368 required the Bill to be ratified by a resolution which by implication meant that it should be either passed or rejected, but it could not be ratified conditionally, because in that case it could not clearly be ascertained whether or not the House ratified the concerned Bill.

6

PARLIAMENTARY AND CONSTITUTIONAL DEVELOPMENTS*

(November 1, 1976 to January 31, 1977)

INDIA

DEVELOPMENTS AT THE CENTRE

President's assent to Constitution (Forty-second Amendment) Bill: The Constitution (Forty-second Amendment) Bill, 1976 as passed by the two Houses of Parliament received President's assent on December 18, 1976. The Bill had earlier been ratified by more than half of the State Legislatures. The Bill was introduced in Lok Sabha as the Constitution (Forty-fourth Amendment) Bill, 1976 and its short title was changed by Lok Sabha, through an amendment to clause 1, as the "Constitution (Forty-second Amendment) Bill, 1976". This was done because two Constitution Amendment Bills introduced in Parliament before the introduction of the present Bill were still pending.

Cabinet changes: On December 22, the Prime Minister, Shrimati Indira Gandhi inducted two new Ministers into the Union Cabinet and reshuffled the portfolios of a number of others. Shri Hitendra Desai, former Chief Minister of Gujarat was appointed Minister of Works and Housing, the portfolio hitherto held by Shri K. Raghuramaiah. Shri Raj Bahadur, Minister of Tourism and Civil Aviation resigned and his portfolio was taken over by Shri Raghuramaiah in addition to Parliamentary Affairs of which he was in charge. Another new Minister, Shri Virbhadra Singh was appointed Deputy Minister in the Ministry of Tourism and Civil Aviation. Shri P. C. Sethi, Minister for Chemicals and Fertilizers was made Minister Without Portfolio and Shri K. D. Malaviya was asked to look after

*This feature, prepared by the Research and Information Division of LARRDIS, Lok Sabha Secretariat, is based primarily on reports appearing in the newspapers and as such, no responsibility is accepted for the accuracy or veracity of information or views included.

Shri Sethi's Portfolio. Shri D. P. Chattopadhyaya, who held independent charge of the Ministry of Comemrce was elevated to the rank of Cabinet Minister. Also, Shri Vishwanath Pratap Singh, Deputy Minister of Commerce and Shri J. B. Patnaik, Deputy Minister of Defence were promoted as Ministers of State in their respective Ministries. Shri Surendra Pal Singh, Minister of State for Tourism and Civil Aviation was shifted to Railways and Shri Buta Singh, Deputy Minister in the Railways to the Ministry of Commerce. Shri Jagannath Pahadia, Deputy Minister for Communications and Shri Bal Govind Verma, Deputy Minister for Labour exchanged their places.

With these changes, the total strength of the Council of Ministers rose from 61 to 62, the numbers of Cabinet Ministers and Ministers of State remaining the same—17 and 22 respectively—but that of the Deputy Ministers going up from 22 to 23.

New Chief Justice: On January 29, Mr. Justice Mirza Hameed-ullah Beg of the Supreme Court was appointed Chief Justice of India in place of the retiring Chief Justice, Shri A. N. Ray.

AROUND THE STATES

BIHAR

Pension to legislators: On December 14, the Bihar Vidhan Sabha passed a Bill authorising the Government to pay a monthly pension of Rs. 250 for life to all such former members of the Vidhan Sabha or the Vidhan Parishad who had been legislators for five years continuously or with breaks. For every extra year of service as legislators they would get an additional amount of Rs. 50 per month, but in no case the total pension would exceed Rs. 400.

GUJARAT

New Ministry: An 18 Member Congress Ministry headed by Shri Madhavsinh Solanki was sworn in on December 24. The allocation of portfolios among the Ministers was as follows:

Cabinet Ministers: Shri Madhavsinh Solanki: *General Administration, Planning, Industries, Electricity. Information and other portfolios not given to any Minister;* Shri Jashwant Mehta: *Home;* Shri Vijay Kumar Trivedi: *Finance, Education and Law and Justice;* Shri Amarsinh Chaudhary: *Agriculture, Forests, Prohibition, Social*

Welfare and Tribal Development; Shri Gordhanbhai Patel: *Public Works, Civil Supplies and Parliamentary Affairs*; Shri Narsinh Makwana: *Panchayats, Cooperation and Cottage Industries*; Shri Chimanbhai Mehta: *Labour, Transport and Jails*; Shri Jaideepsinhji: *Health and Family Planning, Town Planning and Town Development, and Tourism*.

Ministers of State.—Shri Maganbhai Barot: *Education, Youth Welfare and Cultural Activities*; Shri Pratap Shah: *Finance, Small Savings and Ports*; Shri Yasinkhan Malek: *Revenue, Law and Justice*; Shri Gigabhai Gohil: *Panchayats, Cooperation and Housing*; Shri Hari'hai Patel: *Civil Supplies and Home*.

Deputy Ministers.—Shri Uttambhai Patel: *Forests, Rural Housing, Jails and Transport*; Shri Devjibhai Vanavi: *Health, Family Planning, Social Welfare and Tourism*; Shri Khodidan Zula: *Industries*; Shri Manubhai Kotadia: *Agriculture and Electricity*; Shri Bhavsingh Zal: *Public Works*.

On January 7, 1977, the Home Minister, Shri Jashwant Mehta was given the portfolio of Civil Supplies also, thus leaving Shri Gordhanbhai Patel with Public Works and Parliamentary Affairs.

HIMACHAL PRADESH

New Governor: On January 28, 1977 Shri Amin-ud-Din Khan was appointed Governor of Himachal Pradesh.

HARYANA

Reallocation of Portfolios: On December 6, the portfolios of Education, Languages and Archaeology held by Shri Maru Singh were allocated to Shri Chiranji Lal and those of Revenue Consolidation, Rehabilitation, Public Works (Building and Roads), Technical Education and Architecture, earlier held by Shri Chiranji Lal were given to Shri Maru Singh.

KARNATAKA

Cabinet reshuffle: On January 1, 1977, Shri K. H. Patil, was sworn in as a Minister in the Urs Ministry and Shri R. Gundu Rao, Minister of State for Youth Services and Housing, was elevated to the Cabinet rank.

KERALA

Death of Minister: The Transport Minister, Shri K. M. George, died on December 11, following a heart attack.

New Minister: Shri R. Narayan Kurup a nominee of the Kerala Congress was sworn in as a Minister on January 25, 1977.

MADHYA PRADESH

Pension to members: The Vidhan Sabha on November 30, passed a Bill seeking to provide pension to its members. Under the measure, a legislator completing a full term would get a monthly pension of Rs. 300 and an additional amount of Rs. 30 for every completed year of service as member. The total pension would not exceed Rs. 450 a month.

MAHARASHTRA

Death of Governor: The Governor of Maharashtra, Shri Ali Yavar Jung, died on December 11 after suffering a sudden heart attack. On the same day, the President appointed Mr. Justice R. M. Kantawala, Chief Justice of the Bombay High Court, to discharge the functions of the Governor of the state until a successor was named to fill the vacancy.

MEGHALAYA

New Ministry: The All-Party Hill Leaders' Conference, which had been the ruling party in Meghalaya since it achieved statehood in 1970, decided to merge with the Congress on November 16. Four members of the State Government resigned in protest two days later, announcing their intention to keep the party alive. The Chief Minister, Captain Williamson Sangma, formed an eight-member Congress Ministry on November 22. With the swearing-in of three more Ministers of State on January 24 the strength of the Congress Ministry rose to 11. Shri P. G. Marbaniag, Minister of State for Education, was promoted as Cabinet Minister raising the strength of the Cabinet to six. The Chief Minister also re-allocated the portfolios as follows:

Cabinet Ministers: Captain W. A. Sangma: *Personnel, Political, Cabinet Affairs, Home (including Passport), Reorganisation, General Administration, Secretariat Administration, Planning and Evaluation,*

Finance, Taxation and Transport; Shri E. Bareh: Agriculture, (Irrigation and Animal Husbandary), Public Works Department, Roads and Buildings, Food and Civil Supplies; Shri Sanford Marak: Health and Family Planning, Public Health, Engineering, Tourism, Power, Mining and Geology; Shri Grohonsing Marak: Forests, Soil Conservation, District Council Affairs and Community Development; Shri Maham Singh: Revenue, Law, Parliamentary Affairs, Industries (excluding Agriculture and Weaving) and Border Areas Development including Border Trade; Shri P. G. Marbaniang: Education Youth, Social Welfare, Sports and Games and Public Relations.

Ministers of State: Shri U. Kharbuli: Independent charge of Labour, Municipal Administration, Town and Country Planning (would assist Minister of Education); Shri F. K. Mawlot: Independent Charge of Registration, Weights and Measures, Printing, Stationery would assist Minister of Transport).

ORISSA

President's rule and New Ministry: Following the resignation by Shrimati Nandini Satpathi as Chief Minister on December 16, Orissa was put under President's rule for a brief spell. Popular Government was restored in the State on December 29 with the installation of a 14-member Council of Ministers headed by Shri Binayak Acharya. The Ministry consisted of 9 Cabinet Ministers, four Ministers of State and a Deputy Minister.

The following were the portfolios of Ministers:

Cabinet Ministers: Shri Binayak Acharya: Home, Political and Services, Planning and Co-ordination, Finance and Tribal and Rural Welfare; Shri Sriballay Panigrahi: Revenue, Irrigation and Power, Education and Youth Services and Law; Shri Lakshman Mallick: Works and Transport; Shri Rama Chandra Ulaka: Food and Civil Supplies; Shri Mohan Nayak: Community Development and Social Welfare and Urban Development; Shri Kanhu Charan Lenka: Industries and Commerce; Dr. Benudhar Baliarsingh: Labour, Employment and Housing and Excise; Shri Bhagirathi Gomango: Health and Family Planning; Dr. Jogesh Chandra Rout: Agriculture and Co-operation.

Ministers of State: Shri Jagannath Patnaik: Finance, Planning and Coordination, Mining and Geology; Shri Matlub Ali: Revenue and Excise, Youth Services, Cultural Affairs and Tourism; Shri Ananga Udaya Singh Deo: Forests, Fisheries and Animal Husbandry; Shri

Bhajaman Behera: *Rural Development and Tribal and Rural Welfare.*

Deputy Minister: Shri Mohan Nag: *Health and Family Planning.*

New Governor: Shri Harcharan Singh Brar was on January 28 appointed Governor of Orissa. He was sworn in on February 7, 1977.

PUNJAB

Resignation of Minister: The Governor, Shri M. M. Chaudhary, on January 29, accepted the resignation of Shrimati Gurbinder Kaur Brar, Minister of State for Housing and Habitat, from the Council of Ministers.

RAJASTHAN

Pension to members: On November 16, 1976 the Vidhan Sabha passed by a voice vote the Rajasthan Legislative Assembly (Officers and Members Emoluments) (Amendment) Bill providing for payment of pension to members of the House after the end of their membership. The minimum pension would be Rs. 250 p.m. to be granted after the completion of a term. This would be increased by Rs. 50 for every additional year of service with a maximum of Rs. 500. The Bill also provided for raising the fixed emoluments of a member from Rs. 300 to Rs. 500 per month.

TAMIL NADU

Merger of Toilers Party with Congress: Shri S. S. Ramaswamy Padayachi, President of the erstwhile Toilers Commonwealth Party (Tamil Nadu) announced in Madras on January 30, 1977 that the entire party had merged with the Congress.

UTTAR PRADESH

Pension to members: The Legislative Assembly on November 10, passed without any dissent, the U. P. Legislature (Emoluments of Members) (Second Amendment) Bill, 1976 providing that the members of the State Legislature would receive a pension of Rs. 300 per month for a minimum service of five years as a member of the Assembly or Council or both combined since August 15, 1947. For every extra year of service there would be an increase of Rs. 50 per year in the pension. subject to a ceiling of Rs. 500 for 9 years or more.

Ministerial changes: Shri Lakshmi Shankar Yadav, was sworn in as a Cabinet Minister on December 12, with the portfolio of Food and Civil Supplies. The portfolios of Jail and Information relinquished by the Chief Minister, were assigned to Shri Baldev Singh Arya, who was holding the portfolios of Food and Civil Supplies and Public Works Department.

UNION TERRITORIES

GOA, DAMAN AND DIU

Seat for Harijans in Assembly: The Election Commission of India announced on November 19, 1976 that the Pernem constituency would be reserved for the Scheduled Castes in the Legislative Assembly of the Union Territory.

DEVELOPMENTS ABROAD

ALBANIA

Approval of new Constitution: The Albanian People's Assembly on December 27, unanimously adopted the new Constitution, the draft of which had been published on January 21, 1976 and which had since then been amended after being discussed at all levels throughout the country.

ALGERIA

Election of President: Col. Houari Boumediene, leader of Algeria's revolutionary Council, was elected on December 10, President of the Republic by 95.23 per cent of votes cast. He took the oath of office on December 16.

BANGLADESH

Appointment of new Chief Martial Law Administrator: By a proclamation issued on November 29, President Sayem transferred the office of Chief Martial Law Administrator, which he had held since November 1975, to Major-General Ziaur Rahman, the Chief of Army Staff and Deputy Chief Martial Law Administrator.

BURUNDI

New Government: The Government of President Michel Micombero, which had come to power in November 1966 by deposing

the King, Mwami Ntare V, and abolishing the monarchy, was itself overthrown on November 1, 1976, by a group of army officers led by Lt. Col. Jean-Baptiste Bagaza. He announced on November 3, that a 30-member "Supreme Council of the Revolution" (SRC) had assumed power with the aim of carrying out a thorough reform of the apparatus of the state and a re-education of "elements morally incapable of dealing effectively with public tasks." Lt. Col. Bagaza also took over the post of Chief of Staff of the Armed Forces and subsequently became Chairman of an 11-member executive committee of the SRC. On November 9, the SRC elected him President of the Republic of Burundi. The new President appointed Lt. Col. Edouard Nzambimana as Prime Minister on November 11, and a new Cabinet consisting of 11 civilians and four military men was announced on November 13.

CHAD

New empire: On December 4, Chad became an empire, with the head of state Mr. Salah Addin Bokassa as its first emperor.

DENMARK

Snap poll in Denmark: The Prime Minister, Shri Anker Joergensen, order on January 22 snap legislative elections for February 15. The announcement came in the wake of an overnight parliamentary crisis over housing policy, unemployment benefits, the defence budget and a tax on energy use.

EGYPT

General Elections and new Government: General elections, described as the freest in the country's history were held on October 28 and November 4, 1976 for 342 of the 350 elective seats in the People's Assembly. There were about 9,500,000 registered voters, voting being compulsory for men but not for women. No Communist or Moslem Brotherhood candidates were allowed to stand for election. Of the 1,531 election candidates, about half were independents and the remainder were the three "platforms" of the Arab Socialist Union (ASU), each of which had a separate list of candidates. The final results of the elections, announced on November 6, showed that the central group had won an overwhelming majority, gaining 280 seats (or 81.8 per cent of those contested), while the right wing group had won 12, the left wing group 2 and independents 48. By-elections were to follow in the eight remaining constituencies. President Sadat subsequently appointed another 10 deputies,

as provided for under the Constitution. President Sadat appointed General Salem as Prime Minister, and the latter announced his Cabinet on November 9, 1976.

Multi-party state: President Sadat, in a speech to the newly-elected People's Assembly on November 11, said that the left, centre and right factions within the ruling Arab Socialist Union (ASU) would now act as separate political parties, totally independent of the ASU.

GRENADA

General elections: The Grenada United Labour Party (GULP), led by the Prime Minister, Mr. Eric Gairy, was returned to power with a reduced majority on December 7, in the first general elections since the attainment of independence in 1974 and the first since the lowering of the voting age from 21 to 18.

IRELAND

New President: Dr. Patrick Hillery, retiring EEC Social Affairs Commissioner, was declared President-elect of the Irish Republic on November 10.

ISRAEL

Resignation by Prime Minister: The Prime Minister, Mr. Yitzhak Rabin, resigned on December 20 after expelling three members of his Cabinet and receiving unexpected letters of resignation from two others.

