

CHAPTER 5

PARLIAMENT AND STATE LEGISLATURES

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CHAPTER 5

PARLIAMENT AND STATE LEGISLATURES

¹ See also the Consultation Papers released by the Commission on “Immunity of Legislators: What do the words ‘in respect of anything said or any vote given by him’ in article 105(2) signify?” and “Efficacy of Public Audit System in India: C&AG” in Volume II (Book 1). Also see the background papers on “Working of Parliament and Need for Reforms” and “Fiscal and Monetary Policies” in Volume II (Book 3).

Need for Review

5.1 Parliament is the pivotal institution of our representative parliamentary democratic polity. Its role in navigating India's voyage in the post-independence period of momentous developments stands in comparison with the best of legislatures anywhere in the world. We can take legitimate pride and comfort from the impressive record of the uninterrupted continuity of our parliamentary institutions for over half a century. However, like all living institutions, Parliament needs to keep under constant review its structural-functional requirements as also the entire gamut of its operational procedures. Also, it has to be remembered that in parliamentary democracy just as Government is responsible to Parliament, Parliament is also responsible to the people who are the supreme sovereign.

Cause for Concern

5.2 If there is a sense of unease with the way the Parliament and the State legislatures are functioning, it may be due to a decline in recent years in both the quantity and quality of work done by them. Over the years the number of days on which the houses sit to transact legislative and other business has come down very significantly. Even the relatively fewer days on which the houses meet are often marked by unseemly incidents, including use of force to intimidate opponents, shouting and shutting out of debate and discussion resulting in frequent adjournments. There is increasing concern about the decline of Parliament, falling standards of debate, erosion of the moral authority and prestige of the supreme tribune of the people. Corrective steps are urgently needed to strengthen Parliament's role as the authentic voice of the people as they struggle and suffer to realise the inspiring vision of a free and just society enshrined in the Constitution. Also, it is of the utmost importance for survival of democracy that Parliament continues to occupy a position of the highest esteem in the minds and hearts of the people.

Aim and objective

5.3 The most important function of the Parliament and the State legislatures is to represent the people. It is, however, important to remember that in parliamentary polity the legislature has also to provide from within itself a representative, responsible and responsive government to the people. One way to judge whether the system is working well or not is to see whether it has brought into being governments that last their terms and succeed in providing good governance to the community. The overriding objective has to be to make both government and parliament relevant to meet today's challenges which bear little comparison to those faced by our society in the middle decades of the twentieth century. The fundamental challenges are economic and technological. Parliament has a decisive role in refashioning the national economy, keeping in the forefront the ideals of a self-reliant economy that serves the real needs and aspirations of our vast masses. Parliament can play this historic role only if it consciously reforms its procedures and prioritizes its work.

Instability and Defections

5.4 At the State level since the late sixties and in recent years at the Union level also, we have been faced with the phenomena of governmental instability resulting from hung houses and/or unprincipled defections by legislators. For governments all the time preoccupied with the struggle for their survival, it is unfair to expect good governance in the interests of the people. The anti-defection law in the Tenth Schedule of the Constitution sought to bring about some stability by providing for disqualification of defectors but it failed to solve any problem. Whereas individual defection was penalised, group defection was not. Indeed splits and mergers, defections by other names, were not only not frowned upon, but were encouraged by the lure of ministerial offices to political adventurers and entrepreneurs resourceful enough and adventurous

enough to organise group crossovers. The Commission has dealt with this issue in an earlier chapter (Chapter 4) and made a recommendation to ban all defections

2 whether as individuals or in groups.

Hung Houses

5.5 Since 1989, there have been five general elections for Lok Sabha. In all these elections, no single party emerged with a majority of seats in the House. This has aroused considerable concern about political stability, especially in the context of the needs of national development efforts and the far-reaching changes in international economic and security paradigms. The Commission has analysed this issue also in an earlier chapter (Chapter 4) and made its recommendations

3 for amending the relevant Rules of Procedure to provide for the election of the Leader of the House (Prime Minister) by the Lok Sabha and for the removal of the Council of Ministers only on a constructive vote of no-confidence.

