

# **CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)**



**MEMORANDUM BY SHRI M. N. KAUL, SECRETARY,  
CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE),  
ON THE REFORM OF PARLIAMENTARY PROCEDURE  
:: IN INDIA ::**



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## CONTENTS

	PAGES
<b>I. STATEMENT OF GOVERNMENT POLICY AT THE OPENING OF A SESSION OF PARLIAMENT—</b>	
(A) House of Commons procedure of address in reply to the King's Speech . . . . .	1—2
(B) Suggestions for new procedure in India . . . . .	2—5
<b>II. ALLOTMENT OF TIME TO PRIVATE MEMBERS FOR DEBATE ON ADJOURNMENT MOTION AT THE END OF BUSINESS—</b>	
(A) House of Commons procedure . . . . .	6—7
(B) Procedure in India—Limits of question hour and motions for adjournment . . . . .	7—8
(C) Suggestions for new procedure in India . . . . .	9—10
<b>III. FINANCIAL PROCEDURE—</b>	
(A) Control of Expenditure—	
(i) House of Commons procedure . . . . .	11—15
(ii) Suggestions for reform of procedure in India . . . . .	15—18
(B) Control of Taxation—	
(i) House of Commons procedure . . . . .	18
(ii) Suggestions for reform of procedure in India . . . . .	18—19
(C) Bills involving financial Clauses—	
(i) House of Commons procedure . . . . .	19—20
(ii) Suggestions for reform of procedure in India . . . . .	20—21
<b>IV. STANDING COMMITTEES ON BILLS—</b>	
(A) House of Commons procedure . . . . .	22—25
(B) Suggestions for reform of procedure in India . . . . .	25—27
<b>ANNEXURE—</b>	
Detailed note on Standing Committees of the House of Commons . . . . .	28—30

## I.—STATEMENT OF GOVERNMENT POLICY AT THE OPENING OF A SESSION OF PARLIAMENT

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### A.—HOUSE OF COMMONS PROCEDURE OF ADDRESS IN REPLY TO THE KING'S SPEECH.

The King's Speech at the opening of Parliament is both an act of State and a Government pronouncement of importance, the responsibility for which rests wholly with the Cabinet. As a rule, the contents of the King's Speech are as follows:

- (i) A statement of foreign relations and policy.
- (ii) A formal reference to "the Estimates" addressed to the House of Commons alone.
- (iii) A statement of the attitude of the Government towards matters of home policy.
- (iv) A summary of the proposed legislative programme of the session as envisaged at the time.

2. It is now the practice in the House of Commons that a motion for the Address in reply to the King's Speech is in the form of a short expression of thanks. The Debate which follows normally falls into two parts: (1) a general debate upon the policy of the Government as outlined in the Speech; (2) a debate on the amendments, moved for the most part by the Opposition, advocating alternative policies usually expressed in the form of regret for the omission from the Speech of the policies advocated. In the course of the Debate, the policy of the Government may be generally criticised from all points of view. The redress of grievances may be demanded and aspirations and proposals of all kinds

stated. In fact, the whole policy—domestic and foreign—is open to discussion. Any body of political opinion represented in the House, or any member who wishes thus early in the Session to influence Government's legislative programme at any point or to call the attention of Ministers or the public to any question, may put down an amendment proposing the addition of some words having reference to the Address. It would, thus, appear that the Debate upon the reply to the King's Speech is the first real business taken up by the House of Commons. As a rule, six days are, by agreement, devoted to the Debate on the King's Speech and the reply thereto.

#### B.—SUGGESTIONS FOR NEW PROCEDURE IN INDIA.

3. When the Assembly is summoned, it is obvious that the "causes of its summons" must be disclosed in a statement made on the floor of the House. When the Government of India was not responsible to the Legislature, there may have been no real necessity for introducing the House of Commons procedure. Now that the Government is responsible to the Legislature, it is time that a similar procedure is introduced in the Central Assembly.

4. At the present time, it is the general practice to issue, ten days in advance of the session, a probable list of Government business that may be brought forward during the session. This is, in fact, a list of Government business that may be ready at that time. However, it gives no idea to the Members as to what legislation will actually be brought forward during the session. As soon as the session starts—in fact, some time before its commencement—enquiries are received in the Assembly Secretariat as to the legislation that Government may actually bring forward during the ensuing

session. This enquiry relates both to legislation that is pending and any new legislation that may be introduced. As there is no formal procedure like that obtaining in England, under which formal decisions of the Cabinet on all matters which are proposed to be brought before the Legislature are taken well in advance of the King's Speech, it is not known to the Assembly sufficiently in advance as to what measures will actually be brought forward by the Government. The practice is that a List of Business is furnished to the Assembly Secretariat for a day or a number of days, and this process is repeated throughout the session. Sometimes, the Leader of the House makes a statement in the House as to the intentions of the Government in regard to legislative measures during the coming week or so. The present procedure leads to uncertainty and gives no clear indication of Government legislative intentions at the commencement of the session and should be supplemented on the lines prevalent in the U.K.