JAMAICA

General elections and formation of new Government: The Jamaican Parliament, elected on February 29, 1972, was dissolved on November 23, 1976 (i.e. about three months before the expiry of its five-year mandate), after it had approved a redrawing of constituency boundaries to increase the number of seats in the House of Representatives from 53 to 60. A general election held on December 15, resulted in a decisive victory for the People's National Party (PNP) led by the Prime Minister, Mr. Michael Manley, who announced on January 4, 1977 the appointment of a new Cabinet.

JAPAN

Resignation by Prime Minister: Mr. Takeo Miki, whose faction had obtained only 32 seats in the new House of Representatives, for-

mally resigned on December 24, On the same day, Mr. Takeo Fukuda, the former Deputy Prime Minister whose faction had gained 51 seats in the Lower House, was elected Prime Minister at a plenary session of the House of Representatives and the House of Councilors.

LEBANON

New Cabinet: The Lebanese Premier, Mr. Salim El-Hoss on December 10 formed a post-war Cabinet of eight non-politicians, half of them being Christians and the other half Muslims. The Cabinet included three economists, an industrialist, a lawyer, two doctors and an architect.

LIBYA

Change in name of states: Colonel Mummer Gaddafi, Chairman of the Libyan Revolutionary Command Council, announced in Tripoli on November 22, at a meeting of the General People's Congress set up in November, 1975 that Libya was officially to be known as the Libyan Arab People's Republic instead of the Libyan Arab Republic, as hitherto.

MALTA

New President: Mr. Anton Buttingieg, a poet, lawyer and former Minister in the Labour Government, was sworn in as President of Malta on December, 27.

MEXICO

New President: Sr. Jose Lopez Portillo was sworn in on December 1, as the new President of Mexico to succeed Sr. Luis Echeverria Alvarez, whose six-year term expired on that date. A new Cabinet announced on November 30. was sworn in on December 1.

MAURITIUS

New Cabinet: A 21-member cabinet, headed by the Prime Minister, Sir Seewoosagur Ramgoolam, was sworn in on December 30. The new government was a coalition of Sir Seewoosagur's Independence Party and the Social Democratic Party.

NAURU

New President: Mr. Bernard Dowiyogo, a 30-year old former law student, was sworn in as President of Nauru Island Republic on

December 21, after the 19-member Parliament of the 20 sq. km. state voted out Mr. Hammer Deroburt.

PAKISTAN

General elections: On January 7, the Prime Minister Mr. Z. A. Bhutto announced the holding of general elections in the country in March. On January 11, nine opposition political parties decided to jointly enter the country's general election.

Mr. Z. A. Bhutto stood elected unopposed to the National Assembly from Larkana constituency in Sind Province.

SENEGAL

New name for ruling party: At an extraordinary Congress of the ruling *Union Progressiste Senegalaise* (UPS) held in Dahar on December 27—29, and attended by some 6,000 delegates it was decided to change the party's name to that of Socialist Party (*Parti Socialiste*).

SINGAPORE

General Elections: The People's Action Party for the third time in eight years made a clean sweep of all parliamentary seats in the general elections held in the country on December 23.

UNITED NATIONS

Re-election of Dr. Kurt Waldheim as Secretary-General: The U. N. Security Council decided in a closed session on December 7, by 14 votes to none, with one abstention, to recommend the renewal of the five-year mandate of Dr. Kurt Waldheim as U. N. Secretary-General for another five years ending on December 31, 1981. The U. N. General Assembly accepted the Security-Council's recommendation by acclamation on December 8.

UNITED STATES

Presidential Election: Mr. Jimmy Carter, the Democratic Party candidate, won the American Presidential election held on November 2. His running mate, Senator Walter Moudale of Minnesota, was elected Vice-President. Mr. Carter won the Presidential election

with a majority of 2 per cent in the popular vote and a majority of 56 electoral votes. He had a majority of the popular vote in 23 states and the District of Columbia, while President Ford won in 27 states.

YUGOSLAVIA

Death of Prime Minister: The Prime Minister, Mr. Dzemal Bigedic died on January 18, when a Government executive jet crashed in a snowstorm near the central Yugoslav town of Sarajevo.

SESSIONAL REVIEW

LOK SABHA*

The first session of the Sixth Lok Sabha was held from March 25 to April 7, 1977. A brief resume of the important discussions and legislative business transacted by the Lok Sabha during the Session is given below:

A. DISCUSSIONS

President's Address: Felicitating the members of the new Lok Sabha in his Address to the Parliament on March 28, 1977, the Acting President referred to the Sixth General Election and said that it had effectively and decisively demonstrated the power of the people, the vitality of the democratic process in India and the deep root democracy had taken in the country. Outlining some of the urgent tasks before the Government, he said, it would remove the curbs on the fundamental freedoms and civil rights of the people, restore the rule of law and the right of free expression to the Press. The Government, he added, would make a thorough review of the Maintenance of Internal Security Act with a view to repealing it and examining whether the existing laws need further strengthening to deal with economic offences and security of the country without denying the right of approach to courts. Legislation would be introduced to ensure that no political or social organisation was banned except on adequate grounds and after an independent judicial enquiry. The Prevention of publication of Objectionable Matters Act would also be repealed. Immunity which the Press enjoyed in reporting the proceedings of legislatures would be restored. The amendment to the Representation of Peoples Act which redefined corrupt practices and afforded protection to electoral offences by certain individuals by placing them beyond the scrutiny of the courts, would be repealed.

*Contributed by the Research and Information Division of LARRDIS, Lok Sabha Secretariat.

The Acting President announced that a comprehensive measure would be placed before the House during the course of the year to amend the Constitution to restore the balance between the people and Parliament, Parliament and the Judiciary, the Judiciary and the Executive, the States and the Centre, the citizen and the Government, that the founding fathers of the Constitution had worked out.

In the economic sphere, the Acting President said that his Government would remove destitution within a period of ten years. Referring to external relations, he said that his Government would honour all the commitments made by the previous Government. Besides standing for friendship with all our neighbours and other nations of the world on the basis of equality and reciprocity, his Government would follow a path of genuine non-alignment.

The President's Address was discussed for four days in the Lok Sabha on a Motion of Thanks moved by Shri Karpoori Thakur on March 31. Participating in the debate on the same day, the Leader of the Opposition, Shri Y. B. Chavan said that while his party accepted the result of the Elections, it did not consider Election results as a rejection of the Constitution (42nd Amendment) Act. He maintained that his party stood for the paramountcy of the Parliament.

Intervening in the debate on April 1, 1977, the Minister of Health and Family Welfare, Shri Raj Narain termed the imposition of emergency in the country by the previous Government as a blot on the national life since it had tarnished the image of India and undermined the dignity of the country. Shri George Fernandes, Minister of Communications, participating in the debate listed inflation, unemployment and regional imbalances as some of the problems bequeathed by the previous Government. He hoped that the Present Opposition Party who was responsible for creating these problems would lend a helping and constructive hand to the new Government in solving them.

The Prime Minister, Shri Morarji Desai while replying to the debate on April 5, assured the House that his Government would ensure that it established democratic traditions by its behaviour. If the Government failed to do so, any member of the Opposition could point it out so that it would be improved upon. He was of the view that the country passed through such fears during the last twenty months that had no parallel in the history of India. To ensure that such fear did not exist in the country, there should be freedom from fear. He appealed to the Opposition to help the Government in

removing fear from the people at large. He assured that freedom would be restored to everybody.

The Motion of Thanks was thereafter adopted by the House.

Dissolution of Jammu & Kashmir State Legislative Assembly: On March 29, 1977, Dr. Karan Singh moved an Adjournment Motion regarding the dissolution of the Jammu and Kashmir Legislative Assembly. He contended that the Governor of the State was not bound by the advice of the Council of Ministers when he knew fully well that the Congress Parliamentary Party had a clear-cut majority in the House. He added that under Article 36 of the State Constitution, the Governor should have called upon the Leader of the Congress Party to form the Government. Replying to the brief discussion, which ensued the Minister of Home Affairs, Shri Charan Singh made it clear that the Governor had no legal alternative but to accept the advice of the Council of the Ministers. Referring to the question of not taking action under Article 356 of the Constitution of India, he said that if President's Rule had been imposed in the State under Article 356, it could continue for a period upto three-years whereas under the State Constitution the limit was only six months. Since early elections were contemplated, the Governor's advice was accepted.

The motion was by leave of the House withdrawn.

Railway Budget: The Railway Budget for 1977-78 was presented to Parliament by the Minister of Railways, Professor Madhu Dandavate, on March 28, 1977. Shri Samarendra Kundu initiating the discussion on March 29, 1977 welcomed the reliefs which the Railway Minister had given to the workmen. He, however, suggested that while reinstating the victimised workers, they should be treated as on duty to avoid complications. He wanted the Railway Minister to pay special attention to the needs of the backward States.

Replying to the brief discussion, the Minister of Railways at the outset said that the current Railway Budget was just a Vote on Account. Referring to his categorical statement earlier that all the railway employees who had been either suspended or dismissed as a sequel to their participation in the 1974 strike would be unconditionally reinstated, he said that besides taking back even the casual staff members, the seniority in the case of all the reinstated railway workers would be retained and the entire break in service would be condoned. He also added that the Railways would function within the framework of Mahatma Gandhi's ideals with a basic concept that there must not be imbalance between urban India and rural

India. In view of the persistent complaints about the functioning of the Railway Board, it would be examined in detail and necessary changes would be made to restructure the Board. He also assured the House that corruption in the railway industry would be eliminated.

General Budget—General Discussion: The Minister of Finance, Shri H. M. Patel, presented the General Budget for 1977-78 to the Lok Sabha on March 28, 1977.

Shri C. Subramaniam initiating the discussion on the Budget on March 29 suggested a proper demand management as well as improvement of the supply position of the various essential commodities. He demanded that priorities should be accorded by the new Government to have a control over the price situation. He also suggested that care should be taken to control money supply besides tackling the problem of unemployment.

Replying to the discussion on March 30, 1977, the Minister of Finance said that as the new Government came into power only a few days ago, it did not get the time to formulate a coherent economic programme. He added that the Government was determined to see that smuggling was firmly curbed and that smugglers were not allowed to indulge in any anti-social activities. For this, effective use of the ordinary laws of the land would be sufficient. He was of the view that credit policies must be so formulated that they were flexible enough to provide adequate incentive to increased production without generating inflationary pressure in the economy.

Regarding the scrapping of the Compulsory Deposit Scheme and the restoration of bonus to workers, the Finance Minister said that these issues would be carefully examined before the presentation of the regular budget. In so far as the employees dismissed under article 311(2)(c), the matter was being examined.

Concluding, the Finance Minister said that the economy was today faced with problems of inadequate growth both in agriculture and industry, growing sickness in industry and increasing unemployment and as such, he hoped to give an outline of the thinking of the Government for the solution of these problems in the forthcoming budget.

Reported Printing of Duplicate Ballot Papers: Making a statement on March 31, 1977 in response to the Calling Attention Notice by Shri Jyotirmoy Bosu regarding the reported printing and num-

bering of duplicate ballot papers in lakhs at Government press, Alipur, Calcutta under the control of a Senior IPS Officer, the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan said that the duplicate number of a few thousand ballot papers was due to the wrong assignment of the same sets of serial numbers to more than one squad engaged for the serial numbering more-than-one of the ballot papers of one Parliament Constituency. As a result, a few bundles of thousand ballot papers each had the same serial numbers. The mistake was detected by the Returning Officers in the course of the verification of ballot papers received by them before issue to the Presiding Officers of the polling stations. As soon as the mistake was detected, all the ballot papers with identical serial numbers were returned to the press for safe custody and substitute ballot papers with correct serial numbers were printed afresh by the press and supplied to the Returning Officers. The persons employed in the Press who were responsible for the mistake had already been placed under suspension and inquiries had been initiated for fixing the responsibility for the mistakes.

Presidential Proclamation on Emergency: Making a statement on March 31, 1977 in response to the matter raised under Rule 377 by Shri Shyamanandan Mishra, the Minister of Home Affairs, Shri Charan Singh informed the House that the promulgation of Emergency was signed by the President on 25th June, 1975 while the Cabinet approved the Proclamation only on 26th June, 1975. The approval of the Cabinet, therefore, was *ex-post-facto*. He added that the Government was already seized of the matter and was examining the question of providing adequate safeguards to prevent the possibility of declaration of emergency in similar circumstances in future.

Political Prisoners still behind the bars: On April 5, 1977, Shri Jyotirmoy Bosu called the attention of the Minister of Home Affairs to the political prisoners still behind the bars and their immediate release. Making a statement, the Minister of Home Affairs, Shri Charan Singh said that the Government was of the view that no one should be kept under detention for an indefinite period. Accordingly the State Governments had been advised to release all those still under detention except where interests of security of the country were clearly involved or where persons had been detained on account of their indulgence in violent activities in the recent past. He added that it was difficult to fix any target about the release as final action in this regard was to be taken by the State Governments. He assured that the Government, would do its best in seeing that action was taken as early as possible.

Continuance in Force of President's Proclamation in respect of Tamil Nadu: On April 5, 1977, moving a Statutory Resolution for the continuance in force of President's Proclamation in respect of Tamil Nadu, the Home Minister, Shri Charan Singh assured the House that the Government's endeavour would be to have elections in the state in the course of the next few months. He wanted the Resolution to be passed by the House so that the administration could continue to function till a popular Government was installed in power in the state. Later replying to the brief debate, he reiterated that it was the Government's intention to have early election in the state in a free and fair manner.

The Resolution was adopted

Continuance in Force of the Proclamation in respect of Nagaland: Moving a Statutory Resolution for the Continuance in force of the proclamation in respect of Nagaland on April 5, 1977 the Home Minister, Shri Charan Singh said that the adoption of the present resolution would not preclude elections being held long before the period of one year could expire. The Government, he added, would like to hold elections as soon as the climatic conditions in Nagaland could permit.

The Resolution was adopted.

Inquiry into excesses committed during the Emergency: Making a statement in the House on April 7, 1977, the Home Minister, Shri Charan Singh announced that it was proposed to appoint a Commission of Inquiry under the Commissions of Inquiry Act, 1952 to look into all complaints of excesses, malpractices, abuse of authority during the emergency and all matters related thereto. The Commission of Inquiry would be headed by an eminent judge. The exact terms of reference and the mode of inquiry would also be determined after taking into consideration the advice of the Chairman of the proposed Commission of Inquiry.

Appointment of a Committee to examine the functioning of 'Samachar': Making a statement in the House on April 7, 1977, the Minister of Information and Broadcasting, Shri L. K. Advani said that it was decided to constitute a committee of experts to examine and report on the future of Samachar within a month. The constitution of such a committee had been considered necessary, as preemptive dissolution of Samachar and its reversion to the erstwhile four news agencies were likely to create some problems, particularly

in regard to the personnel who had been brought on a uniformly higher scales of pay and emoluments.

B. LEGISLATIVE BUSINESS

Finance Bill, 1977: Moving the Motion that the Finance Bill, 1977¹ be taken into consideration, the Finance Minister, Shri H. M. Patel, said on March 31, 1977 that the Bill sought to continue the existing tax structure for the financial year 1977-78. Accordingly, the rates of income-tax specified in the Finance Act, 1976 for the purpose of deduction of tax at source from salaries during the financial year 1976-77, for computation of advance tax payable during that financial year and for certain special purposes were proposed to be continued for making assessments for the assessment year 1977-78. The provisions enabling companies to make deposits with the Industrial Development Bank of India in lieu of payment of surcharge on income-tax were also proposed to be continued. He added that a modification was however proposed to be made in the provisions relating to the set off of the unabsorbed loss in agriculture. The amendment sought to secure that besides the unabsorbed loss for certain years, the loss for the previous accounting year relevant to the assessment year 1976-77 was also set off against the agricultural income for that accounting year relevant to the assessment year 1977-78.

After a brief discussion on the Motion, the Bill was passed.

Prevention of publication of Objectionable Matter (Repeal) Bill: Moving the motion for the consideration of the Bill² on April 6, 1977, the Minister of Information and Broadcasting, Shri L. K. Advani said that the Prevention of Objectionable Matter Act, which was adopted during the period of the emergency constituted a very serious erosion of the freedom of the Press. He added that without freedom of the Press, democracy would be meaningless and if the Act remained on the statute-book, freedom of the Press would be an illusion and it would have no meaning whatsoever.