Strengthening the Committee System

5.6.1 The initiative first taken in 1989 culminated in 1993 in seventeen Departmental Standing Committees of Parliament. It was a path-breaking innovation that provided the Parliament with the wherewithal to handle complex economic and social issues with growing levels of competence and sophistication. It is in these committees that the demands for grants of the ministries and departments can be examined in depth in an atmosphere of objectivity and freedom from partisan passions. It is here that the legislative proposals of the government can be scrutinised to ensure their consistency with policy objectives and aims and long-term perspectives assessed for their suitability to serve the societal goals. But, more energy and effort would have to go into the task of making these Committees work. Given the enormous importance of these Committees for the effective functioning of the Parliament, it is obvious that

2 See para 4.18 supra.

3 See paras 4.20.7 and 4.33.3 supra

a conscious, coordinated and sustained reform of the committee system is the only way of making Parliament a relevant factor in the democratic set up of the future.

5.6.2 The Departmental Committee system as it is functioning today has many shortcomings. The Committees have too many members - each has 45. There is large scale absenteeism; in 1997-98, for example, average attendance was reported to have been less than 50 percent. Most committees oversee more than one ministry, thus preventing more focussed work. Most political parties do not follow any norms while nominating members to these committees. They are also handicapped by lack of specialist advisers. Every committee has tenure of one year. This means members have no opportunity of specialising in a particular subject or group of subjects unless they can persuade their whips to let them continue to serve on a particular committee. This adhocism tells on the quality of work done by the committees whose reports suffer from absence of critical analysis of the work of the ministries under their supervision. Parliamentary oversight, essential for enforcing accountability of the executive, is worse than useless if it degenerates into a meaningless routine. Then it is only adding to the cost of parliament without any benefit to the people. [For a Background Paper on the subject of 'Parliamentary Reforms' including suggestions regarding these committees, see Vol.2].

5.6.3 The Commission recommends that presiding officers, the minister for parliamentary affairs, and the chief whips of parties should periodically meet to review the work of the departmental parliamentary committees and take remedial action. It should be entirely possible for the Parliament to sanction budgets to secure the services of specialist advisors to assist these committees in conducting their inquiries, holding public hearings, collecting data about legislation and administrative details pertaining to countries which have relevance to our conditions.

Nodal Standing Committee on Economy

5.7 In view of the fact that economic policy is the most important topic for the future of our society, it is a major gap in our institutional set up that we do not have a powerful and prestigious committee of parliament to oversee major macroeconomic issues of fiscal, monetary, financial, industrial and trade policies in an integrated manner. Government's handling of critical macroeconomic issues escapes a thorough and well-informed analysis by the Parliament which does not have the benefit of airing of different points of view and perspectives in the context of the data made available by government. The parliament has only the mainstream government view to go by. It has no opportunity to question the major actors on the official scene like the Governor of the Reserve Bank of India or the Chief Economic Adviser to the Government on the major trends in the economy. Due to this lacuna, parliamentary interventions are confined to invocations of the themes of inflation and the like. Most of the members are satisfied by raising issues pertaining to their constituency or at most to their region in their State. This gap needs to be filled.

The Commission recommends that immediate steps be taken to set up a Nodal Standing Committee on National Economy with adequate resources in terms of both in house and advisory expertise, data gathering and computing and research facilities for an ongoing analysis of the national economy for assisting the members of the Committee to report on a periodic basis to the full House. These reports would gradually come to claim the same degree of respect and attention that now attaches to the Economic Survey published annually by the Department of Economic Affairs and would constitute a valuable reference point for analysts, commentators, researchers, political activists and social workers throughout the country. Since it would be a parliamentary publication, its findings and observations need not be identical with those of the Economic Survey. It would help both government and parliament in orchestrating opinion on important policy issues for

building a national consensus, especially in areas where vital national interests have to be forcefully articulated in international fora like the WTO, the IMF and the G-15 or the G-77.

The Constitution Committee

5.8.1 While executive power of the Union is coextensive with its legislative power, the constituent power under the Constitution belongs exclusively to Parliament. The responsibility of Parliament therefore becomes much greater in the case of Constitution (Amendment) Bills. At present all Constitution (Amendment) Bills are introduced in Parliament like ordinary pieces of legislation, often at short notice. Sometimes an important amendment bill may be rushed through the two Houses of Parliament without even a cursory discussion. This does not speak well of the way parliament is exercising its constituent power.