5. At the commencement of the session, as things are at present, Members have no clear idea as to the attitude of the Government on various questions which may be agitating their minds, with the result that a number of questions are put, making enquiries as to Government's intentions with regard to various policy and administrative matters. Demands are also made by Members from time to time that special days may be allotted for the discussion of particular subjects in which the House and the country are at the moment keenly interested. If the House of Commons procedure of a statement of policy at the opening of the session were introduced, this present unorganised state of affairs would disappear and at the very opening of the session the House will be in a position to know the views and policies of the Government on all important matters, together with a comprehensive

legislative programme that they have in mind. At present, the business in the first week of the session is generally not heavy. In fact, in a recent session the List actually collapsed. Our sessions in India do not start well, and one of the reasons for it may well be the absence of a Government statement on the lines of the House of Commons.

6. In a recent report of a Select Committee on Procedure appointed by the House of Commons, the following observations were made:

“The Address in reply to the King’s Speech provides an opportunity for a wide review of the policy of the Government and its programme of legislation in the session. This is a suitable method of starting the business of the session both for constitutional and practical reasons, and the time devoted to it each session is well spent and does not seem capable of reduction.”

7. It is apparent from the above analysis of the position that there are good grounds for introducing the House of Commons procedure of a “Statement of Government policy” at the opening of the session. In India, such a statement may well be made by the Prime Minister at the opening of the session. It is suggested that a motion in the name of the Prime Minister somewhat on the following lines may be put down in the List of Business:

“That the foreign policy and the home policy and the legislative programme of the Government be taken into consideration.”

There are precedents for such a form in the Assembly. At present, it would suffice if three days are allotted for

the discussion of this motion. This will give an opportunity to the Members to consider the "Statement of Government policy" and to make their suggestions to Government in respect of various matters that they have in mind. In fact, this would be the most suitable method of starting the business of the session. Such a procedure will give unity and cohesion to the work of the Assembly during the session and Government will be in possession of the feelings of the Members on all matters that are agitating their minds right from the very beginning of the session.

## II.—ALLOTMENT OF TIME TO PRIVATE MEMBERS FOR DEBATE ON ADJOURNMENT MOTION AT THE END OF BUSINESS.

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### A.—HOUSE OF COMMONS PROCEDURE.

In the House of Commons whatever be the hour that the House closes its ordinary business set down for that day a motion is always moved that "the House do now adjourn". This gives an opportunity to have the usual discussion for half an hour relating to matters of public importance of which notice has been given to the Speaker. Since 1943 this concession to private members to have half an hour for debate on the adjournment motion at the end of business has become a normal feature of parliamentary procedure. So many private members have availed themselves of this opportunity of raising a great diversity of grievances on topical questions that precedence for securing this opportunity has had to be decided by ballot and the Speaker has instituted a system of informal notice.

2. As the time devoted to discussion on the adjournment motion begins after the interruption of the ordinary business of the sitting, it represents no loss of time to the Government.

3. Originally what used to happen was that a member asked a question of a Minister. He got an answer which he thought unsatisfactory and he thought it was sufficiently unsatisfactory to justify a debate that day or that week. Under the present practice right to ballot for the half-hour adjournment is not now limited to those



members who have indicated in the House dissatisfaction with the answer to an oral question, but all matters relating to administration can be raised by any member provided he is successful in the ballot.

4. The general opinion in the House of Commons is that the daily half-an-hour debate on adjournment is a useful, if not indispensable, safety valve for particular questions. It does not lead to a long debate, as normally one private member can speak and have a short reply from the Government and in that way a number of matters can be ventilated from time to time on the floor of the House.

5. Speaking in the House of Commons, Sir Herbert Morrison expressed the opinion that the half-an-hour debate on adjournment had become almost as distinctive, important and meritorious part of their parliamentary procedure as question time itself. The adjournment motion is, as it were, putting the Government on the spot. It is a member with a grievance and it is quick. It is eminently a time for taking up current grievances of an executive or administrative character. Sir Herbert Morrison thought that the debate on adjournment should be regarded as an opportunity for ventilating grievances which are often of very real interest to members. The real usefulness of the half-an-hour debate on adjournment was that it afforded an opportunity to private members to challenge the Government on something that it was doing or had done in the way of an executive administration.