Replying to the discussion later, the Minister said that the Press should be guided by a code of conduct and that code should not be prepared by the government and imposed upon them. He assured the House that the Press Council would be revived shortly. The mat-

¹The Bill was introduced in the House on March 28, 1977.

²The Bill was introduced in the House on April 4, 1977.

ter regarding diffusion of Press ownership would also be examined in depth.

The Bill was, thereafter, passed.

The Parliamentary Proceedings (Protection of Publication) Bill, 1977: The Minister of Information and Broadcasting, Shri L. K. Advani introduced in the House the Bill on April 4, 1977. Replying to the discussion on the Motion for consideration of the Bill on April 7, the Minister said that during the emergency the proceedings of Parliament were censored and blacked out. This was something unheard of in the history of democracy. Democracy was based upon public opinion and the highest forum for the ventilation of public opinion was Lok Sabha. He added that the people had the right to know what was said in Parliament by their representatives. The present Bill, he said, sought to restore the trust in Parliament and it believed that the press could be fully trusted to perform its role. He also announced that the present Bill would be effective from March 25, 1977, the day when the 1st Session of the Sixth Lok Sabha started.

The Bill was passed.

The Disputed Elections (Prime Minister and Speaker) Bill: On April 7, 1977, moving that the Bill to provide for authorities to deal with disputed elections to Parliament in the case of Prime Minister and Speaker of the House of the People and for matters connected therewith, be taken into consideration, the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan said that a Bill for the appropriate amendment of the Constitution for the purpose of deleting that Art. 329A from the Constitution had already been moved. So long as that Article in the Constitution remained on the statute book, the Government was under some constraint because it had been provided that an authority other than that specified in Art. 329 alone could go into the election disputes relating to a person holding the office of Prime Minister or holding the Office of Speaker. It was for that purpose that this Bill was introduced. Replying to the discussion, the Minister said that when the Bill for the deletion of the article 329A would become a Law, the Bill which was being enacted would automatically fall through and become infructuous. Till then, because, the results of the elections had already been declared, any person was entitled today to an election petition before some authority.

The Bill was passed

C. THE QUESTION HOUR

The Question Hour during this session was held on two days only, i.e. April 5 and 6, 1977 and 394 notices of Questions (266 Starred, 39 Unstarred and 89 Short Notice Questions) were received. Out of these, 40 Starred, 151 Unstarred and 4 Short Notice Questions were admitted. The figure of 151 admitted Unstarred Questions includes 112 Starred Questions converted as Unstarred.

The Lists of the Starred Questions on the two days contained 20 Questions each. The average number of Questions orally answered on the floor of the House on a single day, when there was Question Hour was 6.5. The maximum number of Questions answered orally was 8 on April 6, and the minimum 5 on April 5. The average number of Questions in Unstarred Lists came to 75.5 as against the prescribed limit of 200 Questions. The maximum number of Unstarred Questions in a day's List was 101 on April 6, and the minimum number 50 on April 5.

RAJYA SABHA*

NINETY-NINTH SESSION

The Rajya Sabha met for its Ninety-ninth Session on February 28 and March 1, 1977. This brief session for two days, was called to get the resolution with respect to the continuance in force of the President's Proclamations in relation to Nagaland and Tamil Nadu passed by the Rajya Sabha.

President's Proclamation in relation to the State of Nagaland: On March 1, 1977, Shri K. Brahmananda Reddy, Minister of Home Affairs, moved the following resolution:

“That this House approves the continuance in force of the Proclamation issued by the President on the 22nd March, 1975 under article 356 of the Constitution, in relation to the State of Nagaland for a further period of one year with effect from the 26th March, 1977.”

Speaking on the resolution, the Minister said that the most significant development in the State, since the imposition of President's rule, was the peace talks held by the Government of Nagaland on behalf of the Government of India with the representatives of the underground Nagas to bring about an end to the strife in

*Contributed by the Research Unit, Rajya Sabha Secretariat.

Nagaland. The peace talks culminated in the Shillong Agreement which was signed on November 11, 1975 and in accordance with this Agreement complete peace continued to prevail. The administrative and development machinery in the State had been working with full dedication to bring about progress in various directions. The atmosphere of peace and tranquility which had been brought about had generated new enthusiasm and confidence among the people of the State who earnestly desired that the present trend of development should not be halted or reversed on the eve of elections:

It was very important, the Minister added, that the peace which had been achieved was further consolidated and single-minded efforts continued to be made for the administration, development and welfare of the people of the State. The resolution was after discussion adopted by the House.

President's Proclamation in relation to the State of Tamil Nadu: Shri Brahmananda Reddy, moved the following resolution on March 1, 1977:—

“That this House approves the continuance in force of the Proclamation issued by the President on the 31st January, 1976, under article 356 of the Constitution, in relation to the State of Tamil Nadu, for a further period of one year with effect from the 10th March, 1977.”

Speaking on the resolution the Minister said that the House was fully aware of the circumstances that had led to the imposition of President's rule in Tamil Nadu. It would be recalled that there were grave allegations that the administrative machinery had been misused by the erstwhile Government resulting in mal-administration and extensive corruption. The Minister claimed that in some of the important fields, significant improvements had been registered in the wake of President's Rule. Vigorous steps had been taken and were being continued to eliminate corruption, avoid delays and ensure proper maintenance of discipline at all levels of administration. The State Government was able to undertake larger development efforts than before. Due priority had been assigned to the core sector such as agriculture, irrigation, industries and power. Intensive efforts had been made towards effective and speedy implementation of the new economic programme. In reviewing the need for continuance of the President's rule in Tamil Nadu, the Government had been guided by what was good for the State and its people. Rapid strides had been witnessed in almost every field since the introduction of the President's rule. The resolution was after discussion adopted by the House.

Oath or Affirmation: Two Members viz. Shri Lal K. Advani (Gujarat) and Shri Sunder Singh Bhandari (Uttar Pradesh) made and subscribed the oath on February 28, 1977 and took their seats in the House.

RAJYA SABHA

HUNDRETH SESSION

The Rajya Sabha met for its hundredth session on March 28, 1977. Some of the important items of business transacted by it and legislation passed during the session are briefly mentioned below.

Nomination of the Leader of the House: On March 28, 1977, the Chairman *pro tem* informed the House that he had received the following message from the Prime Minister, Shri Morarji R. Desai:—

“I hereby nominate Shri L. K. Advani, who has become a member of the Government as the Leader of the House in the Rajya Sabha.”

Recognition of the Leader of Opposition in the Rajya Sabha: On March 30, 1977, the Chairman *pro tem* announced that he had recognised the Congress Party in Rajya Sabha as the Opposition Party and its leader, Shri Kamalapati Tripathi as Leader of the Opposition in the Rajya Sabha.

A. DISCUSSIONS

Budget (Railways) 1977-78: Initiating the general discussion on the Budget (Railways) for the year 1977-78¹, on March 30, 1977, Shri S. W. Dhabe said that although the universal demand of the working class throughout was that bonus should be paid to all employees irrespective of who was the employer, there was no reference to this important demand of the railway workmen in the first statement of the new Railway Minister. It had been accepted in the statement made by the Minister that railway workers were responsible for more earnings, that they had worked hard and that their performance was excellent. If that was the position, it was not clear as to why they were not entitled to ask for bonus. A clear statement should have come from the Minister on this. The workers in the railways should be paid the same wages as were paid to the employees in the public sector undertakings, and it was high time

¹Laid on the Table of the Rajya Sabha on March 28, 1977.

that a national wage policy was clearly enunciated and proper norms were fixed for paying adequate wages to the railway workers. Since there were different levels of management in the Railways the workers should be associated with the management at various levels. If this was done, it would go a long way in improving the labour-management relations and a new concept of partnership in industry would emerge and strikes might not be necessary at all.

The member observed that it was a welcome statement that the dismissed railway workers, who went on strike in 1974, would be reinstated unconditionally and suggested that this benefit should be extended to the workers involved in earlier strikes as well.

Professor Madhu Dandawate, Minister of Railways, replying to the discussion said that it was indeed very pleasant to find a change in the members who were responsible for the miseries of the Railway workers and were now siding with the working class and had come forward to champion their cause. The Minister admitted that there were certain deficiencies in the functioning of the Railway Board, and promised to re-structure its composition and working. He assured the House that he would not become a prisoner of the Railway Board, that on the day he found that he had to surrender his freedom to the bureaucrats of the Ministry, he would resolutely and courageously come before the House and tender his resignation.

The Minister explained that the National Co-ordination Committee for the Railwaymen's strike had put forward a six-point programme, a charter of demands, which *inter-alia* included bonus, the demand for the recognition of the railway workers as industrial workers, the demand for job evaluation and a number of other problems but unfortunately the whole thing culminated into the strike. It had been made clear by the leader of the Committee to the then Railway Minister that all these demands were negotiable in the sense that if the Government accepted them in principle, the implementation could be deferred. During the period of emergency, the Government reversed even accepted bonus policy of 8.33 per cent. It linked up bonus with productivity. So, before the present Government implemented its bonus policy, it would first have to reverse the bonus policy that had been introduced by the previous Government.

Budget (General) 1977-78: The Budget (General) for 1977-78^a came up for general discussion in the Rajya Sabha on March 30, 1977 and the discussion concluded on March 31, 1977. Participating

^aLaid on the Table of the Rajya Sabha on March 28, 1977.

in the discussion Shri K. S. Malle Gowda welcomed the great political changes that had been brought about in the country by a non-violent revolution through the ballot-box and said inexorable political change had unfolded the eternal truth that in a free democracy, the people would come to reject any political party which would place itself above the country and sacrifice the interests and well-being of the people to nourish itself. He said that the choice of Shri Morarji Desai as Prime Minister at this juncture in the troubled history of India was the best and the right one. He urged the Government to ensure strict price control in respect of articles of daily consumption. As regards the pledge of the new Government to remove destitution in this country within a period of ten years, this aim could not be fulfilled if the Government did not take strong and emergent measures to check the population growth in our country with a package programme of incentives and disincentives simultaneously along with the plan to increase production in fields, factories, mines and oil-wells.

Shri H. M. Patel, Minister of Finance replying to the discussion on March 31, 1977, said that the Janata Party Manifesto had clearly stated the goals it wished to achieve in the economic sphere. The Government was engaged in the task of preparing a programme which would turn these objectives into reality. The tenor of most speeches of parties made during the debate had been to emphasise the issues of (i) rising prices, particularly those of essential commodities; (ii) controlling the growth of money supply which contributed to the inflationary pressures in the economy; (iii) the reduction of unemployment; and (iv) the elimination of destitution and poverty. Undoubtedly, these were the aspects that deserved Government's immediate attention.

The fact that people had voted Janata Party to power was a clear manifestation of their desire for re-direction and re-orientation of economic policies. The content of the programme of growth and policies needed to be adopted for this purpose were under active consideration of the Government which would, in due course, present its thinking to the House, for its approval.

Decision of U.S. Government to sell Arms to Pakistan: On April 4, 1977, Shri Prakash Veer Shastri called the attention of the Minister of External Affairs to the reported decision of the U.S. Government to sell large quantities of arms to Pakistan. Shri Atal Behari Vajpayee, Minister of External Affairs, making a statement in regard thereto said that the Government of India had seen press

reports based on *Washington Post* of United States of America dated the 29th March, 1977, that the American President had approved the sale of over 2 billion dollars worth of arms to a number of countries including Pakistan. Until the proposal was formally submitted for approval to the U.S. Congress, the precise list of materials to be available for sale to different countries would not be known. India had often in the past and more recently brought to the notice of the Government of U.S.A. its concern at the dangers of arms sales which could upset this process. The Government of India had noted with satisfaction reports of President Carter advocating restraint in the transfer and sale of arms to developing countries. It was, therefore, hoped that arms sale policies by the U.S.A. would not reverse the trend towards normalisation, or contribute to revival of tensions stimulating any arms race and imposing greater economic burdens on the people of the sub-continent.

Motion of Thanks on the Address by the Vice-President acting as President: The Rajya Sabha had a discussion on the Motion of Thanks on the Address by the Vice-President acting as President⁸ from April 4 to April 7, 1977.

Moving the motion on April 4, 1977, Shri Bhairon Singh Shekhawat said that it had been mentioned clearly in the Address that the new Government had taken charge only three days ago and had not had the time to work out the details of the various measures it intended to adopt. This would be done in due course during the year and placed before the members. Nevertheless the items mentioned in the Address were of great importance in the present conditions. The proclamation of emergency on the 26th June, 1975, in the country, impinged upon the democratic system and gave it a heavy blow and no person of any class was spared by this grave blow. The elections to the State Legislative Assemblies should be held immediately without taking into notice that their terms were for six years. A clean administration should be given by the new Government. An inquiry should also be held with regard to those innocent persons who were arrested under M.I.S.A. and tortured and the guilty officers should be punished.

Shri Kamalapati Tripathi, the Leader of the Opposition, participating in the discussion said that the speech of the mover of the motion

⁸The Address by the Vice-President acting as President to both the Houses of Parliament, assembled together which was delivered on March 28, 1977 was laid on the table of the Rajya Sabha on the same day.

was not in accordance with the dignity of the country. He did not utter a single word expressing his gratefulness to the President for his Address. In fact, in an Address there should be only the broad outlines of the policies and the programmes which the Government wanted to adopt. The President's Address did not contain even a single word showing courtesy to the erstwhile Government. For 90 years, the history of the Congress Party had been the history of the country. Therefore, it was not proper not to utter a single word about the progress made under the Congress rule.

Shri Tripathi further said that the people knew fully well the reasons for the proclamation of emergency in the country. Before the proclamation of the emergency, the then Opposition parties had been trying to create conditions of anarchy and chaos in the country. They resorted to all sorts of unlawful activities such as the railway strike or hunger-strikes, demanding the dissolution of State Legislature. If the emergency had not been proclaimed, the very unity of the country would have been destroyed. It might be possible that in certain cases there had been some misuse of the emergency powers but it was wrong to say that the people of the country did not welcome the emergency. In fact, emergency was proclaimed to save democratic institutions in the country.

Shri Morarji R. Desai, Prime Minister, replying to the debate on April 7, 1977 denied that the new Government had no programme. He referred the members to page 3 of the Address, wherefrom it would be seen that the programme of the new Government had been outlined as fully as was possible in the short time available. The manifesto of the Janata Party also, he added, had complete details regarding the policies and programmes that the Government would be pursuing. It was being said that the new Government were criticising the last Government and not giving anything positive. But when a state was messed up and all kinds of writtings were made on it, the new Government had to wipe it out before they could write on it. That was all what the present Government was trying to do. They were not trying to find fault with any particular person. But if the Government had to go into complaints which were given to them and those were positive complaints of oppression and suffering of some people, the Government would be failing in their duty if they did not go into them. There could be no quarrel that Parliament was supreme, but it did mean that Parliament could pass a legislation turning the whole system into dictatorship. Therefore, Parliament had to see that it did nothing except what was democratic. Democratic

traditions should not be violated. The founders of the Constitution did not realise that there would come a Government which could utilise the loopholes in the Constitution as they thought and would turn it into a dictatorial Constitution. The new Government had got to remedy this. That was not taking away the right of Parliament at all. On the contrary, the Government wanted to see that Parliament was not misused by any future Government.

Continued Detention of Political Workers under MISA, DIR etc.: On April 6, 1977, Shri Bhupesh Gupta, called the attention of the Minister of Home Affairs to the continued detention in prisons of a very large number of political workers under MISA, DIR and other laws. Chaudhuri Charan Singh, Minister of Home Affairs, making a statement in regard thereto said that the detention of political workers was made largely under Section 16A of Maintenance of Internal Security Act. Consequent on the revocation, on the 21st March, 1977 of the proclamation of emergency, Section 16A of the Maintenance of Internal Security Act lapsed, and all detainees held under this provision of the law were released. There was however, 6,851 persons still in detention on March 25, 1977. They had been detained under Section 3 of the Maintenance of Internal Security Act, grounds of detention had been furnished to them and their continuance in detention had been approved by the Advisory Board.