5.8.2 In view of the importance to be attached to the fundamental law of the country, it stands to reason that the process of amending the Constitution should begin with the Parliament. **The Parliament should be associated with the initial stage itself in the matter of formulating proposals for constitutional amendment. The actual drafting should be taken up only after the principles underlying the amendment have been thoroughly considered in a parliamentary forum and subjected to a *priori* scrutiny by the constituent power.** The proposed involvement of Parliament and a *priori* scrutiny can be achieved through the device of a Standing Constitution Committee. This process will enhance the legitimacy and acceptability of constitutional change. As an alternative, after a Constitutional Amendment Bill has been formulated but before it has been introduced, it may be subject to a *priori* scrutiny of the Constitution Committee.

5.8.3 The Committee is important from another angle as well. Many laws are struck down as being *ultra vires* the Constitution. It can examine legislation from the point of view of constitutional validity. Furthermore, scrutiny by a parliamentary committee will ensure that legislation purporting to be in furtherance of the Directive Principles does, in fact, have a reasonable nexus with the objectives in view and does not curtail the fundamental rights beyond what is reasonable. **The Commission recommends the setting up of a Standing Constitution Committee of the two Houses of Parliament for a *priori* scrutiny of amendment proposals.**

Rationalising the Parliamentary Committees

5.9.1 **With the proposed establishment of three new Committees, namely, the Constitution Committee, the Committee on National Economy and the Committee on Legislation, it may not be necessary to continue the existing Committees on Estimates, Public Undertakings and Subordinate Legislation.** The topics covered by them could be covered either by the Departmental Standing Committees or by the three proposed Committees. This would rationalise the Parliamentary Committee structure. The development of an integrated system of committees would reduce the pressures on floor time and strengthen parliamentary surveillance over the functioning of the executive and contribute to overall efficiency of public administration.

5.9.2 **The Petitions Committee of Parliament has tremendous potential as a supplement to the proposed Lok Pal institution. It should be made more widely known and used for ventilation, investigation and redressal of people's grievances against the administration.**

5.9.3 The Commission also recommends that major reports of all Parliamentary Committees ought to be discussed by the Houses of Parliament especially where there is disagreement between a Parliamentary Committee and the Government.

Planning of Legislation and Improving its Quality

5.10.1 Our legislative enactments betray clear marks of hasty drafting and absence of parliamentary scrutiny from the point of view of both the implementers and the affected persons and groups. It is as true of the taxation Bills whose intent and exact implications are sometimes not clear even to those who pilot the legislation, as it is of other categories of laws. The bills are often rushed through Parliament with unbelievable speed and then found wanting in one respect or another. **A more systematic approach to the planning of legislation is needed to provide adequate time for consideration in committees and on the floor of the house as also to subject the drafts to thorough and rigorous examination by experts and laymen alike. It is important to ensure that all major social and economic legislation should be circulated for public discussion by professional bodies, business organisations, trade unions, academics and other interested persons.**

5.10.2 **The Commission recommends (a) streamlining the functions of the Parliamentary and Legal Affairs Committee of the Cabinet; (b) making more focussed use of the Law Commission; (c) setting up of a new Legislation Committee of Parliament to oversee and coordinate legislative planning; and (d) referring all Bills to the Departmental [Related Parliamentary](#) Standing Committees for consideration and scrutiny after public opinion has been elicited and all comments, suggestions and memoranda are in. The Committees may schedule public hearings, if necessary, and finalise with the help of experts the second reading stage in the relaxed Committee atmosphere. The time of the House will be saved thereby without impinging on any of its rights. The quality of drafting**

and the content of legislation will necessarily be improved as a result of following these steps.

5.10.3 The Commission had issued a consultation paper on Treaty Making Powers for eliciting public opinion. After examining the responses and full deliberations, the Commission decided to drop the proposals contained in the consultation paper. However, **the Commission recommends that the Parliament may consider enacting suitable legislation to control and regulate the treaty-power of the Union Government whenever appropriate and necessary after consulting the State Governments and Legislatures under article 253 “for giving effect to international agreements”.**

Image of the Parliament

5.11.1 **The Parliamentarians have to be like Caesar's wife, above suspicion. They must voluntarily place themselves open to public scrutiny through a parliamentary ombudsman. Supplemented by a code of ethics which has been under discussion for a long time, it would place Parliament on the high pedestal of people's affection and regard.**

5.11.2 **Mass media should be encouraged to accurately reflect the reality of Parliament's working and the functioning of Parliamentarians in the Houses.** Televising all important debates nationwide in addition to the Question Hours, publication of monographs, handouts, radio, TV, press interviews, use of audio-visual techniques, especially to arouse curiosity and interest of the younger generation, and **regular briefing of the press will go a long way in making people better acquainted with**

the important national work that is being done inside the historic parliament building.