**B.—PROCEDURE IN INDIA—LIMITS OF QUESTION HOUR AND MOTIONS FOR ADJOURNMENT (RULE 32).**

6. Question hour is no doubt of lively interest and the subjects on which questions are asked provide an indication of the matters relating to policy and administration

in which the members are interested. Question hour is, however, strictly meant for asking information from Government. Following the House of Commons practice, supplementaries are controlled, so that question hour does not degenerate into a miniature debate as often happens in the French Parliament.

7. Where a question has not been answered fully from the point of view of members and there is a feeling that there should be some little debate on the matter there is at present no procedural method available for having a short discussion on the matter while it is still upper-most in the minds of members. An important question may not be reached for oral answer and the written answer may from the point of view of members be not sufficiently clear. In such a case also, there is no procedure to pursue the matter quickly and have the position cleared up on the floor of the House.

8. At times the procedure of short notice question is availed of to answer questions of members relating to urgent public matters. This procedure is, however, subject to the same limitations as ordinary questions and its main advantage is that an answer can be obtained quickly.

9. Before the advent of responsible government "a motion for adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance" was used to ventilate grievances and criticise administrative policies. Now that the Government is responsible to the Legislature this method is inappropriate as it is tantamount to a motion for a vote of censure on the Government and in a responsible House the Speaker admits such a motion rarely.

## C.—SUGGESTIONS FOR NEW PROCEDURE IN INDIA.

10. The question hour is the main method now available to check up the administration. Its effectiveness is, however, limited where a further short debate is necessary and the absence of such a procedure results in accumulation of grievances. As the session progresses from day to day members receive information from all quarters relating to administrative policy and executive action. Parliamentary procedure should, therefore, be so devised that there are opportunities to members to discuss matters which, in their opinion, need ventilation and discussion.

11. It is, therefore, desirable that the House of Commons procedure for discussion of grievances for half-an-hour after the close of the normal business for the day should be adopted in India in the following modified form :

- (i) Half-an-hour should be allotted on two days in a week, say, Wednesday and Friday, after 5 P.M. which is the normal time for the adjournment of the House. If the House sits longer on any particular day, the half-an-hour should commence after the Speaker has decided that the unfinished business for the day may be held over;
- (ii) During this half-an-hour any matter may be raised which has been the subject of a question in the House irrespective of the fact whether the question was answered orally or the answer was laid on the Table of the House;
- (iii) Any Member wishing to raise a matter should give notice to the Secretary and the Minister concerned seven days in advance of the day on which the matter is desired to be raised. He

should shortly specify the point that he wishes to raise;

- (iv) Such notice should be supported by the signature of at least four other members;
- (v) It shall be for the Speaker to decide whether the matter is of sufficient public importance to be put down for discussion;
- (vi) If the Speaker holds the matter to be of sufficient public importance and more than two notices have been received, the Secretary shall hold a ballot with a view to drawing two notices. These notices will be put down in the order in which they were received in point of time;
- (vii) If any matter put down for discussion on a particular day is not disposed of on that day it shall not be set down for any further day, unless the member so desires, in which case it shall be included in the ballot for the next available day;
- (viii) There will be no formal motion before the House nor any voting. The member who has given notice will make a short statement and the Government member will reply shortly. Any member who has previously intimated to the Speaker may be permitted to put a question for the purpose of further elucidating any matter of fact.

### III.—FINANCIAL PROCEDURE

#### A.—CONTROL OF EXPENDITURE

##### (i) *House of Commons Procedure*

In the parliamentary system of government the question of proper parliamentary control over expenditure is an important one. The responsibility for conducting the financial affairs of the country primarily rests on the Government, but it is for the Parliament to see that the expenditure is strictly in accordance with financial canons and the expressed wishes of Parliament. The Annual Estimates cover the whole field of national government. They enter into minute details, and to comprehend them fully is a science in itself. That is the main reason why Parliament cannot make its influence felt unless proper machinery is devised by Parliament for the purpose. It is now the settled practice that the discussion on the Estimates in the Committee of Supply is of a general character and special subjects are chosen at the instance of the Opposition for discussion. These are very valuable opportunities for Parliament to express its opinions on general questions of policy and to criticise certain important matters. In these discussions, at the time of the voting of demands for grants hardly any attempt is made to examine in detail the estimates that are presented to Parliament. The truth of the matter is that for a detailed examination of the Estimates sufficient parliamentary time cannot obviously be made available (nor is a large body a proper instrument for examining detailed expenditure) and ordinary Members of Parliament do not possess expert knowledge of details of administration and

financial insight. The Members are no doubt furnished with a large number of books, charts and statistics, but an ordinary Member cannot find his way straight to the real points that arise in those Estimates. In the result Parliament exercises very little control over the details of the Estimates.