The Minister further said that the Government had already announced its policy in regard to the Maintenance of Internal Security Act. Consistent with its policy, the Government was clearly of the view that no one should be kept under detention for an indefinite period. The State Governments were being advised to release all those still under detention except where interests of security of the country were clearly involved or where persons had been detained on account of their recent indulgence in violent activities. A large number of cases were instituted against political workers under the Defence and Internal Security of India Rules, 1971 during the emergency. Instructions had already been issued to the State Governments that all cases pending investigations or trial should be withdrawn except in respect of economic offenders and those involved in violent acts. They had been further advised that even in respect of persons who had been awarded sentences by competent courts, the unserved sentences should be remitted except in the cases of the two categories mentioned above. If action had been taken against some political workers under the normal laws of the land for specific offences, the cases should be allowed to run their normal course and

no intervention on the part of the Central Government appeared to be called for. If however any specific case of a political worker having been falsely implicated was brought to the notice of the Government, that would be examined and appropriate action would be taken.

B. LEGISLATIVE BUSINESS

Some of the important Bills passed by the Rajya Sabha during the session are:—

The Finance Bill 1977: On April 4, 1977 Shri H. M. Patel, Minister of Finance, moving the motion for consideration of the Finance Bill, 1977⁴ said that this short Bill sought to continue the existing tax structure for the financial year 1977-78. Accordingly, the rates of income-tax specified in the Finance Act, 1976, for the purpose of deduction of tax at source from salaries during the financial year 1976-77, for computation of advance tax payable during that financial year and for certain special purposes were proposed to be continued for making assessments for the assessment year 1977-78. The same rates were also proposed to be continued for deduction of tax at source from salaries during the financial year 1977-78. So far as indirect taxes were concerned, the Finance Bill did not contain any new tax proposals and all taxes continued in the same form as in the year 1976-77.

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

The Parliamentary proceedings (Protection of Publication) Bill, 1977: On April 9, 1977 Shri Lal K. Advani, Minister of Information and Broadcasting, moving the motion for consideration of the Parliamentary Proceedings (Protection of Publication) Bill, 1977⁵ said that this was something that followed very directly from the privilege of free speech that members enjoyed in Parliament. There were certain limitations on the press covering the proceedings, and those limitations were that the reporting should be substantially fair, and that it

⁴Laid on the Table of the Rajya Sabha on March 31, 1977.

⁵The Bill as passed by the Lok Sabha, was laid on the table of the Rajya Sabha on April 7, 1977.

should be for the public good. The late Shri Feroze Gandhi was one of the few non-official members whose Bill was adopted and it formed part of the Statute. It was unfortunate that during the emergency the Feroze Gandhi Act was repealed. As the Government was committed to the freedom of the press, it was its responsibility and duty to restore and revive the Bill entirely in its original form.

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

The disputed Elections (Prime Minister and Speaker) Bill, 1977: On April 11, 1977 Shri Shanti Bhushan, Minister of Law, Justice and Company Affairs, moving the motion for consideration of the Disputed Elections (Prime Minister and Speaker) Bill, 1977* said that a Bill for the amendment of the Constitution for the purpose of deleting article 329A had already been introduced in the Lok Sabha. But so long as that was not passed, it was necessary to make some provisions for the filing of election petition against the election of the Speaker and the Prime Minister. There was an Ordinance earlier on the subject and it provided for a Parliamentary Committee with three Members of Lok Sabha, three Members of Rajya Sabha and three persons nominated by the President. By the present Bill, the Government sought to provide for a judicial forum, for trying some petitions namely, consisting of a single Judge of the Supreme Court to be nominated by the Chief Justice, because as long as article 329A was in vogue, it was not possible to provide for the same authority which was the authority in the case of the other members of Parliament namely the High Court.

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

OBITUARY REFERENCES

The Chairman *pro-tem* made references to the passing away of Shri B. K. Mukherjee and Shrimati Narayanidevi Manaklal Varma, ex-Members. The House stood in silence for a minute as a mark of respect to the memory of the deceased.

*The Bill as passed by the Lok Sabha, was laid on the table of the Rajya Sabha on April 9, 1977.

STATE LEGISLATURES

MIZORAM LEGISLATIVE ASSEMBLY*

Increase in Allowances to Members: During the Twelfth Session on November 15, 1976, the Assembly passed the Mizoram Salaries and Allowances of Members of the Legislative Assembly (Amendment) Bill, 1976 whereunder the rate of conveyance allowance of members has been enhanced from Rs. 100 to Rs. 200 per month and the rate of daily allowance from Rs. 25 to Rs. 30 for each day during any period of residence on duty. The new rates are effective from November 1, 1976. The Bill also provides for giving telephone connection to members. It has been provided that where telephone facilities are available at the place declared by a member to be his headquarters, he shall be entitled to have a telephone at his residence, or at the place where he ordinarily conducts his work relating to the Assembly, subject to the conditions that he shall meet the cost of installation of such telephone in full, and that, in regard to the recurring charges, the liability of the Government shall be limited to the reimbursement of rental charges for that telephone and charges in respect of a maximum of 750 local calls made from that telephone per quarter including calls, if any, permitted free of charge.

GOA, DAMAN AND DIU LEGISLATIVE ASSEMBLY†

Demand for Statehood: On October 15, 1976, the Assembly unanimously adopted the following resolution moved by Shri R. S. Pankar with amendments moved by Shri A. N. Naik:

“This House, considering the verdict of the opinion poll and the present economic liability of the Territory and various progressive measures taken by the Government headed by the Maharashtrawadi Gomantak Party to further improve the economic condition of the Territory and honouring the cherished aspirations of the people of this Territory, recommends that the Central Government be moved to grant statehood to this Union Territory of Goa, Daman and Diu.”

*Contributed by the Mizoram Legislative Assembly Secretariat.

†Contributed by the Goa, Daman and Diu Legislative Assembly.

BOOK REVIEWS

ECONOMICS, PLANNING AND PUBLIC ADMINISTRATION. By P. R. Dubhashi, Somaiya Publications Pvt. Ltd., Bombay. 1976. 153 pages. Rs. 35.00.

This book brings together a series of papers on economic administration by Shri Dubhashi, an academically inclined member of the Indian Administrative Service from Karnataka. The first two parts of the book are theoretical but the third deals in a scientific manner with some of our important economic problems from the point of view of management.

Though public administration is as old as social organisation, its treatment and recognition as a discipline in its own right is a matter of recent growth. With the emergence of industrial society, the development of new and complicated patterns of economic and social organisation, public administration or management has become a factor of crucial importance. In India we are witnessing the transformation of the State into a Welfare State, with its planned economy and the ideals of socialism. The success of any plan of development, whether industrial, regional or national, has to face severe administrative constraints. As pointed out by Shri Dubhashi, "The success of planning or socialism critically depends on efficient administration or management. Indeed plans which do not take administrative constraints into account are bound to be *ab initio* frustrated."

For years it was admitted, and it is true even now, that the main fault of our planning has been its implementation. But as Shri Dubhashi contends, and rightly, this dichotomy between planning and its implementation is unreal. For, "Planning, by definition, implies not only the setting out of goals and fixing of targets but also the devising of adequate machinery of implementation and means of ensuring that the goals are in fact reached."

The second part of the book dealing with Economic System is a critical examination of the significant characteristics of Democratic Socialism, Mixed Economy and the Planning Process. The treatment is such as to clarify readers' ideas and emphasise the relevance of management techniques.

Discussion in the third part throws considerable light on problems of regional planning, district planning, the Small Farmers' Development Agency and administrative reforms of Public Sector Undertakings. All these issues are analysed in the light of the science of management with a good deal of erudition.

The reader will find that his efforts are rewarded by a clearer and deeper understanding of the main issues involved in the administration of economic planning.

—Y. S. MAHAJAN

STATE LEGISLATURE IN INDIA: LEGISLATURE IN THE INDIAN POLITICAL SYSTEM. By Dayadhar Jha Abhinav Publications, E-37 Hauz Khas, New Delhi-110016. 1977, 319 pages. \$10, Rs. 50.

Much has been written about parliamentary practices and procedures, about the processes of legislation and about the influence of the legislature on the executive. But enough material is not available about the part played by the legislators who, as the author states, constitute a stratum of society which is most articulate and politically alive, playing a crucial role in policy formulation and policy implementation. Legislators mobilize public support not only for the political regime but also for those activities which political regimes usually undertake. The author has, therefore, rightly stressed the importance of leadership in a democratic system.

According to the author, of all democratic political institutions, none is more vital to the process of linking the governors and the governed in relationships of authority, responsibility and legitimacy, than the modern legislators. Without some understanding of its character and functioning one can only have a very partial understanding of the process of government and its place in society. The legislature as an institution exists physically only in the persons called 'legislators'. What the legislature decides and how it decides things can never be divorced from the behaviour of legislators.

By legislative behaviour the author means not only the legislators' conduct in the performance of their legislative role, but also

those attitudes and perceptions which relate to the process and substance of legislation. On this assumption the author has categorised the legislator as a policy-maker, as a broker, as a scholar, as a politician, as a parliamentarian and, last of all, as a party member.

The author has chosen this study of representation and representational behaviour in the State of Bihar with reference to its Legislative Assembly, which came into being after the General Elections in early 1967. As stated in the Preface, the book, an outcome of the researches from 1967 to 1971, is an attempt to study the legislators in all their varied aspects. For the sake of convenience, the author has dealt with the subject in five parts. The introductory portion throws light on various approaches to political representation. Part I deals with the sociological aspect of the Bihar Assembly with particular reference to social, economic, educational and age backgrounds of the legislators. Part II analyses the legislators' political apprenticeship, recruitment and maturation and role perception. Part III is concerned with legislators' political vision, attitudes and perspectives. Part IV has described the representational activities of the legislators. Part V analyses the politics of defection and highlights the main conclusions emerging from the study.

As it has happened in other democratic countries, the party system in India is undergoing a sea change. Alternating landslide victories—achieved first by one party, then by the other—have become more ordinary occurrences than in the past. This was particularly noticeable in the case of Bihar where there has been a proliferation of political parties and/or groups, the number at one time ranging to as many as 13. During the third and Fourth Assemblies, specially during the latter, a large number of legislators defected from parties/groups and either joined other parties or formed new ones. The situation was so fluid that there were as many as four Chief Ministers during the first 15 months of the Fourth Assembly. The politics of defection went to such a pitch that the Assembly had to be dissolved. It is precisely such a situation which appears to have motivated the author to analyse the causes or motives of defections without venturing any suggestions of his own. If one were to look for any pronounced view in regard to the kaleidoscopic changes in Bihar political panorama during 1967, one should refer to the following observation:—

“Most of the members are not elected because of party programmes and their commitment to policies, whatever it may mean, is very thin. Most of the Members joined

political parties because it is an avenue to power. Hence ideology is either dead or dying."

One would like to agree with the author when he says that the legislators functioned more or less as '*pairvikers*', or political brokers between the constituents and the Government. To those who are well-acquainted with the simmering political scene of the last decade it would not come as a revelation when the author tells that legislators considered the forum of the House as the least efficacious in redressing grievances of the people. To the legislators the man that counted most was the Minister or the Minister-Officer combine. The Assembly was the last resort. It had little influence on the Government. It gave some publicity and that was all.

No account of the Bihar Assembly of the last decade would be complete without a reference to the heterogeneous groups of legislators chosen on the basis of caste considerations. Speaking about the channelling of 'inter-group conflicts', the author says that group rivalries and conflicts based on class, caste, religion or political ideologies have been one of the important characteristics of Indian legislatures. An analysis of groupism and inter-group conflicts and its correlation with reference to their voting behaviour therefore provides a meaningful insight into the legislatures' role in nation-building, national integration and political development generally. Although the Congress hegemony was broken after the elections of 1967, caste continued to have some influence on the composition of the Government and defections.

It is interesting to find from the study that more than 70 per cent of the legislators considered politics a profession. That is, they spent their time in politics and allied matters. All of them, however, did not depend on politics inasmuch as they had landed interests, business or legal practice for their maintenance.

One of the questions which agitated the minds of the people of Bihar related to defections. Members were divided in their approach to the problem of defection. Some of them suggested that a defector should vacate his seat in the House and seek re-election to get popular mandate while some others wanted that there must be a provision for recall of legislators if they depart from a certain standard. Still others wanted a free hand to leave and join parties because of the political situation.

An analysis conducted by the author showed that 82.30 per cent of MLAs. favoured vacation of seats in the House by defectors, 17.50 per cent were against vacation and 10.20 per cent were uncommitted. A majority of the legislators (57.33 per cent) wanted a law which would provide for recall of legislators in certain specified cases.

The right of recall of legislators has assumed considerable importance in the present day Indian politics following a suggestion made forcefully in some quarters that the Constitution of India should be amended to provide for the right of recall of members in certain circumstances. One could only hope that the politics of defection which vitiated the atmosphere of several State Legislatures during the last decade would become a thing of past and the legislative forum would once again assume the importance that it deserves as the repository of the collective wisdom of the people to be used in the service of the State as a whole.

The book, which includes a Bibliography and an index besides useful statistical data, should stimulate the interest of those social scientists who desire to make a comparative study of the political spectrum and the social milieu prevailing in the three decades following the country's independence.

—B. K. MUKHERJEE.

DEMOCRATIC POLITY AND SOCIAL CHANGE IN INDIA: CRISIS AND OPPORTUNITIES. By Rajni Kothari. Delhi, Allied, 1976. pp. 124, Price Rs. 20.00.

Rajni Kothari's latest monograph on the subject of Indian sociological politics seeks to deal with the crisis that has overtaken our country since the death of Nehru in 1964, but more particularly since the proclamation of emergency in 1975. The author has made a very serious endeavour to criticise the obtaining state of affairs covering not only political but also other spheres integrally connected with it like social, economic, cultural, educational, administrative and the like with a mind to find fault with the present and suggest remedial measures for the future. The real merit of this work is that the author has not only hit at several failings of and contradictions in the Indian polity particularly under the hold of a single-dominant party operating under the hold of a single-dominant person (Mrs. Indira Gandhi), he has also offered his alternative design in terms of both policy changes and institutional and structural trans-

formations which he, as hopefully visualised by him, would enable the polity to move out of the crisis into an opportunity for reconstruction.

Though one may not differ much from the author so far as his attack on the failings of and contradictions in the Indian polity in the post-Nehru era is concerned, he may not go with him to the desired extent in accepting his alternative model. One may have his own reservations about the author's impression that the development of Indian polity under Nehru was all good, or that similar development under Mrs. Gandhi was all bad. Here the author may be found as a functionalist by virtue of insisting that the 'alternative is not between changing Indian society all at once and not changing it at all, but rather between changing it incrementally and progressively and not changing it at all'. (p. 39). The author seems to be mistaken in his view that political development virtually came to a halt after Nehru as he strongly endorses that the period since 1965 "has eroded the creative role of politics in changing the socio-economic framework despite periodic declarations of intent to the contrary" (p. 43). Some of his strong impressions stand refuted by recent events like Mrs. Gandhi's declaration for the polls and quitting the office of the Prime Minister in a quite peaceful as well as graceful manner after the historic verdict of the people in a free and fair election.

Political development is quite a complex subject of modern empirical political theory. While the American writers like Lucian W. Pye, G. A. Almond, G. B. Powell, David M. Wood and Samuel P. Huntington (so far as its opposite aspect relating to political decay is concerned) have sought to define it in terms of all-round progress in political, social, economic and cultural spheres in relation to the 'survival', 'maintenance' and 'persistence' of the system that, in real terms, implies containment of socialism on the intellectual plane, others like Milovan Djilas follow the Marxist-Leninist path in taking political development as the irresistible march of events towards the liquidation of the present bourgeois order so that the era of socialism ushers in. A study of this monograph leaves this striking impression that Professor Kothari has certainly followed the American, and for this reason an anti-progressive line in dealing with such a momentous aspect of Indian political sociology. It is further evident from his frequent resort to the application of newly coined terms (known as American jargon) like 'system', 'model', 'legitimacy', 'aggrega-

ive' and 'distributive performance', 'state-building', 'nation-building' etc.