5.11.3 A matter affecting the image of our legislators concerns the salaries, allowances and perks that from time to time they vote for themselves. There may be different views on whether our legislators are under-paid or cost too much. **It is a legitimate public expectation that membership should not be converted into an office of lucrative gain but remain an office of service. The Commission feels that the question of salaries, allowances, perks and pensions of law makers should be looked into on a rational basis and healthy conventions built.**

5.11.4 To ensure that the Parliament and the State Legislatures assemble and transact business for not less than a minimum number of days, **the Commission recommends that the Houses of State Legislatures with less than 70 members should meet for at least 50 days in a year and other Houses for at least 90 days while the minimum number of days for sittings of Rajya Sabha and Lok Sabha should be fixed at 100 and 120 days respectively.**

5.11.5 Recently a parliamentary legislation was initiated seeking to do away with the domiciliary qualification for being chosen as a representative of any State or Union Territory in the Council of States.

The Commission is of the view that the basic federal character of the Council of States (Rajya Sabha) will be affected by this move.

The Commission, therefore, recommends that in order to maintain basic federal character of the Rajya Sabha, the domiciliary requirement for eligibility to contest elections to Rajya Sabha from the concerned State is essential.

Orientation Programmes for New Members

5.12 Better and more institutionalized arrangements are necessary to provide the much needed professional orientation to newly elected members. The curriculum should include, among other things, adequate knowledge of the political system, the Constitution, the rules of procedure and conduct of business, practices and precedents, mechanisms and modalities of working of the Houses and the Parliamentary Committees, the rules of parliamentary etiquette, and, what is even more important, the unwritten rules of parliamentary conduct and speech. **The emphasis should be on imparting practical knowledge on how to be an effective member.**

Parliamentary Control through PAC

5.13. At the national and State levels the Public Accounts Committees are the keystone of the arch of parliamentary control of public finances. If the PACs do not function well, financial discipline and accountability will suffer. At present, only a miniscule fraction of the reports submitted to these committees are considered and reported on. It is imperative to evolve a system whereby the PACs consider all reports submitted to them and report to the legislature within a time limit of 12 to 18 months. If necessary, the burden can be shared with the departmental standing committees of the legislature so that the time frame may be observed. For this to happen the number of reports has to be reduced and their content and quality have to be considerably improved. They have to concentrate on substantive issues of critical importance to the

financial administration of the country. **The Commission recommends that the findings and recommendations of the PACs be accorded greater weight. A convention should be developed with the cooperation of all major parties represented in the legislature to treat the PACs as the conscience-keepers of the nation in financial matters.**

Parliamentary Control over Borrowing

5.14 Article 292 provides that Parliament may set limits from time to time on the extent of governmental borrowing and guarantees that the Union may resort to on the security of the Consolidated Fund of India. There is a corresponding provision in article 293 relating to States. The Fiscal Responsibility Bill (FRB) currently before the Parliament deals with the set of issues that have posed a threat to financial stability in India. It is a major step in recognizing the gravity of the situation and initiating action to restore the norms of fiscal prudence that had characterized India's policy since Independence. **The Commission endorses the approach contained in the Fiscal Responsibility Bill and would request the Parliament to enact it as expeditiously as possible. It seems to the Commission that it may not be necessary to provide for express authority to Parliament to legislate the purposes for which borrowings should be made inasmuch as the FRB does not go beyond the ambit of article 292. The Commission would request the State Assemblies to enact similar legislation as provided in article 293 to put their respective fiscal houses in order. The Commission does not favour any further amendment of article 293(3) with a view to curbing lapses that may have been noticed in regard to borrowings at the State level.**

Parliamentary Privileges

5.15.1 Article 105 of the Constitution defines the powers, privileges and immunities of the Houses of Parliament and of the members and committees of the two Houses. The more important of the privileges, namely, freedom of speech in Parliament and immunity of members from any proceedings in any court of law in respect of anything said or any vote given by them in Parliament, are specified in this article. In other respects, powers and privileges of each House, its Committees and its members are, in effect, identical to the powers and privileges enjoyed by the British House of Commons as on 26 January 1950.