2. In view of these obvious difficulties Parliament has from time to time created various kinds of Committees which act as examining bodies for the House and report to it. These Committees have done some useful work, but have failed to establish the desired parliamentary control. Normally the House possesses two organs for the examination of expenditure—the Public Accounts Committee which examines the audited accounts, primarily to ensure regularity of appropriation and the Estimates Committee which examines current expenditure as presented in the estimates of the year. Of these the Public Accounts Committee has been more successful. It is a permanent body and its functions are prescribed by Standing Order. It works on the audited accounts and the reports of the Auditor-General who acts as its Adviser. It attempts to survey the whole of the appropriation accounts for the year under review.

3. In the House of Commons there is an Estimates Committee which has been regularly appointed by order of the House every session since 1912 with the exception of the years covered by the two great world wars. Its order of reference is to suggest the form in which the Estimates shall be presented for examination and to report what, if any, economies consistent with the policy in those Estimates may be effected therein.

4. It is obvious that the scope of the examination by the Estimates Committee is of a limited character inasmuch as it cannot examine questions of policy. It has

not the time even superficially to examine more than two or three Departments each year. It conducts its work without expert guidance. Proposals have been made from time to time to bring matters of policy within the purview of the Committee.

5. It is clear that unless the powers of the Committee are enlarged it cannot render a good account of its work. It was suggested to the Select Committee on Procedure appointed by the House of Commons that the two Committees, namely, the Public Accounts Committee and the Estimates Committee could with advantage be combined into a single Committee to be called the Public Expenditure Committee. On the face of it the difference in functions would appear to be an objection to this course; but, although in principle the functions of the two Committees are distinct, their subject matter is in fact the same. The Public Accounts Committee works on the appropriation accounts and the Estimates Committee works on the Estimates. But the sums which appear this year as estimates of expenditure will eventually become items in the corresponding appropriation accounts. The difference is one of time rather than of subject matter or method. The actual practice of the two Committees in the House of Commons bears out this view. The Public Accounts Committee, though it is formally charged only with the examination of expenditure appearing in the Appropriation Accounts, frequently carries its investigations beyond the year of account into the immediately past financial year and even into the current year. This practice, though not formally covered by the terms of reference of the Committee, is recognised by the House as legitimate. In his evidence before the Select Committee on Procedure the Comptroller and Auditor General was explicit on this point. "It is very often the fact,"

he said, "that the Public Accounts Committee is considering, in 1946, expenditure which was almost a token sum in 1944, and did not really commence effectively until 1945 or perhaps even until 1945 is some way advanced. This afternoon, for example, they will have the provision for the manufacture of temporary houses. I think there was a question of a few thousand pounds in 1944. The operation did not effectively begin until the following year." Similarly the Estimates Committee frequently carries its investigations into expenditure back into the last financial year and even into the year before that—the year of account which is the primary responsibility of the Public Accounts Committee. And indeed it is inevitable that both Committees should stray beyond the financial year with which they are primarily concerned. Criticism of expenditure would be almost impossible if it were strictly confined to the sums which happen to be brought to account or to appear in the Estimates of a single year. This is specially true of long-term schemes and projects involving expenditure over a period of years. Common sense requires, and the House has acknowledged the necessity that both Committees should carry their inquiries outside the financial year which the orders of the House refers to them.

6. The suggestion of a single Public Expenditure Committee was accepted by the Select Committee. The plan proposed is that this single Committee would divide itself into a number of Sub-Committees. Experience has shown that the field of public expenditure is too wide for anybody to cover without a division of labour. In war-time the National Expenditure Committee appointed by the House of Commons usually divided itself into a number of Sub-Committees and they presented useful reports.



7. One circumstance which vitally differentiates the House of Commons financial procedure from ours is the fact that it is not obligatory in the House of Commons procedure that grants should be voted before the 31st of March. That fundamental difference gives more time to the House of Commons to consider the estimates and the financial proposals of the Government than is available in India. In the House of Commons sums are provisionally voted before 31st March for the expenses of the Government for four or five months. That being done, the House proceeds leisurely in its examination of the estimates and financial proposals. The last date by which the estimates of the Government must be disposed of in the House of Commons is the 5th August so that the House gets the whole period from February till the beginning of August to discuss Government estimates and financial proposals in sessions that are convened during that period.