On the whole, this work should be treated as a welcome addition to the available literature on sociological politics of India. The author deserves credit for having such a deep insight into the subject and revealing his impressions at a time when the voice of reason was stifled

—DR. J. C. JOHARI.

RECENT LITERATURE OF PARLIAMENTARY INTEREST

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APPENDIX I

STATEMENT SHOWING THE WORK TRANSACTED DURING THE FIRST SESSION OF THE SIXTH LOK SABHA

1. Period of the Session	—25th March to 7th April, 1977
2. Number of meetings held	11
3. Total number of sitting hours	—63 Hours and 5 minutes
4. Number of divisions held	Nil
5. <i>Government Bills</i> :	
(i) Pending at the commencement of the Session	Nil
(ii) Introduced	20
(iii) Laid on the Table as passed by Rajya Sabha	1
(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	19
(x) Passed	19
(xi) Withdrawn	Nil
(xii) Negatived	Nil
(xiii) Part-discussed	Nil
(xiv) Discussion postponed	Nil
(xv) Returned by Rajya Sabha without any recommendation	11
(xvi) Motion for concurrence to refer the Bill to Joint Committee adopted	Nil
(xvii) Pending at the end of the session	2
6. <i>Private Members' Bills</i> :	
(i) Pending at the commencement of the Session	} Nil
(ii) Introduced	
(iii) Laid on the Table as passed by Rajya Sabha	
(iv) Returned by Rajya Sabha with any amendment/and laid on the Table	

(v) Reported by Select Committee	
(vi) Discussed	
(vii) Passed	
(viii) Withdrawn	
(ix) Negatived	
(x) Circulated for eliciting opinion	
(xi) Part-discussed	} Nil
(xii) Discussion postponed	
(xiii) Motion for circulation of Bill negatived	
(xiv) Referred to Select Committee	
(xv) Removed from the Register of Pending Bills	
(xvi) Pending at the end of the Session	

7. Number of Discussions held under Rule 193 :

(Matters of Urgent Public Importance)

(i) Notices received	18
(ii) Admitted	2
(iii) Discussion held	Nil

8. Number of Statements made under Rule 197 :

(Calling-attention to matters of urgent public importance)

Statements made by Ministers	3
--	---

9. Half-an-Hour discussions held

10. Statutory Resolutions :

(i) Notices received	4
(ii) Admitted	4
(iii) Moved	4
(iv) Adopted	4
(v) Negatived . . . . .	..
(vi) Withdrawn . . . . .	..

11. Government Resolutions :

(i) Notices received	1
(ii) Admitted	1
(iii) Moved	1
(iv) Adopted	1

12. *Private Members' Resolutions :*

(i) Received	3
(ii) Admitted	3
(iii) Discussed	2
(iv) Withdrawn	1
(v) Negatived	
(vi) Adopted . . . . .	..
(vii) Part-discussed	1
(viii) Discussion postponed . . . . .	..

13. *Government Motions :*

(i) Notices received	} Nil
(ii) Admitted	
(iii) Moved	
(iv) Adopted	
(v) Discussed	

14. *Private Members' Motions :*

(i) Received	6
(ii) Admitted	4
(iii) Moved	Nil
(iv) Adopted	Nil
(v) Discuss'd	Nil
(vi) Negatived	Nil
(vii) Part-discussed	Nil
(viii) Withdrawn	Nil

15. *Motions Re. : Modification of Statutory Rule :*

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

16. Number of Parliamentary Committees created, if any, during the session NIL

17. Total number of Visitors' Passes issued during the session	13,370
18. Maximum number of Visitors' Passes issued on any single day, and date on which issued	1872 on 6-4-77
19. Number of Adjournment Motions :	
(i) Brought before the House	I
(ii) Admitted and discussed	I
(iii) Barred in view of adjournment Motion admitted on the subject . . . . .	..
(iv) Consent withheld by Speaker outside the House	I
(v) Consent given by Speaker but leave not granted by the House . . . . .	..
20. Total Number of Questions Admitted :	
(i) Starred	40
(ii) Unstarred (including Starred Questions converted as Unstarred Questions)	151
(iii) Short-notice Questions	4
21. Working of Parliamentary Committees	

Name of Committee		No. of meetings held during the period 1-11-76 to 18-1-77
1	2	3
(i) Business Advisory Committee
(ii) Committee on Absence of Members		1
(iii) Committee on Public Undertakings		27
(iv) Committee on papers laid on the Table		3
(v) Committee on Petitions		7
(vi) Committee on Private Members Bills and Resolutions
(vii) Committee on the Welfare of Scheduled Castes and Scheduled Tribes		8
(viii) Committee on Privileges
(ix) Committee on Government Assurances
(x) Committee on Subordinate Legislation		3

1	2	3
(xi)	Estimates Committee	29
(xii)	General Purposes Committee	..
(xiii)	House Committee	2
(xiv)	Public Accounts Committee	24
(xv)	Railway Convention Committee	5
(xvi)	Study Committee on Sports	7
<i>Joint/Select Committees</i>		
(i)	Joint Committee of Chairman, House Committees of both the Houses of Parliament	—
(ii)	Joint Committee on offices of Profit	2
(iii)	Joint Committee on the Constitution (Thirty-second Amendment) Bill, 1973	1
(iv)	Joint Committee on the Judges (Inquiry) Rules	2
22	Number of Members granted leave of absence	Nil
23	Petitions presented	1
24	<i>Name of new Members sworn with dates and Constituencies :</i>	
Out of 539 Members elected to the Sixth Lok Sabha, 536 Members have made and subscribed Oath/Affirmation and took their seats in the House.		

APPENDIX II

A. STATEMENT SHOWING THE WORK TRANSACTED DURING THE NINETY-NINTH SESSION OF RAJYA SABHA *

1. Period of the Session	February 28 to March 1, 1977
2. Number of meetings held	2
3. Total Number of sitting hours	6 hrs. 2 minutes
4. Number of divisions held	Nil
5. NUMBER OF STATEMENTS MADE UNDER RULE 180 (Calling-attention to matter of Urgent Public importance).	
(i) Statements made by Ministers	1
6. Total number of Visitors' Passes	62
7. Maximum number of Visitor's Passes issued on any single day, and date on which issued	48 on March 1, 1977

B. STATEMENT SHOWING THE WORK TRANSACTED DURING THE HUNDRETH SESSION OF RAJYA SABHA

1. Period of the Session	March 28 to April 11, 1977
2. Number of meetings held	10
3. Total Number of sitting hours	54 hrs. 41 minutes (excluding lunch break)
4. Number of divisions held	two
5. <i>Government Bills</i>	
(i) Pending at the commencement of the Session	7
(ii) Introduced	1
(iii) Laid on the Table as passed by Lok Sabha	18
(iv) Returned by Lok Sabha with any amendment	Nil
(v) Referred to Select Committee by Rajya Sabha	Nil
(vi) Referred to Joint Committee by Rajya Sabha	Nil
(vii) Reported by Select Committee	Nil
(viii) Reported by Joint Committee	Nil
(ix) Discussed	19

* No other business having been transacted during the session, the information in regard to matters other than those mentioned here may be treated as 'Nil'.

(x) Passed	17
(xi) Withdrawn	Nil
(xii) Negatived	Nil
(xiii) Part-Discussed	2
(xiv) Returned by Rajya Sabha without any recommendation	11
(xv) Discussion postponed	Nil
(xvi) Pending at the end of the Session	9

6. *Private Members Bills :*

(i) Pending at the commencement of the session	23
(ii) Introduced	Nil
(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	2
(vii) Withdrawn	2
(viii) Passed	Nil
(ix) Negatived	Nil
(x) Circulated for eliciting opinion	Nil
(xi) Part-discussed	Nil
(xii) Discussion postponed	Nil
(xiii) Motion for circulation of Bill negatived	Nil
(xiv) Referred to Select Committee	Nil
(xv) Pending at the end of the Session	21

7. *Number of Discussions held under Rule 176 (Matters of Urgent Public Importance)*

(i) Notices received	1
(ii) Admitted	Nil
(iii) Discussion held	Nil

8. *Number of Statements made under Rule 180 (Calling-attention to matter of urgent public importance)*

(i) Statements made by Ministers	5
(ii) Half-an-hour discussion held	Nil

10. (Statutory Resolutions)		
(i) Notices received	2	
(ii) Admitted	2	
(iii) Moved	2	
(iv) Adopted	2	
(v) Negatived	Nil	
(vi) Withdrawn	Nil	
11. Government Resolutions :		
(i) Notices received		The two statutory Resolutions mentioned at Sl. No. 10 were Government Resolutions.
(ii) Admitted		
(iii) Moved		
(iv) Adopted		
12. Private Members' Resolutions		Nil
13. Government Motions		Nil
14. Private Members' Motions		
(i) Received	4	
(ii) Admitted	4	
(iii) Moved	Nil	
(iv) Adopted	Nil	
(v) Part-discussed	Nil	
(vi) Negatived	Nil	
(vii) Withdrawn	Nil	
15. Motions Regarding Modification of Statutory Rule		Nil
16. Number of Parliamentary Committees created, if any, during the session		Nil
17. Total number of Visitors' Passes		1129
18. Maximum number of Visitors' Passes issued on any single day, and date on which issued.		258; on April 11, 1977.
19. Number of Motion for Papers under Rule 175 :		
(i) Brought before the House	Nil	
(ii) Admitted and discussed	Nil	

20. Total Number of Questions Admitted :

(i) Starred	74
(ii) Unstarred (including Starred Questions)	34
(iii) Short-notice Questions	Nil

21. Discussion on the Working of the Ministries Nil

22. Working of Parliamentary Committees :

Name of Committee	No. of meetings held during the period 1-11-76 To 31-1-77	No. of Reports presented during the Session
1	2	3
(i) Public Accounts Committee . . . . .	..	..
(ii) Committee on Public Undertakings . . . . .	..	..
(iii) Business Advisory Committee . . . . .	..	..
(iv) Committee on Subordinate Legislation	10	2
(v) Committee on Petitions	9	..
(vi) Committee on the Welfare of Scheduled Castes & Scheduled Tribes . . . . .	..	..
(vii) Committee of Privileges . . . . .	..	..
(viii) Committee on Rules. . . . .	..	..
(ix) Joint Committee on Offices of Profit . . . . .	..	..
(x) Committee on Government Assurances.	4	..
(xi) General Purposes Committee . . . . .	..	..
(xii) Sub-Committee of the General Purposes Committee	2	..
(xiii) Committee appointed to investigate the Conduct and Activities of Shri Subhrmanian Swamy, M. P.	4	..
23. Number of Members granted leave of absence		one
24. Petitions presented		nil
25. Number of New Members sworn with Dates		nil

APPENDIX—III
STATEMENT SHOWING THE ACTIVITIES OF STATE LEGISLATURES DURING THE PERIOD OCTOBER 1, 1976
TO DECEMBER 31, 1976

Legislature	Duration	Sittings	Govt. Bills	Private Members Bills	Starred Questions	Unstarred Questions	Short Notice Questions
I	2	3	4	5	6	7	8
Andhra Pradesh L.A.	16-11-76 to 17-11-76	2	7 (7)	..	393 (226)	13 (91)(a)	..
Andhra Pradesh L.C.	16-11-76 to 17-11-76	2	— (7)	..	118 (62)	— (8)	..
Assam L.A.	7-12-76	1	..	..	..	..	..
Bihar L.A.	30-11-76 to 23-12-76	14	14 (19)	..	780 (488)	513 (458)	192 (82)
Bihar L.C.	30-11-76 to 23-12-76	15	10 (22)(b)	..	531 (601)	5 (44)	301 (95)
Gujarat L.A.	..	..	..	..	..	..	..
Haryana L.A.	15-11-76 to 16-11-76	3*	7 (7)	..	24 (16)	43 (4)	..
Himachal Pradesh L.A.	29-11-76	1	1 (1)	..	..	..	..
Jammu & Kashmir L.A.	..	..	..	..	..	..	..
Jammu & Kashmir L.C.	..	..	..	..	..	..	..
Karnataka L.A.	8-11-76 to 18-11-76	10	27 (30)	..	209 (189)	11 (10)	2 (1)
Karnataka L.C.	8-11-76 to 18-11-76	11	4 (32)	..	35 (30)	6 (6)	3 (1)
Kerala L.A.	11-10-76 to 19-10-76 and 20-12-76 to 23-12-76	11	26 (25)	..	1565 (530)(c)	.. (914)	4 (2)
Madhya Pradesh L.A.	29-11-76 to 1-12-76	5	9 (9)	..	..	..	..
Manipur L.A.	3-12-76 to 6-12-76	2	2 (3)	..	20 (13)	..	..
Meghalaya L.A.	14-12-76 to 18-12-76	5	2 (2)	..	..	11 (11)	..
Nagaland L.A.	..	..	..	..	..	..	..
Punjab L.A.	16-11-76	1	..	..	158 (99)	42 (24)	..
Rajasthan L.A.	1-10-76 to 16-11-76	6	8 (12)	1	576 (121)	88 (38)	..
Sikkim L.A.	13-10-76 to 15-10-76 and 6-12-76	4	2 (2)	..	31 (27)	..	3

Jammi Nadu L.A.	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •
Tamil Nadu L.C.	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •
Tripura L.A.	• • • • •	• • • • •	11-11-76 to 13-11-76	3	2 (2)	• • • • •	• • • • •	• • • • •	• • • • •
Uttar Pradesh L.A.	• • • • •	• • • • •	1-11-76 to 11-12-76	9	22 (29)	711 (508)(d)	• • • • •	291(162)(c)	• • • • •
Uttar Pradesh L.C.	• • • • •	• • • • •	1-11-76 to 11-12-76	9	7 (7)	100 (75)	7 (5)	50(32)	• • • • •
<i>Union Territories</i>									
Arunachal Pradesh L.A.	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •
Delhi Metropolitan Council	• • • • •	• • • • •	19-10-76 to 20-10-76	3	4 (4)	127 (60)	455 (452)	5	• • • • •
Goa, Daman and Diu L.A.	• • • • •	• • • • •	13-10-76 to 18-10-76	4	6 (5)	• • • • •	174 (100)	9 (22)(f)	3 (3)
Morom L.A.	• • • • •	• • • • •	11-11-76 to 15-11-76	3	3 (3)	• • • • •	• • • • •	• • • • •	• • • • •
Pondicherry L.A.	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •	• • • • •

NOTE : (i) Figures in Cols. 4 and 5 indicate the number of bills introduced followed by 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.

*Includes double sitting on 16-11-76.

(a) Includes 80 Starred notices admitted as Unstarred Questions.

(b) Includes 18 Assembly Bills.

(c) Includes notices for Unstarred Questions.

(d) Out of 508 Notices Admitted, 330 were admitted as Starred Questions and 178 as Unstarred Questions.

(e) Out of 162, 20 were admitted as Short Notice Questions, 114 as Starred Questions and 28 as Unstarred.

(f) Includes Starred Questions admitted as Unstarred.

APPENDIX III (Contd.)

Committees at work (Number of sittings held and number of Reports presented)

Legislature	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 Government Assurances.	Committee on Petitions.	Committee on Private Members Bills & Resolutions.	Committee on Privileges.	Committee on Public Undertakings.	Committee on Subordinate Legislations.	Committee on the Welfare of S.C. & S.T.	Estimates Committee.	General Purposes Committee.	House/Accommodation Committee.	Library Committee.	Public Accounts Committee.	Rules Committee.	Joint/Select Committee.	Other Committees.
I																
	STATES															
Andhra Pradesh L.A.	1	23	..	..	..	11(1)	12	..	22	..	..	8	15	..	16(g)	1(h)
Andhra Pradesh L.C.	..	..	1	..	..	..	..	..	..	..	..	..	..	5	..	..
Assam	..	..	..	..	..	..	2	..	1	..	..	1	11	..	..	..
Bihar L.A.	..	..	..	..	..	18(1)	13(1)	..	38(3)	..	8	10	12(5)	16	4	..
Bihar L.C.	..	..	8(1)	2	..	8(2)	..	..	..	..	8	8	..	..	8(i)	..
Gujarat L.A.	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Haryana L.A.	..	..	..	..	..	..	9	4	12(1)(f)	..	5	7	23	..	..	..
Himachal Pradesh L.A.	..	..	3	..	4	18	16	15	16(k)	1	1	..	17	..	..	..
Jammu & Kashmir A.L.	..	..	4	..	6	14	12	..	11	1	1	3	11	1	5	..