5.15.2 The basic law is that all citizens including members of Parliament are equal before the law. The members of Parliament have the same rights and privileges as ordinary citizens except when they perform their duties in Parliament. The privileges do not exempt the members from their normal obligations to society.

5.15.3 The founding fathers envisaged codification of parliamentary privileges by Parliament by law. But so far no law has been made and these privileges remain undefined. It is a somewhat curious situation that even after more than 50 years after the commencement of the Constitution we are unable to lay down precisely by law when a Member of Parliament is not subject to the same legal obligations as any ordinary citizen is. The only idea behind parliamentary privileges is that members who represent the people are not in any way obstructed in the discharge of their parliamentary duties and are able to express their views freely and fearlessly inside the Houses and Committees of Parliament without incurring any legal action on that account. Privileges of Members are intended to facilitate them in doing their work to advance the interests of the people. They are not meant to be privileges against the people or against the freedom of the press. **The Commission recommends that the time has come to define and delimit privileges deemed to be necessary for the free and independent functioning of Parliament. It should not be necessary to run to the 1950 position in the House of Commons every time a question arises**

as to what kind of legal protection or immunity a Member has in relation to his or her work in the House.

5.15.4 The law of immunity of members under the parliamentary privilege law was tested in *PV Narsimha Rao Vs. State (CBI/SPE)*, (AIR 1998 SC 2120). The substance of the charge was that certain members of Parliament had conspired to bribe certain other members to vote against a no-confidence motion in Parliament. By a majority decision the Court arrived at the conclusion that while bribe-givers, who were members of Parliament, could not claim immunity under article 105, the bribe-takers, also members of Parliament, could claim such immunity if they had actually spoken or voted in the House in the manner indicated by the bribe-givers. It is obvious that this interpretation of the immunity of members of Parliament runs counter to all notions of justice, fair play and good conduct expected from members of Parliament. Freedom of speech inside the House cannot be used by them to solicit or to accept bribes, which is an offence under the criminal law of the country. The decision of the court in the aforesaid case makes it necessary to clarify the true intent of the Constitution. To maintain the dignity, honour and respect of Parliament and its members, it is essential to put it beyond doubt that the protection against legal action under article 105 does not extend to corrupt acts.

5.15.5 A second issue that was raised in this case concerned the authority competent to sanction prosecution against a member in respect of an offence involving acceptance of a consideration for speaking or voting in a particular manner or for not voting in either House of Parliament. A Member of Parliament is not appointed by any authority. He is elected by his or her constituency or by the State Assembly and takes his or her seat on taking the oath prescribed by the Constitution. While functioning as a Member he or she is subject to the disciplinary control of the presiding officer in respect of functions within the Parliament or in its Committees. It would, therefore, stand to reason that

sanction for prosecution should be given by the Speaker or the Chairman, as the case may be.

5.15.6 The Commission recommends that article 105(2) may be amended to clarify that the immunity enjoyed by Members of Parliament under parliamentary privileges does not cover corrupt acts committed by them in connection with their duties in the House or otherwise. Corrupt acts would include accepting money or any other valuable consideration to speak and/or vote in a particular manner. For such acts they would be liable for action under the ordinary law of the land. It may be further provided that no court will take cognisance of any offence arising out of a Member's action in the House without prior sanction of the Speaker or the Chairman, as the case may be. [Article 194\(2\) may also be similarly amended in relation to the Members of State Legislatures.](#)

Comptroller and Auditor General (C&AG)

5.16.1 Public audit is a powerful instrument of good governance. It ensures parliamentary control over expenditures voted by the legislature and renders public authorities accountable for the public moneys raised and spent by them to implement policies and programmes approved by the legislature. Accountability and transparency, the two cardinal principles of good governance in a democratic set-up, depend for their observance, to a large extent, on how well the public audit function is discharged. It is for this reason that the C&AG has been given special status by the Constitution in articles 148 to 152. It is his responsibility to ensure that money is spent and revenue raised not only in accordance with the law, but also with due regard to economy, efficiency and effectiveness. The C&AG is the constitutional authority entrusted with the high responsibility of maintaining probity in the use of public funds.