*(ii) Suggestions for Reform of Procedure in India.*

8. In India we have today a Public Accounts Committee and a Standing Finance Committee. The functions of the Public Accounts Committee are primarily to enforce financial regularity in the accounts, and are carefully defined in the Rules of Procedure. The Standing Finance Committee is not mentioned in the Rules of Procedure of the Central Legislature. Its constitution and functions are determined by the executive. The Committee consists of ten elected Members with a nominated Chairman. The functions of the Committee are (a) to scrutinise new proposals under votable expenditure in all Departments, (b) to sanction allotments out of lump sum grants, (c) to suggest retrenchments and economy in expenditure, and (d) generally to advise the Finance Department on such matters as may be referred to it.

The Standing Finance Committee has not impressed the Legislature and it is not properly equipped to probe into the accounts from all points of view and present a searching report to the Legislature. Proposals have been made from time to time for the formation of an Estimates Committee at the Centre, but no such Committee ever materialised. The Government not being responsible to the Legislature the motives in setting up such a Committee without sufficient powers were questioned.

9. It is apparent that there is need for an effective parliamentary control over expenditure, and this cannot be done until there is a properly constituted Committee of the House endowed with necessary powers to examine both the appropriation accounts and the Estimates and to be called the Public Expenditure Committee. The functions of the Committee of Public Accounts and the Estimates Committee would be better performed by this single Committee. The advantage of combining both functions in a single committee working through sub-committees is two-fold. First, the knowledge and experience gained by examination of the accounts would be brought to bear upon the examination of current expenditure and *vice versa*. Secondly a single committee with sub-committees provides a method for co-ordinating the whole work of the examination of expenditure for which neither overlapping membership nor any other method of liaison is a satisfactory substitute.

10. The proposed Public Expenditure Committee should in the real sense of the term be a Committee of the House; that is to say, it should have a non-official Chairman who presides over an elected body of Members and it should be for the Committee itself to regulate its procedure. It should be summoned, and discharged its duties from time to time as directed by the Chairman in

accordance with the wishes of the Members. As to the number of Sub-Committees needed and the division of the work these details would be better settled by the Committee itself in the light of its own experience. It may divide itself up into a number of sub-committees, say, Sub-Committee on Public Accounts,—that is, Sub-Committee concerned with matters which are at present disposed of by the Public Accounts Committee,—Sub-Committee on Civil Estimates, Sub-Committee on Defence Estimates and such other Sub-Committees as may be necessary from time to time. The strength of the Committee should be large so that talent of all kinds is represented on it. This Committee should be assisted by a Secretarial staff which should be drawn from the Assembly Secretariat so as to be independent of executive control. The Committee should also be able to obtain such other technical assistance that it may require. It should be empowered to call for evidence and papers in order to facilitate its work. In the beginning the Committee may not function effectively but in course of time as the procedure is set the Committee will no doubt produce useful reports. It is obvious that when the Committee begins to function properly the executive will also pay greater attention to their work and furnish necessary memoranda on which their deliberations can be properly conducted.

11. If the Parliament in India is to make its full contribution to the management of the finances of the country and the work of the proposed Public Expenditure Committee is to become real, there must be more time to discuss financial matters. It is, therefore, essential that the estimates should not be finally voted before the 31st March. The House of Commons practice of voting estimates on account should be adopted in India. This will result in the provisional voting of the estimates so

that Government will have money to go on with the administration. As soon as the estimates have been presented the Public Expenditure Committee of the House, will begin to function.

12. Finally, days should be fixed for the discussion of the reports of the Committee, both on the Accounts and the Estimates. In India the work of the Committee can, if properly organised, be conducted during summer months and the Estimates can then be finally passed in the autumn session.

#### B.—CONTROL OF TAXATION

##### (i) *House of Commons Procedure*

13. In the House of Commons the Chancellor of the Exchequer makes his Budget statement in the Committee of Ways and Means. His proposals are embodied in resolutions which are handed in at the Table of the House immediately after the conclusion of his Budget Statement. The Budget resolutions proposed by the Chancellor of the Exchequer are discussed in the Committee of Ways and Means. When the resolutions have been passed by the Committee and agreed to by the House they form the foundation of a Bill which goes through the same stages as other Bills and which when it becomes law is known as the Finance Act.