	1	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Delhi Metropolitan Council		(1)	5(1)	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Goa, Daman & Diu L.A.		1	3	2	..	2	..	3	..	3	..	..	1	(2)	..	1	(1)
Mizoram L.A.		..	1(1)	3	..	..	..	..	..	4	3	..	..	10	2(1)	..	..
Pondicherry L.A.	

(g) represents Joint Select Committee on the Andhra Pradesh Education Bill.

(h) represents Amenities Committee.

(i) represents Miscellaneous Matters Committee.

(j) represents Report presented to the House on the Supplementary Estimates.

(k) represents (i) Jammu and Kashmir Bill, 1976-3. (ii) Jammu and Kashmir Forest Corporation Bill, 1976-2.

(l) includes 2 meetings of the study group constituted.

(m) Select Committee on Kerala Irrigation Bill, 1975.

(n) represents (i) Committee on Scheduled Castes and Scheduled Tribes —4 (ii) Select Committee on Daboj Pratihedh (M.P.) Sanabodhan, 1976 (No. 36 of 1976) Bill, —2 (iii) Select Committee on Madhya Pradesh Land Revenue Code (Amendment) Bill, 1975 (No. 17 of 1975).—1.

(o) represents Hill Areas Committee-3.

(p) represents Committee on (i) Scheduled Castes-26 (1) and (ii) Scheduled Tribes -19(1).

(q) represents Committee on the Absence of Members from the Sittings of the House.

(r) represents Select Committee on the U. P. Protection of Trees in Rural Areas Bill, 1976-(1).

(s) represents (i) Joint Committee on Scheduled Castes, Scheduled Tribes and Denotified Tribes—17(2); and (ii) Parliamentary Research, Reference and Studies Committee 5(1).

(t) represents the Goa, Daman and Diu Nyaya Panchayat Bill, 1974-1.

APPENDIX IV

**LIST OF BILLS PASSED BY THE HOUSES OF PARLIAMENT AND ASSENTED TO BY THE PRESIDENT
DURING THE PERIOD 1ST NOVEMBER, 1976 TO 18TH JANUARY, 1977**

S.No.	Title of the Bill	Date of Assent by the Pre- sident
1.	The House of the People (Extension of Duration) Amendment Bill, 1976	24-11-76
2.	The Appropriation (Railways) No. 4 Bill, 1976	25-11-76
3.	The Appropriation (Railways) No. 5 Bill, 1976	25-11-76
4.	The Appropriation (No. 7) Bill, 1976	25-11-76
5.	The Gujarat Appropriation (No. 2) Bill, 1976	25-11-76
6.	The Pondicherry Appropriation (No. 4) Bill, 1976	25-11-76
7.	The Electricity (Supply) Amendment Bill, 1976	30-11-76
8.	*The Constitution (Forty-second Amendment) Bill, 1976	18-12-76

*The Bill was introduced in Lok Sabha as "The Constitution (Forty-fourth Amendment) Bill, 1976" The Short Title was changed by Lok Sabha through an amendment to clause 1.

APPENDIX V

LIST OF BILLS PASSED BY THE STATE LEGISLATURES DURING THE PERIOD OCTOBER 1, 1976 TO DECEMBER 31, 1976

ANDHRA PRADESH LEGISLATIVE COUNCIL

1. The Andhra Pradesh General Sales Tax (Third Amendment) Bill, 1976.
2. The Andhra Pradesh Entertainments Tax (Second Amendment) Bill, 1976.
3. The Andhra Pradesh Muttah, Jattu, Hamal and other Manual Workers (Regulation of Employment and Welfare) Bill, 1976.
4. The Andhra Pradesh Shops and Establishments (Amendment) Bill, 1976.
5. The Hyderabad Municipal Corporations (Amendment) Amending Bill, 1976.
6. The Andhra Pradesh Municipalities (Fifth Amendment) Bill, 1976.
7. The Andhra Pradesh Public Premises (Eviction of Unauthorized Occupants) Amendment Bill, 1976.

BIHAR VIDHAN SABHA

1. The Bihar Primary Education (Amendment) Bill, 1976.
2. The Bihar School Examination Board (Amendment) Bill, 1976.
3. The Bihar State University Laws and School Laws (Amendment and Cancellation) Bill, 1976.
4. The Bihar Secondary Education Board, Bill, 1976.
5. The Bihar Appropriation (No. 3) Bill, 1976.
6. The Bihar Legislature (Members Salaries and Allowances) (Second Amendment) Bill, 1976.
7. The Bihar Legislature (Members Salaries and Allowances), (Third Amendment) Bill, 1976.
8. The Bihar Ministers, Deputy Ministers and Officers of the Legislature Salaries and Allowances Laws (Amendment) Bill, 1976.
9. The Bihar Entertainment Tax (Amendment) Bill, 1976.

10. Waqf (Bihar Amendment) Bill, 1976.
11. Code of Criminal Procedure (Bihar Amendment) Bill, 1976.
12. The Bihar Application of State Laws to Transferred Territories Bill, 1976.
13. Bihar Local-Self Government (Amendment) Bill, 1976.
- *14. Bihar Sugar Undertaking (Acquisition) Bill, 1976.
15. Bihar Non-Government Primary School (Control & Taking Over) Bill, 1976.
16. The Patna University Education Bill, 1976.
17. The Bihar State University Bill, 1976.
18. Bihar University Service Commission Bill, 1976.
19. Bihar Debt Relief Bill, 1976.

HARYANA VIDHAN SABHA

1. The Haryana Ceiling on Land Holdings (Third Amendment) Bill, 1976.
2. The Punjab Gram Panchayat (Haryana Third Amendment) Bill, 1976.
3. The Punjab Panchayat Samitis (Haryana Second Amendment) Bill, 1976.
4. The Haryana Cattle Fairs (Amendment) Bill, 1976.
5. The Haryana General Sales Tax (Third Amendment) Bill, 1976.
6. The Punjab Co-operative Societies (Haryana Third Amendment) Bill, 1976.
7. The Haryana Appropriation (No. 4) Bill, 1976.

HIMACHAL PRADESH LEGISLATIVE ASSEMBLY

1. The Himachal Pradesh General Sales Tax (Amendment) Bill, 1976.

KARNATAKA LEGISLATIVE ASSEMBLY

1. Karnataka Civil Courts (Amendment) Bill, 1976.
2. The Mangalore Port Trust (Amendment) Bill, 1976.
3. The Karnataka Appellate Tribunal (Amendment) Bill, 1976.

*Awaiting President assent.

4. The Karnataka Court Fees and Suits Valuation (Amendment) Bill, 1976.
5. The Payment of Wages (Karnataka Amendment) Bill, 1976.
6. The Karnataka Co-operative Societies (Second Amendment) Bill, 1976.
7. The Karnataka Labour Welfare Fund (Amendment) Bill, 1976.
8. The Karnataka Excise (Amendment) Bill, 1976.
9. The Karnataka State Universities (Amendment) Bill, 1976.
10. The Karnataka Children (Amendment) Bill, 1976.
11. The Karnataka Preservation of Trees Bill, 1976.
12. The Karnataka Private Nursing Home (Regulation) Bill, 1976.
13. The Karnataka Money Lenders (Amendment) Bill, 1976.
14. The Karnataka Debt Relief (Amendment) Bill, 1976.
15. The Karnataka Weights and Measures (Enforcement) Bill, 1976.
16. The Karnataka Improvement Boards (Amendment) Bill, 1976.
17. The Karnataka Rent Control (Second Amendment) Bill, 1976.
18. The Registration (Karnataka) (Second Amendment) Bill, 1976.
19. The Karnataka Sales Tax (Fourth Amendment) Bill, 1976.
20. The Karnataka Contingency Fund (Amendment) Bill, 1976.
21. The Karnataka Co-operative Societies (Third Amendment) Bill, 1976.
22. The Karnataka Urban Land Tax Bill, 1976.
23. The Karnataka Public Premises (Eviction of Unauthorised Occu- pants) (Amendment) Bill, 1976.
24. The Karnataka Appropriation (No. 4) Bill, 1976.
25. The Karnataka Marriages (Registration and Miscellaneous Provi- sions) Bill, 1976.
26. The Karnataka Certain Inams Abolition Bill, 1976.
27. The Karnataka Legislature Salaries (Third Amendment) Bill, 1976.
28. The Karnataka Public Moneys (Recovery of Dues) Bill, 1976.
29. The Karnataka Land Reforms (Fourth Amendment) Bill, 1976.
30. The Karnataka Societies Registration (Amendment) Bill, 1976.

31. The Karnataka Civil Services (Classification and Scales of pay of Non-Graduate Junior Engineers of Public Works Department) (Second Amendment), 1976 as passed by the Legislative Council.

KARNATAKA LEGISLATIVE COUNCIL

1. The Karnataka Municipal Corporation Bill, 1976.
2. The Karnataka Municipalities (Amendment) Bill, 1976.
3. The Karnataka Civil Services (Classification and Scales of pay of Non-Graduate Junior Engineers of the Public Works Department) (Second Amendment) Bill, 1976.
4. The Karnataka Land Reforms (Fourth Amendment) Bill, 1976.
5. The Karnataka Public Moneys (Recovery of Dues) Bill, 1976.
6. The Karnataka Societies Registration (Amendment) Bill, 1976 as passed by the Legislative Assembly.
7. The Karnataka Appellate Tribunal (Amendment) Bill, 1976.
8. The Karnataka Court Fees and Suit Valuation (Amendment) Bill, 1976.
9. The Karnataka Civil Courts (Amendment) Bill, 1976.
10. The Mangalore Port Trust (Amendment) Bill, 1976.
11. The Karnataka Co-operative Societies (Second Amendment) Bill, 1976.
12. The Karnataka State Universities (Amendment) Bill, 1976.
13. The Karnataka Excise (Amendment) Bill, 1976.
14. The Karnataka Labour Welfare Fund (Amendment) Bill, 1976.
15. The Payment of Wages (Karnataka Amendment) Bill, 1976.
16. The Karnataka Preservation of Trees Bill, 1976.
17. The Karnataka Children (Amendment) Bill, 1976.
18. The Karnataka Private Nursing Home (Regulation) Bill, 1976.
19. The Registration (Karnataka) (Second Amendment) Bill, 1976.
20. The Karnataka Debt Relief (Amendment) Bill, 1976.
21. The Karnataka Money Lenders (Amendment) Bill, 1976.
22. The Karnataka Weights and Measures (Enforcement) (Amendment) Bill, 1976.
23. The Karnataka Improvement Boards (Amendment) Bill, 1976.

24. The Karnataka Rent Control (Second Amendment) Bill, 1976.
25. The Karnataka Urban Land Tax (Amendment) Bill, 1976.
26. The Karnataka Contingency Fund (Amendment) Bill, 1976.
27. The Karnataka Sales Tax (Fourth Amendment) Bill, 1976.
28. The Karnataka Co-operative Societies (Third Amendment) Bill, 1976.
29. The Karnataka Public Premises (Eviction of unauthorised Occupants) (Amendment) Bill, 1976.
30. The Karnataka Appropriation (No. 4) Bill, 1976.
31. The Karnataka Legislature Salaries (Third Amendment) Bill, 1976.
32. The Karnataka Marriages (Registration and Miscellaneous Provisions) Bill, 1976.

KERALA LEGISLATIVE ASSEMBLY

1. The Kerala Municipal Corporations (Third Amendment) Bill, 1976.
2. The Kerala Tax on Luxuries in Hotels and Lodging Houses, Bill, 1976.
3. The Kerala Surcharge on Taxes (Amendment) Bill, 1976.
4. The Agricultural Income Tax (Second Amendment) Bill, 1976.
5. The Kerala Court Fees and Suits Valuation (Second Amendment) Bill, 1976.
6. The Kerala Panchayats (Second Amendment) Bill, 1976.
7. The Kerala Panchayats (Third Amendment) Bill, 1976.
8. The Kerala Land Development (Amendment) Bill, 1976.
9. The Motor Vehicles (Kerala Amendment) Bill, 1973.
10. The Kerala Escheats and Forfeitures (Amendment) Bill, 1976.
11. The Kerala Court Fees and Suits Valuation (Amendment) Bill, 1976.
12. The Kerala Municipal Corporations (Fourth Amendment) Bill, 1976.
13. The Kerala Forts (Miscellaneous Provisions) Bill, 1976.
14. The Kerala Children (Amendment) Bill, 1976..
15. The Kerala General Sales Tax (Third Amendment) Bill, 1976.
16. The Kerala Plantation Tax (Amendment) Bill, 1976.

17. The Kerala Payment of Pension to Members of Legislature Bill, 1976.
18. The Kerala Appropriation (No. 8) Bill, 1976.
19. The Kerala Municipal Corporations (Fifth Amendment) Bill, 1976.
20. The Trivandrum Municipal Corporation (Dissolution) Amendment Bill, 1976.
21. The Calicut Municipal Corporation (Extension of Time for Re-constitution) Bill, 1976.
22. The Chalakudy and Malappuram Municipal Councils Extension of Term of Office of Councillors) Bill, 1976.
23. The Kerala Municipal Councils (Extension of Term of Office of Councillors) Bill, 1976.
24. The Kerala Tolls Bill, 1976.
25. The Kerala Appropriation (No. 9) Bill, 1976.

MADHYA PRADESH VIDHAN SABHA

1. The Madhya Pradesh Municipalities Bhelsa Ramlila Fair (Amendment) Bill, 1976.
2. The Madhya Pradesh Panchayat (Second Amendment) Bill, 1976.
3. The Madhya Pradesh Krishi Udhār Pravartan Tatha Prakirn Upa-bandha (Bank) Dwitiya Sanshodhan Vidheyak, 1976.
4. The Madhya Pradesh Rajya Bhumi Vikas Nigam Vidheyak, 1976.
5. The Madhya Pradesh Bhumi Sudhar Yojana (Sanshodhan) Vidheyak, 1976.
6. The Madhya Pradesh General Sales Tax (Third Amendment) Bill, 1976.
7. The Madhya Pradesh Sthaniya Kashetra Me Mal Ke Pravesh Par Kar (Sanshodhana) Vidheyak, 1976.
8. The Madhya Pradesh Vidhan Sabha Members Salaries and Allowances (Second Amendment) Bill, 1976.
9. The Madhya Pradesh Appropriation (No. 6) Bill, 1976.

MANIPUR LEGISLATIVE ASSEMBLY

- *1. The Manipur Reservation of Vacancies in Posts Services (for Scheduled Castes and Scheduled Tribes) Bill, 1976.
- *2. The Lainingthou Sanamahi Temple Bill, 1976.
- *3. The Manipur Ancient and Historical Monuments and Archaeological Sites and Remains Bill, 1976.

MEGHALAYA LEGISLATIVE ASSEMBLY

1. Meghalaya Administration of Justice (Amendment) Bill, 1976.
2. Meghalaya Appropriation No. V Bill, 1976.

RAJASTHAN LEGISLATIVE ASSEMBLY

1. The Rajasthan Khadi and Village Industries Board (Amendment) Bill, 1973.
2. The Rajasthan Panchayat (Amendment) Bill, 1974.
3. The Rajasthan Panchayat Samitis and Zila Parishads (Amendment) Bill, 1974.
4. The Rajasthan Electricity (Duty) (Amendment) Bill, 1976.
5. The Rajasthan Land-Revenue (Amendment) Bill, 1976.
6. The Rajasthan Sales Tax (Amendment) Bill, 1976.
7. The Rajasthan Contingency (Amendment) Bill, 1976.
8. The Rajasthan Appropriation (No. 5) Bill, 1976.
9. The Rajasthan Appropriation (No. 6) Bill, 1976.
10. The Rajasthan Tenancy (Second Amendment) Bill, 1976.
11. The Rajasthan Mica (Amendment) Bill, 1976.
12. The Rajasthan Legislative Assembly (Officers and Members Emoluments) (Second Amendment) Bill, 1976.

SIKKIM LEGISLATIVE ASSEMBLY

- *1. The Sikkim Urban Land (Ceiling and Regulation) Bill, 1976.
- *2. The Gangtok Municipal Corporation (Amendment) Bill, 1976.