##### (ii) *Suggestions for Reform of Procedure in India.*

14. It is not necessary in India to adopt the system of resolutions which came into existence in the course of the struggle of the Parliament with the Crown over financial control. Certain changes can, however, be introduced in connection with the Finance Bill. During the last Budget session the Finance Bill was referred to a select

committee and it would be right to place this procedure on a firmer footing. The Finance Bill should normally be referred to one of the Standing Committees if that procedure is ultimately adopted. The Standing Committee will have in it men of experience so far as the industrial and financial spheres are concerned. It would have a non-official Chairman; its composition would be large and its personnel will be selected by the Selection Committee, partly at the beginning of the session and partly, if necessary, at the time that the reference to the committee is made. The procedure will be the same as in the House. In short, the Standing Committee is intended to be a microcosm of the House and in this atmosphere the proposals of Government will receive a full and detailed discussion from the Committee.

### C.—BELLS INVOLVING FINANCIAL CLAUSES

#### (i) *House of Commons Procedure.*

15. In the House of Commons almost every Bill is accompanied by what are called *ad hoc* financial resolutions. It is essential that these resolutions must be passed in the Committee of Ways and Means; otherwise the financial provisions of a Bill cannot be considered by the House at any stage.

16. The admissibility of amendments in Committee or Report stage of a Bill is governed by the terms of the relevant money resolution. Formerly when the House of Commons had not established its supremacy, the money resolutions were tightly drawn so that the executive did not make large inroads on the Public Exchequer. Now the picture is entirely changed. Since the Government is responsible to the Legislature the tendency is that

money should be spent on purposes approved by Parliament. It has, therefore, been felt in the House of Commons that money resolutions should be widely framed so that members of the House of Commons can give notice of amendments and improve the financial provisions of a Bill.

17. Whether a particular provision in a Bill requires a money resolution or not, is in view of the historical evolution of this matter in the House of Commons a complex question. The Parliamentary Counsel who is in charge of the drafting of the Bill has often to consult the Public Bill Office of the House of Commons as regards the necessity of money resolution in a particular case.

18. It does not appear to be necessary to introduce the House of Commons system of money resolutions in India. There are, however, certain other features of the House of Commons procedure which may be adopted in India with advantage.

19. In the House of Commons it is necessary to put in a financial memorandum to each Bill. The object of the financial memorandum is to invite particular attention to the clauses involving expenditure and also, where possible, to give an estimate of the total cost involved in case the measure is passed into law. It is further necessary to italicise the provisions of the Bill which involve a charge on the people or public revenues.

*(ii) Suggestions for Reform of Procedure in India.*

20. It is true that even if there was no such provision the financial aspects of a particular clause or clauses in a Bill can be discussed when the motion "That the clause do stand part of the Bill" is moved; but this procedure does not bring the financial aspects of the Bill into relief and does not concentrate the attention of the House on

the financial implications. There are Bills which set up Commissions, create appointments and deal with other matters involving expenditure and it is desirable that all these matters should be considered by the House specifically from the financial point of view. It is, therefore, suggested that following the House of Commons practice, a financial memorandum should be appended to the Statement of Objects and Reasons attached to a Bill. This financial memorandum should consider as a whole all the financial implications of the Bill and set out, as far as practicable, the financial cost of the Exchequer. The financial provisions in the Bill should be italicised or printed in thick type with a view to invite specific attention of the House.

## IV.—STANDING COMMITTEES ON BILLS

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### A.—HOUSE OF COMMONS PROCEDURE

Before any decision is taken to model the committee procedure in the Central Legislature on the lines of that prevalent in the House of Commons, it is essential to have a clear grasp of the principles on which the system in the House of Commons is based. The fundamental concept on which the Standing Committee system in the House of Commons is based is that the Standing Committee is a microcosm of the House. The rules have been framed with that end in view.

2. A number of Standing Committees are formed at the commencement of the session. Each Standing Committee has a permanent nucleus. The personnel is, therefore, composed partly of members nominated for the duration of the session and partly of specialist members added for particular Bills, but in both cases the representation strictly follows the party proportions in the House.

3. There is a Committee of Selection which is chosen from amongst the most experienced members of the House and it is this Committee which nominates members of Standing Committees. As a rule, each of the Standing Committees consists of not less than 30 and not more than 50 members.

4. The Chairmen's panel which consists of not less than ten members is nominated by the Speaker at the commencement of every session. From this panel to whom the Chairman of Ways and Means and the Deputy



Chairman are added as ex-officio members, the Speaker appoints the Chairman of each Standing Committee and may change the Chairman so appointed from time to time.

5. The procedure in Standing Committees has by convention become assimilated as far as possible to that of a committee of the whole House on a Bill.

6. Bills are distributed amongst Standing Committees by the Speaker. He may also transfer Bills from one Standing Committee to another. In all the Standing Committees but one, which is designated each session by the Committee of Selection, Government Bills have precedence over those of private members. Amendments to a Bill in Standing Committee may be given notice of in advance at the Table of the House or in Committee and are printed in a separate amendment paper and circulated. Any member, whether of the Committee or not, may give notice of an amendment, but, of course, only a member of the Committee may move it.

7. A clause creating a charge upon the people, or public revenue, known as 'money clause' cannot be considered by a Standing Committee until a resolution of a Committee of the whole House sanctioning the charge (known as a 'money resolution') has been agreed to by the House. Clauses or provisions in Bills creating such charges are printed in italics.

8. It is apparent from the above broad analysis of the Standing Committee procedure in the House of Commons that they truly represent the character and powers of the House. The Chairman is a non-official member of the House; the personnel of the Committee is large and a permanent nucleus is nominated at the commencement of the session. The members to the Committee are nominated by a carefully chosen Committee of Selection. It is the

duty of the Committee of Selection to maintain in each Standing Committee roughly the same balance of party strength as exists in the House. They have to provide for the due representation of different parts of the country, of rural and industrial areas, etc., and have also without unduly disturbing this balance to find place for specially qualified members. All Standing Committees of course meet within the precincts of the Houses of Parliament.

9. There are obvious advantages in this system over that of *ad hoc* Select Committees appointed for particular Bills, as is the current practice in the Central Legislature. Where *ad hoc* committees are appointed there is a natural temptation to pack the committees, as far as possible, with members who are generally in favour of the Bill and subject to the strength of the opposition parties the Minister and the Government Whip play a considerable part in it. This may not always ensure a fair and independent representation of members in the Committee. A small committee, if appointed, cannot obviously be as effective as a large one because one has always to take into account the absentee members. In a large committee even if some members are absent, a fair number of members would always be present.

10. In India, as a rule, a Minister presides over the Standing Committees. This is not so in the House of Commons as the Standing Committee being a replica of the House, it must be presided over by someone who corresponds to the Speaker of the House. The nomination is also made to a large extent at the commencement of the session irrespective of any particular Bill. This ensures the retention of an element in the House, regardless of the fact as to their views on particular measures. The appointment of a permanent nucleus in

advance has also this advantage that the composition is considered carefully and without any bias. The formation of *ad hoc* Select Committees in India suffers from a special disadvantage. Names are considered at the moment and experience has shown that constant changes are being made right up to the time when the Whip hands in the names at the Table. Cases have occurred where changes have been suggested after the motion has been proposed from the Chair. This haphazard procedure which depends upon considerations at the moment is obviously not conducive to the formation of a good committee.

#### B.—SUGGESTIONS FOR REFORM OF PROCEDURE IN INDIA.

11. On the whole, it seems preferable to adopt the salient points of the House of Commons procedure, namely:

- (i) In each session not more than a certain number, say, five, Standing Committees, may be appointed for the consideration of Bills;
- (ii) A Committee of Selection, consisting of say, 11 members, may be constituted at the commencement of every session: three to be the quorum of the Committee;
- (iii) It will be the function of the Committee of Selection to nominate the permanent nucleus of each Standing Committee at the commencement of the session. It will also be the duty of the Committee of Selection to nominate specialist members for particular Bills whenever they are referred to a Standing Committee;
- (iv) The strength of the Standing Committees should be large, say, not less than 25, the Speaker to

nominate a Chairman's Panel of not less than 10 members of whom the Deputy Speaker may be an ex-officio member. The Chairman of a Standing Committee will be appointed by the Speaker from this body. It will also be for the panel of Chairmen to settle points of procedure affecting the powers of Chairmen which are not covered by Standing Orders and report its resolution to the House from time to time;

- (v) The procedure in Standing Committees should, as far as possible, be the same as the procedure in regard to Bills when they are considered in the House. It will also be necessary to frame rules regarding quorum, powers of the Chairman, divisions, amendments, right of members who are not members of the Committee to be present during deliberations of the Standing Committee, times when the Standing Committee can meet and other incidental matters.