TRIPURA LEGISLATIVE ASSEMBLY

1. The Tripura State Legislature Members (Removal of Disqualifications) Amendment Bill, 1976 (Tripura Bill No. 13 of 1976).
2. The Salaries & Allowances of Members of the Legislative Assembly (Tripura) (Second Amendment) Bill, 1976.

UTTAR PRADESH VIDHAN SABHA

1. The U.P. Land Laws (Amendment) Bill, 1976.
2. The U.P. Urban Local Self-Government Laws (Amendment) Bill, 1976.
3. The U.P. Electric Wire and Transformer (Prevention and Punishment of Theft) Bill, 1976.
4. The U.P. Imposition of Ceiling on Land Holding (Second Amendment) Bill, 1976.
5. The U.P. Contingency Fund (Amendment) Bill, 1976.

6. The U.P. Area Development Bill, 1976.
7. The Prevention of Food Adulteration (U.P. Amendment) Bill, 1976.
8. The U.P. Motor Gadi (Yatrikar) (Amendment) Bill, 1976.
9. The U.P. Urban Development Authorities (Tolls) Bill, 1976.
10. The U.P. Safai Mazdoors Protection Bill, 1976.
11. The U.P. Civil Laws (Reforms and Amendment) Bill, 1976.
12. The U.P. Khadi and Village Industries Board (Amendment) Bill, 1976.
13. The U.P. Urban Development Laws (Amendment) Bill, 1976.
14. The U.P. Public Services (Tribunals) (Amendment) Bill, 1976.
- *15. The U.P. Cattle Purchase Tar Bill, 1976.
16. The U.P. Sugarcane (Purchase Tax) (Amendment) Bill, 1976.
17. The U.P. Legislative Chambers (Member's Emoluments) (Second Amendment) Bill, 1976.
18. The U.P. Sugarcane (Regulation of Supply and Purchase) (Amendment) Bill, 1976.
19. The U.P. Hindu Public Religious Institutions (Prevention of Dissipation of Properties) (Re-enactment with Modifications) Bill, 1976.
20. The U.P. Appropriation (Supplementary, 1976-77) Bills, 1976.
21. The U.P. Appropriation (Regularization of Excess Expenditure, 1971-72) Bill, 1976.
22. The U.P. Appropriation (Regularisation of Excess Expenditure, 1970-71) Bill, 1976.
23. The U.P. Co-operative Societies (Amendment and Validation) Bill, 1976.
24. The Provincial Insolvency (U.P. Amendment) Bill, 1976.
25. The U.P. Kshetra Samitis and Zila Parishads (Amendment) Bill, 1976.
26. The U.P. Dookan Aur Vanijya Adhishtan (Sanshodhan) Bill, 1976.
27. The U.P. Protection of Trees in Rural and Hill Areas Bill, 1976.
28. The U.P. Laws (Extension to Territories Transferred From Bihar) Bill, 1976.
- *29. The U.P. Fundamental Rule 56 (Amendment) Bill, 1976.

METROPOLITAN COUNCIL, DELHI

1. The Delhi Corneal Grafting Bill, 1976.
2. The Delhi Urban Art Commission (Amendment) Bill, 1976.
3. The Delhi Ear-drum and Ear-bones Grafting Bill, 1976.

*Bills awaiting assent.

4. The Proposal for Extension of Haryana Relief of Agricultural Indebtedness Act, 1976 (Haryana Act 18 of 1976) to the Union Territory of Delhi.

GOA, DAMAN AND DIU LEGISLATIVE ASSEMBLY

1. The Goa, Daman and Diu Mundkars (Protection from Eviction) (Amendment) Bill, 1976.
2. The Goa, Daman and Diu Motor Vehicles Tax (First Amendment) Bill, 1976.
3. The Goa, Daman and Diu Excise Duty (Amendment) Bill, 1976.
4. The Goa, Daman and Diu Anatomy Bill, 1976.
5. The Goa, Daman and Diu Motor Vehicles (Taxation on Passengers and Goods) (First Amendment) Bill, 1976.

MIZORAM LEGISLATIVE ASSEMBLY

- *1. The Mizoram (Profession, Trades, Callings and Employments Taxation) (Amendment) Bill, 1976.
- *2. The Mizoram Salaries and Allowances of Members of the Legislative Assembly (Amendment) Bill, 1976.
- *3. The Mizoram Urban Areas Rent Control (Amendment) Bill, 1976.

APPENDIX VI

ORDINANCES ISSUED BY THE CENTRAL GOVERNMENT DURING THE PERIOD 1ST NOVEMBER, 1976 TO 18TH JANUARY, 1977 AND THE STATE GOVERNMENTS DURING THE PERIOD 1ST OCTOBER, 1976 TO 31ST DECEMBER, 1976.

Serial No.	Title of Ordinance	Date of Promulgation	Date on which laid before the House	Date of Cessation	Remarks
1	2	3	4	5	6
CENTRAL GOVERNMENT					
1.	The East Punjab Urban Rent Restriction (Chandigarh Amendment) Ordinance, 1976 (No. 14 of 1976).	17-12-76	28-3-77	..	
2.	The Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Ordinance, 1976 (No. 15 of 1976).	30-12-76	Do.	..	
3.	The Food Corporations (Amendment) Ordinance, 1976 (No. 16 of 1976).	31-12-76	Do.	..	..
STATE GOVERNMENTS					
ANDHRA PRADESH					
1.	The Andhra Pradesh Muttah, Jattu, Hamal and other manual workers (Regulation of employment and Welfare) Ordinance, 1976.	23-8-76	16-11-76	..	Replaced by legislation.
2.	The Hyderabad Municipal Corporations (Amendment) Amending Ordinance, 1976	2-9-76	Do.	..	Do.
3.	The Andhra Pradesh Shops and Establishments (Amendment) Ordinance, 1976.	3-9-76	Do.	..	Do.
4.	The Andhra Pradesh General Sales Tax (Second Amendment) Ordinance, 1976.	8-9-76	Do.	..	Do.

1	2	3	4	5	6
5.	The Andhra Pradesh Municipalities (Second Amendment) Ordinance, 1976.	14-9-76	16-11-76	..	Replaced by Legislation.
6.	The Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Amendment Ordinance 1976.	21-9-76	Do.	..	Do.
7.	The Andhra Pradesh Entertainments Tax (Second Amendment) Ordinance, 1976.	3-10-76	Do.	..	Do.
8.	The Andhra Pradesh Gram Panchayats and Panchayat Samities and Zilla Parishads (Amendment) Amending Ordinance, 1976.	7-12-76			To be replaced by bills in the ensuing meeting of the Legislature.
9.	The Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Ordinance, 1976.	19-12-76			Do.
10.	The Andhra Pradesh Agricultural University (Third Amendment) Ordinance, 1976.	21-12-76	..		Do.
11.	The Andhra Pradesh Agricultural Indebtness (Relief) Ordinance, 1976.	29-12-76			Do.
12.	The Andhra Pradesh Prevention of Begging Ordinance, 1976.	31-12-76			Do.
BIHAR					
1.	The Jharia Water Supply (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
2.	The Bihar Advertisement Tax Third Amendment Ordinance, 1976.	Do.		Do.	..
3.	Court Fee (Bihar Third Amendment) Ordinance, 1976.	Do.	..	Do.	..
4.	The Patna Corporation (Third Amendment) Ordinance, 1976.	Do.		Do.	
5.	The Bihar Entertainment Tax (Third Amendment) Ordinance, 1976.	Do.	..	Do.	..

1	2	3	4	5	6
6.	The Indian Stamp (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-76	
7.	The Bihar Health Cess Third Ordinance 1976.	12-8-76	..	11-1-76	
8.	The Bihar Municipality (Fourth Amendment) Ordinance, 1976.	12-8-76	..	11-1-76	
9.	The Bihar Medical Education Institution (Regulation and Control) (Bihar Ordinance, No. 156, 1976).	12-8-76	..	11-1-76	
10.	The Bihar Cess (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-76	
11.	The Bihar Land (Rent-Surcharge) Third Ordinance, 1976.	12-8-76	..	11-1-76	
12.	The Bihar Public Land Encroachment (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-76	
13.	The Bihar Kolhan Civil Justice (Increase of Pecuniary Jurisdiction) Third Ordinance, 1976.	12-8-76	..	11-1-76	
14.	The Bihar District Board (Reorganisation) Third Ordinance, 1976.	12-8-76		11-1-76	
15.	The Bihar Panchayat Samitti and Zila Parishad (Third Amendment and Validation) Ordinance, 1976.	12-8-76		11-1-76	
16.	The Bihar School Examination Board (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
17.	The Bihar State University Laws and School Laws (Third Amendment & Cancellation) Ordinance, 1976.	12-8-76	..	11-1-77	
18.	The Bihar Inter-University Board Second Ordinance, 1976.	12-8-76	..	11-1-77	
19.	The Bihar Primary Education (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	

1	2	3	4	5	6
20.	The Bihar Non-Government Elementary (Control & Taking Over) Third Ordinance, 1976.	12-8-76	..	11-1-77	
21.	The Bihar Local-Self Government) Ordinance, 1976.	12-8-76	..	11-1-77	
22.	The Bihar Secondary Education Board Third Ordinance, 1976.	12-8-76	..	11-1-77	
23.	The Bihar University Service Commission Second Ordinance, 1976.	12-8-76	..	11-1-77	
24.	The Rajendra Agriculture University (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
25.	The Bihar Municipality and Patna Corporation (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
26.	The Bihar Weights and Measures (Enforcement) (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
27.	The Motor Vehicle (Bihar Sixth Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
28.	The Bihar Motor Vehicle Taxation (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
29.	The Bihar State Aid to Industries (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
30.	The Bihar Khadi and Village Industries (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
31.	The Bihar Hindu Religious Trust (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
32.	The Bihar Land and Water Protection and Land Development Third Ordinance, 1976.	12-8-76		11-1-77	
33.	The Bengal Ferries (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	

1	2	3	4	5	6
34.	The Bihar Irrigation Field Channels (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
35.	The Bihar Irrigation Law (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
36.	The Bihar Irrigation and Lift Irrigation (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
37.	The Chhotanagpur and Santhal Pargana Autonomous Development Authority (Third Amendment) Ordinance, 1976.	12-8-76	..	11-1-77	
38.	The Bihar Private Irrigation Construction (Third Amendment) Ordinance, 1976.	12-8-76		11-1-77	
39.	The Bihar Panchayat Raj (Third Amendment) (Law and Validation) Ordinance, 1976.	12-8-76		11-1-77	
40.	The Bihar Kosi and Development Authority Third Ordinance, 1976.	12-8-76	..	11-1-77	
41.	The Bihar Nursing Homes and Clinical Establishment (Registration and Advertisement Ordinance, 1976.	12-8-76		11-1-77	
42.	The Bihar Non-Government Medical College, (Management Taking Over) Second Ordinance, 1976.	12-8-76	..	11-1-77	
43.	The Code of Criminal Procedure (Bihar Second Amendment) Ordinance, 1976.	12-8-76		11-1-77	
44.	The Bihar Cycle Rikshaw (Licence Regulation) Second Ordinance, 1976.	[12-8-76		11-1-77	
45.	The Bihar Co-operative Society (Sixth Amendment) Ordinance, 1976.	16-8-76		11-1-77	
46.	The Bihar Farmer and Village Area Development Agency Third Ordinance, 1976.	16-8-76		11-1-77	

1	2	3	4	5	6
47	The Bihar Premises and Motor (Requisition) Third Ordinance, 1976.	16-8-76	..	11-1-77	
48	The Bihar Sugarcane (Supply and Purchase Regulation) Third Ordinance, 1976.	16-8-76	..	11-1-77	
49	The Bihar Sugarcane (Supply and Purchase Regulation) (Third Amendment) Ordinance, 1976.	16-8-76	..	11-1-77	
50	The Essential Commodities (Bihar Fourth Amendment) Ordinance, 1976.	16-8-76	..	11-1-77	
51	The Essential Commodities (Bihar Fifth Amendment) Ordinance, 1976.	16-8-76	..	11-1-77	
52	The Bihar (Carried by Public Service Motor Vehicles) Taxation and Passenger, and Goods (Third Amendment) Ordinance, 1976.	16-8-76		11-1-77	
53	The Bihar Agriculture Production Market (Third Amendment) Ordinance, 1976.	16-8-76	..	11-1-77	
54	The Motor Vehicle (Bihar Fifth Amendment) Ordinance, 1976.	16-8-76	..	11-1-77	
55	The Bihar Irrigation Development (Land Acquisition) Third Ordinance, 1976.	16-8-76		11-1-77	
56	The Bihar Electric. Supply Undertaking (Acquisition) Third Ordinance, 1976.	16-8-76	..	11-1-77	
57	The Bihar Gramdan (Third Amendment) Ordinance, 1976.	16-8-76	..	11-1-77	
58	The Bihar Application of State Laws to Transferred Territories, Third Ordinance, 1976.	16-8-76		11-1-77	
59	The Bihar Housing Board Third Ordinance, 1976.	16-8-76	..	11-1-77	

1	2	3	4	5	6
60	The Bihar State Universities Second Ordinance, 1976.	16-8-76		11-1-77	
61	The Patna University Second Ordinance, 1976.	16-8-76		11-1-77	
62	The Bihar Sales Tax Ordinance, 1976.	23-8-76		11-1-77	
63	The Bihar Application of State Laws to Transferred Territories (Amendment) Ordinance, 1976.	24-8-76		11-1-77	
64	The Bihar Debt Relief Ordinance, 1976.	26-8-76		11-1-77	
65	The Bihar Agricultural Operations and Miscellaneous Provisions (Banks) Ordinance, 1976.	28-8-76		11-1-77	
66	The Waqf (Bihar Amendment) Ordinance, 1976.	9-9-76		11-1-77	
67	The Bihar Co-operative Society (Seventh Amendment) Ordinance, 1976.	9-9-76		11-1-77	
68	The Bihar Public Service (Compulsory Retirement) Ordinance, 1976.	9-9-76		11-1-77	
<i>Repealed Ordinances</i>					
69	The Court Fee (Bihar Fourth Amendment) Ordinance, 1976.	16-9-76			
70	The Bihar Public Service (Compulsory Retirement) Ordinance, 1976.	19-9-76			
71	The Bihar Contingency Fund (Second Amendment) Ordinance, 1976.	25-9-76			
72	The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Ordinance, 1976.	2-10-76			
73	The Bihar Legislature (Salaries and Allowances) (Amendment) Ordinance, 1976.	17-10-76			

1	2	3	4	5	6
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GUJARAT

- | | | | | | |
|---|---|----------|--|--|--|
| 1 | The Bombay Tenancy & Agricultural Lands (Gujarat Second Amendment) Ordinance, 1976 | 30-12-76 | | | |
| 2 | The Bombay Inams (Kutch Area) Abolition (Gujarat Second Amendment) Ordinance, 1976. | 30-12-76 | | | |

HARYANA

- | | | | | | |
|---|---|----------|----------|----|--------------------------|
| 1 | The Haryana Ceiling on Land Holdings (Third Amendment) Ordinance, 1976. | 9-9-76 | 15-11-76 | .. | Replaced by legislation. |
| 2 | The Punjab Gram Panchayat (Haryana Third Amendment) Ordinance, 1976. | 11-10-76 | 15-11-76 | | Do. |

HIMACHAL PRADESH

- | | | | | | |
|---|---|---------|----------|----------|-----|
| 1 | The Himachal Pradesh General Sales Tax (Amendment) Ordinance, 1976. | 20-9-76 | 29-11-76 | 29-11-76 | Do. |
|---|---|---------|----------|----------|-----|

JAMMU AND KASHMIR

- | | | | | | |
|---|--|----------|--------|----|-----|
| 1 | The Jammu and Kashmir Land Grants (Amendment) Ordinance, 1976. | 3-12-76 | 5-2-77 | .. | Do. |
| 2 | The Jammu & Kashmir Arbitration (Amendment) Ordinance, 1976. | 31-12-76 | 5-2-77 | .. | Do. |