12. The Standing Committee procedure is now freely adopted in the House of Commons. At the present time in India the report of the Select Committee gives little or no guidance to the Speaker as to the discussions in the Committee. It is not known what amendments were tabled and discussed and what amendments were rejected or withdrawn. The voting of the Committee is also not available and it is not known what amendments were fully considered in the committee and not adopted and what was the strength of feeling behind those amendments. Incidentally it may be mentioned that in the House of Commons particular note is made as to the time occupied by each amendment as this gives some

indication of the attention that the committee devoted to particular amendments and the discussion raised on them. As the proceedings of the Committee are properly regulated as in the House, it is possible to take down a coherent record of the proceedings so that the House when the Bill comes up before it at a later stage has before it a full discussion and views of the members of the Committee on the various amendments. In India at the present time there is no such formal system with the result that the House gets little guidance and various matters are raised all over again. In the House of Commons the Speaker has the power to select amendments and in doing so he is guided by what happened in the Committee.

13. It is the normal practice that the Chairman of a Committee before coming to the Committee studies all the amendments which are marshalled in advance and circulated to members and he is advised by an official of the House of Commons and the draftsman, and, if necessary, he consults a representative of the Government on the merits of the case so far as they concern the admissibility of the amendments. He has also the power of selecting amendments. This formal procedure in relation to amendments results in the selection of substantial amendments which form the subject of discussion in committee.

14. For a detailed note relating to the seating in the Select Committee and other matters please see Annexure to this note.

## ANNEXURE

### *Detailed Note on Standing Committees of the House of Commons.*

The arrangement of seating in the Standing Committee is described below :

- (i) In the middle of the long table on a raised platform the Chairman of the Committee takes his seat. On the left of the Chairman sit the Senior Clerk and the Junior Clerk of the House of Commons. It is their function to advise the Chairman on points of procedure and to keep a record of the minutes and the Amendment Paper showing the decision of the Committee on each amendment. Next to these Clerks of the House of Commons there is a seat which is occupied by the Supervisor of Official Reports. His duties will be described later. On the right of the Chairman the first seat is occupied by the Draftsman who advises the Chairman on all points involved in connection with the drafting of amendments and how they fit into the Bill and any other general questions that may arise in connection with the amendments and other matters bearing upon the Bill. Next to the Draftsman sit a number of representatives of the Department which is concerned with the Bill whose opinion is readily available to the Chairman on any questions that may arise in connection with the Bill. Behind the long table a number of chairs are placed where officers belonging to the Department are admitted in order that they may be able to give any assistance that may be required of them in the way of papers and other matters. One of the chairs with a small table is occupied by a messenger.
- (ii) The benches in the room are arranged in the same manner as in the House of Commons, i.e., there is a row of benches occupied by the supporters of the Government and the opposite row of benches separated by a gangway which is occupied by the Opposition members. The representatives of the Press are also allotted a number of seats. A few seats are also provided for such members of the public

and others interested in the Bill who may like to attend the meetings of the Committee. A small table in the gangway is available for the Reporter whose duty it is to record the proceedings of the Committee verbatim. As the Reporters come by turns, it is obvious that no Reporter has a continuous hang of the entire proceedings which are eventually pieced together. It has therefore been considered necessary to have a Supervisor of Official Reports at the table who is present throughout the proceedings and is therefore in a position to detect and correct any mistakes that may have crept into the Reporters' copies. It is his business to supervise the report of the proceedings and check up all matters before they are finally sent to the Press.

2. The first meeting of the Committee is fixed by the Chairman and subsequent meetings are fixed by the Committee as they meet from time to time. The dates for the meetings of the various Committees are noted in a book placed in the Committee Office and it is the duty of one of the office clerks to examine that book and circulate the date to every member of the Committee.

3. The following documents are prepared in connection with the meetings of the Committees:

- (i) Minutes of what is done in the Committee.
- (ii) A record of the decision of the Committee on the amendments which is noted on the Amendment Paper.
- (iii) A verbatim report of the proceedings of the Committee which is printed and circulated to the members on the morning following the meeting of the Committee.

4. Notice of amendments as they are received from members are put in parliamentary form and circulated from time to time. If a meeting of the Committee is fixed for say Wednesday, the amendments are marshalled on Tuesday night so that they are available to the members on Wednesday morning.

5. There is a conference at which the Chairman of the Committee, the Draftsman and the Clerk of the Committee are present to consider whether amendments are in order. This is done every day before the Committee starts its work. Amendments which are out of order, amendments not covered by money resolutions, amendments outside the scope and trivial amendments are marked. It is in the power of the Chairman to select amendments and it is his discretion not to accept certain amendments. He exercises his discretion well and fairly.