KARNATAKA

- | | | | | | |
|---|---|---------|--|--|--|
| 1 | The Karnataka Private Nursing Homes (Regulation) Ordinance, 1976. | 5-10-76 | | | |
| 2 | The Karnataka Labour Welfare Fund (Amendment) Ordinance, 1976. | 8-10-76 | | | |

1	2	3	4	5	6
3	The Mangalore Port Trust (Amendment) Ordinance, 1976.	8-10-76			
4	The Karnataka Urban Land Tax (Second Amendment) Ordinance, 1976.	8-10-76			
5	The Karnataka Rent Control (Third Amendment) Ordinance, 1976.	13-10-76			
6	The Registration (Karnataka) (Second Amendment) Ordinance, 1976.	25-10-76			
7	The Karnataka Debt Relief (Amendment) Ordinance, 1976.	27-10-76			
8	The Karnataka Money Lenders (Amendment) Ordinance, 1976.	27-10-76			
9	The Karnataka Weights and Measures (Enforcement) (Amendment) Ordinance, 1976.	29-10-76			
10	The Karnataka Co-operative Societies (Fourth Amendment) Ordinance, 1976.	3-11-76			
11	The Karnataka Rent Control (Fourth Amendment) Ordinance, 1976.	30-12-76			
12	The Karnataka Village Panchayats (Postponement of Elections) (Second Amendment) Ordinance, 1976.	30-12-76			
13	The Karnataka Private Nursing Homes (Regulation) (Amendment) Ordinance, 1976.	30-12-76			
14	The Karnataka Land Reforms (Fifth Amendment) Ordinance, 1976.	31-12-76			

1	2	3	4	5	6
KERALA					
1	The Trivandrum Municipal Corporation (Dissolution) Amendment Ordinance, 1976.				
2	The Calicut Municipal Corporation (Extension of Time for Reconstitution) Ordinance, 1976.				
3	The Chalakudy and Malappuram Municipal Councils (Extension of Term of Office of Councillors) Ordinance, 1976.				
4	The Kerala Municipal Corporations (Fifth Amendment) Ordinance, 1976.				
MADHYA PRADESH					
1	The Madhya Pradesh Rajya Vikas Nigam Adhyadesh, 1976.	27-10-76	29-11-76		Replaced by legislation.
2	The Madhya Pradesh Bhumi Sudhar Yojana (Sanshodhan) Adhyadesh, 1976.	27-10-76	29-11-76		D.O.
3	The Madhya Pradesh Panchayat (Second Amendment) Adhyadesh, 1976.	27-10-76	29-11-76		D.O.
MEGHALAYA					
1	The Meghalaya Administration of Justice (Amendment) Ordinance, 1976.	19-10-76	14-12-76	17-12-76	Replaced by legislation.
RAJASTHAN					
1	The Code of Criminal Procedure (Rajasthan Amendment) Ordinance, 1976.	20-11-76			
2	The Rajasthan Public Premises (Eviction of Unauthorised Occupants) Amendment Ordinance, 1976.	22-11-76			
3	The Rajasthan Panchayat Laws (Amendment) Ordinance, 1976.	15-12-76			

1	2	3	4	5	6
UTTAR PRADESH					
1	The U. P. Melas (Amendment) Ordinance, 1976.	4-10-76	1-11-76	1-11-76	
2	The U. P. Development Ordinance, 1976.	4-10-76	1-11-76	1-11-76	
3	The U. P. Motor Gadi (Yat-rikar) (Amendment) Ordinance, 1976.	9-10-76	1-11-76	1-11-76	Replaced by legislation.
4	The Contingency Fund (Amendment) Ordinance, 1976.	4-10-76	1-11-76	1-11-76	Do.
5	The Northern India Canal and Drainage (U.P. Amendment) Ordinance, 1976.	20-12-76			
6	The Uttar Pradesh Krishi Utpadan Mandi (Amendment) Ordinance, 1976.	20-12-76			
7	The U. P. Education Laws (Amendment) Ordinance, 1976.	8-12-76			

APPENDIX VII
A. PARTY POSITION IN LOK SABHA
(As on May 1, 1977)

Name of State	No. of seats	Janta	Cong.	CFD	CPI(M)	AIA-DMK	Akali Dal	CPI	Other Parties	Un-attached	Total	Vacancies
Andhra Pradesh	42	..	40	..	..	..	..	..	..	..	40*	1
Assam	14	3	10	..	..	..	..	..	..	1	14	..
Bihar	54	44	..	8	..	..	..	..	..	2	54	..
Gjuarat	26	14	10	..	..	..	..	..	..	1	25	1
Haryana	10	9	..	1	..	..	..	..	..	..	10	..
Himachal Pradesh	4	3	..	..	..	..	..	..	..	..	3	1
Jammu & Kashmir	6	1	2	..	..	..	..	2(a)	..	..	5	1
Karnataka	28	2	26	..	..	..	..	..	..	..	28	..
Kerala	20	..	11	..	..	..	..	4	5(b)	..	20	..
Madhya Pradesh	40	37	1	..	..	..	..	..	..	2	40	..
Maharashtra	48	19	20	..	3	..	..	5(c)	..	1	48	..
Manipur	2	..	2	..	..	..	..	..	..	..	2	..
Meghalaya	2	..	1	..	..	..	..	..	..	1	2	..
Nagaland	1	..	..	..	..	..	..	1(d)	..	..	1	..
Orissa	21	14	4	1	1	..	..	..	..	1	21	..
Junjab	13	3	..	..	1	..	9	..	..	..	13	..

Rajasthan	..	25	24	1	..	..	..	..	..	25	..
Sikkim	..	1	..	1	..	..	..	..	..	1	..
Tamil Nadu	..	39	3	14	..	18	3	1(c)	..	39	..
Tripura	..	2	..	1	1	..	..	..	..	2	..
Uttar Pradesh	..	85	72	..	13	..	..	..	..	85	..
West Bengal	..	42	12	3	3	17	..	6(f)	1	42	..
UNION TERRITORIES											
Andaman & Nicobar Islands	..	1	..	1	..	..	..	..	..	1	..
Arunachal Pradesh	..	2	..	1	..	..	..	..	1	2	..
Chandigarh	..	1	1	1	..	..	..	..	..	1	..
Dadra & Nagar Haveli	..	1	..	..	..	..	..	..	1	1	..
Delhi	..	7	6	..	1	..	..	..	..	7	..
Goa, Daman & Diu	..	2	..	1	..	..	..	1(g)	..	2	..
Lakshadweep	..	1	..	1	..	..	..	..	..	1	..
Mizoram	..	1	..	1	..	..	..	1	..	1	..
Pondicherry	..	1	..	..	..	1	..	..	..	1	..
		542(L)	267	151	28	22	19	7	21	13	537*

* Excluding the Speaker.

(a) National Conference—2

(b) Kerala Congress—2; Muslim League—2; R.S.P.—1

(c) Peasants and Workers Party—5

(d) U.D.F.—1

(e) D.M.K.—1

(f) R.S.P.—3; Forward Block—3

(g) M.G.P.—1

(h) Excluding 2 members to be nominated from the Anglo-Indian Community.

B. PARTY POSITION IN THE RAJYA SABHA
(As on May 5, 1977)

States/Union Territories	Total Cong. No. of seats	CPI	JAN- ATA	AIA DMK	CPI DMK (M)	ML	DMK BKD	PWP	RFP	KML IND.	NOM.	Va- can- cies	
													18
Andhra Pradesh	1
Assam	..	7	6	..	..	..	..	..	..	..	..	..	1
Bihar	..	22	16	3	2	..	..	..	..	..	1	..	..
Gujarat	..	11	6	..	5	..	..	..	..	..	..	..	..
Haryana	..	5	2	..	1	..	..	..	..	..	1	..	1
Himachal Pradesh	..	3	3	..	..	..	..	..	..	..	..	..	..
J&K	..	4	4	..	..	..	..	..	..	..	..	..	..
Karnataka	..	12	7	..	1	..	..	..	..	..	2	2	2
Kerala	..	9	2	1	..	..	3	1	..	..	1	..	1
Madhya Pradesh	..	16	14	..	2	..	..	..	..	..	..	..	..
Maharashtra	..	19	17	..	..	..	..	1	1	..	..	..	..
Manipur	..	1	1	..	..	..	..	..	..	..	..	..	..
Meghalaya	..	1	1	..	..	..	..	..	..	..	..	..	..
Nagaland	..	1	..	..	1	..	..	..	..	..	..	..	..
Orissa	..	10	7	1	2	..	..	..	..	..	..	..	..
Punjab	..	7	5	1	..	..	..	..	..	..	1	..	..

C. PARTY POSITION IN STATE LEGISLATURES

State/Union Territory	Seats	Cong. (O)			BLD	J.S.	C.P.I. (M)	S.P.	Other Parties	Ind.	Total			Vacancies
		Cong.	Cong.	Cong.							11	12	13	
I	2	3	4	5	6	7	8	9	10	11	12	13	13	
Andhra Pradesh L.A. (As on 31-12-76)	288	242	..	..	..	8	1	..	23(a)	10	284	4	4
Andhra Pradesh L.C. (As on 1-2-77)	90	56	..	..	5	3	..	..	7(b)	5	76	14	14
Assam L.A. (As on 31-12-76)	114	93	..	..	..	3	..	4	5(c)	7	112	2	2
Bihar L.A. (As on 2-2-77)	319	197	3	..	..	32	..	..	14(d)	17	264*	55	55
Bihar L.C. (As on 15-2-77)	96	72	2	1	2	5	..	2	1(e)	11	96	..	..
Gujarat L.A. (As on 31-12-76)	182	102	43	1	17	..	..	2	1(f)	11	177	5	5
Haryana L.A. (As on 31-1-77)	81	60	2	6(g)	2	..	..	..	2(h)	7	79	2	2
Himachal Pradesh L.A. (As on 9-2-77)	68	53	..	..	5	..	1	..	..	8	67	1	1
Karnataka L.A. (As on 15-2-77)	217	182	12	..	..	3	1	2	1(i)	11	212*	4	4
Karnataka L.C. (As on 15-2-77)	63	44	10	..	4	..	..	..	..	3	62*	1	1
Kerala L.A. (As on 20-12-76)	134	38	..	..	..	16	31	6	34(j)	3	133*	5	5
Madhya Pradesh L.A. (As on 15-2-77)	297	225	..	..	26	5	..	4	1(k)	25	186*	10	10
Manipur L.A. (As on 29-1-77)	60	49	..	..	6	..	..	..	4(l)	1	60	..	..
Meghalaya L.A. (As on 14-2-77)	60	40	..	..	..	..	..	..	19(n)	1	60	..	..
Nagaland L.A. (As on 14-2-77)	..	..	..	..	..	..	..	..	..	..	..	..	..
Punjab L.A. (As on 21-2-77)	104	68(n)	..	..	1	10	1	..	23(o)	..	103	1	1
Rajasthan L.A. (As on 19-2-77)	184	149	..	..	..	5	1	2	10(p)	14	181	3	3
Sikkim L.A. (As on 1-2-77)	32	..	..	..	..	..	..	..	32(q)	..	32	..	..
Tamil Nadu L.A. (As on 27-1-77)	..	..	..	..	..	..	..	..	..	..	..	..	..
Tamil Nadu L.C. (As on 31-12-76)	63	6	2	..	..	..	..	..	30(r)	2	40	23	23
Tripura L.A. (As on 3-2-77)	60	40(s)	..	..	..	1	15	..	..	3	59	1	1
Uttar Pradesh L.A. (As on 11-12-76)	426	237	..	..	..	16	2	1	143(t)	21	420	6	6
Uttar Pradesh L.C. (As on 14-2-77)	108	73	2	9	4	..	..	..	14(u)	4	108	..	..

UNION TERRITORIES

Delhi Metropolitan Council (As on 31-1-77)	61	46(v)	2	5	3	..	1(w)	2	59	2
Goa, Daman and Diu L. A. (As on 1-2-77)	30	9	..	..	..	..	20(x)	1	30	..
Mizoram L. A. (As on 3-2-77)	33	30	..	..	..	..	3(y)	..	33	..

- * Excludes the Speaker/Chairman who is not a member of either Party.
- (a) Andhra Pradesh Progressive Democrats -7; Progressive Front-6; Socialist Democratic Front-4; Peoples Democrats -3; Majlis Ittehad-ul-Muslimeen-2; RPI-1.
- (b) Progressive Democratic Front.
- (c) Peoples Democratic Party- 3; Revolutionary Communist Party of India-1; Plains Tribal Council-1.
- (d) SSP-5; Hul Jharkhand -2; Jharkhand (N.E. Horo Group) -1; Progressive Hul Jharkhand -1; All India Party-3; Hindustani Soshit Dal-1; Nominated-1.
- (e) Teachers Group.
- (f) Rashtriya Mazdoor Paksh.
- (g) Note: Out of 6 members of the Bhartiya Lok Dal, one member Chaudhary Hardwari Lal ceased to be a Member of the Haryana Vidhan Sabha *Vide* Haryana Vidhan Sabha Secretariat Notification No. HVS-LA-19/75/2, dated 8th January, 1975. But *Vide* Punjab and Haryana High Court Order dated 7th May, 1975, he is entitled to attend the Session of the Haryana Legislative Assembly and sign the Register for minimum number of days to keep his seat intact, but shall not take part in the proceedings of the said Assembly or vote or draw any remuneration.
- (h) Vishal Haryana Party.
- (i) Janata Paksha.
- (j) Muslim League (Opposition) -7; Kerala Congress (Leader Shri K. M. Mani) -6; Muslim League -5; RSP. -5; P.S.P. -4; Kerala Cong. (Leader Shri John Jacob)-3; Karshaka Tezhilali Party-2; Kerala Socialist Party- 2.
- (k) Nominated.
- (l) Manipur Peoples Party.
- (m) A.P.H.L.C. -14; HSPDP -5.
- (n) One member of the Congress Party namely S. Kirpal Singh Randhawa has neither the right to vote nor to participate in the proceedings of the House.
- (o) Shiromani Akali Dal.
- (p) Swatantra Party-1; Janta Morcha -9.
- (q) Sikim Congress.
- (r) DMK-18, United Party -4; Indian Union Muslim League -2; Tamil Arasu Kazhagam- 2; Anna DMK- 1; Toilers Commonwealth Party -1; Forward Block-1; Thazhappattore Munnetra Kazhagam -1.
- (s) Includes 5 suspended members.
- (t) Lok Paksha -138; Muslim League -1; Hindu Mahasabha -1; Soshit Samaj Dal -1; Nominated -1; Unattached -1.
- (u) Republican -1; Rashtrawadi Dal 2; Shikshak Sangh-7, Nardaliya Sangh- 4.
- (v) Including 5 nominated members.
- (w) Muslim League-1.
- (x) Maharashtrawadi Gomatantak Party- 18; United Goans -2.
- (y) Mizo Union Party-2; People's Conference -1.

OTHER PERIODICALS/PUBLICATIONS OF THE LOK SABHA

Periodicals

1. **Diary of Political Events (Monthly)**
Annotated chronology of the national and international political events.
(Per copy Rs. 2.50; Annual Rs/ 30.00, including the Annual issue)
2. **Diary of Political Events, 1974 (Annual)**
Annotated chronology of national and international political events of the year. (Per Copy: Rs. 5.00)
3. **Digest of Central Acts (Quarterly)**
Contains synopses of Central laws.
(Per Copy: Rs. 2.00 Annual Subscription: Rs. 8.00)
4. **Digest of Legislative & Constitutional Cases (Quarterly)**
Contains abstracts of judgments of the Supreme Court and the High Courts involving important legislative and other cases.
(Per copy: Rs. 2.00; Annual Subscription: Rs. 8.00)
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A well-indexed periodical containing suitably annotated titles of important books, articles, reports and other materials on various subjects received in the Parliament Library, during every fortnight.
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Other Publications

1. **Developments in Chile**
Chronological account of the political and constitutional developments leading to the fall of Allende regime. Also contains important UN and IPU resolutions on Chile, (Rs. 3.00)
2. **Legislators in India: Salaries & Other Facilities, Second Revised Edition, 1976.**
Contains tabulated statements on salaries, allowances and other facilities available to MPs. and legislators in States. (Rs. 3.00)