5.16.2 A view has been expressed that there is excessive centralisation of authority in the existing organisation of the C&AG and that it should be addressed by constituting an Audit Board, comprising of the Comptroller and Auditor-General of India as the Chairperson and such number of members as the President may determine from time to time to facilitate a territorial and/or functional distribution of functions and powers with a view to enhancing the efficiency and effectiveness of the office of the C&AG. **The Commission recommends the constitution of an Audit Board for better discharge of the vital function of public audit, but the number of members to be appointed, the manner of their appointment and removal and other related matters should be dealt with by appropriate legislation, keeping in view the need for ensuring independent functioning of the Board.**

5.16.3 A fairly persuasive school of thought has argued that to uphold transparency and integrity in public life, the appointment of the C&AG should not be the exclusive preserve of the executive but a committee consisting of the Prime Minister, the Union Finance Minister, the Speaker of the Lok Sabha, the Leader of the Opposition and the Chairman of the Public Accounts Committee should be empowered to make the appointment. It is, however, felt that in our situation it would be counter-productive to undermine the constitutional and moral authority of the Prime Minister by stipulating a mechanism that would supplant his decision-making. **The Commission is of the view that no change is needed in the existing provisions of the Constitution insofar as appointment of the C&AG and other related matters are concerned. The Commission would, however, recommend that a healthy convention be developed to consult the Speaker of the Lok Sabha, before the Government decides on the appointment of the C&AG so that the views of the P.A.C. are also taken into account.**

5.16.4 The considerations that apply at the central level in regard to the functioning of the office of C&AG apply with equal force at the State level. A vast country like ours can ill afford to neglect the legislative oversight of State finances, which in turn requires appropriate legal recognition of the important role of the Accountants General (AGs) to enable them to perform their duties as the friends, guides and philosophers of the State Public Accounts Committees. **The State AGs need to be given greater authority by the C&AG, while maintaining its general superintendence, direction and control to bring about a broad uniformity of approach in the sphere of financial discipline. By the same token, the C&AG should evolve accounting policies and standards and norms for all bodies and entities that receive public funds, such as autonomous bodies and the Panchayat Raj institutions.**

5.16.5 In regard to proposals mooted to confer quasi-judicial powers on audit officers to summon witnesses, to record evidence on oath and to ask delinquent officials to make good the loss sustained by public organizations, authorities or institutions, the Commission feels that the infirmities and deficiencies of the present system in obtaining precise and accurate information in regard to questions and issues formulated by the audit organizations, and subsequent lack of disciplinary action in respect of officials shown to have caused loss of public money, is not so much on account of lack of legal powers of the audit agencies as due to a general atrophy of administrative organisations. Merely providing more legal powers for the present audit functionaries will not restore administrative vitality and vigour needed for prudent and effective implementation of policies in the public realm. This is an issue that is better addressed by administrative reform than by accumulation of legal powers in the hands of authorities that have not used their already existing powers as well as they should have.

Accountability of the C&AG

5.17 The operations of the office of the C&AG itself should be subject to scrutiny by an independent body. **To fulfil the canons of accountability, the Commission recommends that a system of external audit of C&AG's organization be adopted for both the Union and the State level organizations.**

C&AG and Economic Reforms

5.18 It is necessary to consider what changes are needed in the policies and procedures governing public audit in the light of far-reaching changes that have taken place in the economic policy environment in our country. The growing role of market economy, liberalization of price and exchange controls, beginnings of diversified ownership patterns in entities formerly owned by the State, privatization of State-owned entities, entry of the private sector in areas formerly reserved for State monopolies and the appointment of regulators with authority to lay down tariffs in such areas as power and telecom, operations of public sector undertakings in a competitive environment, demand a new approach. The Commission, however, makes no recommendation in this regard and would only like to draw the attention of the policy makers to it.

M.P. LAD Scheme

5.19.1 The M.P. LAD Scheme places two crores of rupees each year at the disposal of every member of Parliament to be spent on what is called Local Area Development (LAD) at his/her discretion. Similar schemes have been started for state level legislators also. The amount involved is believed to be about three thousand crores of rupees each year. Adverse remarks about the misutilization or non-utilization of these funds have been made in the reports of the C&AG. Insofar as these schemes involve the legislators in exercise of executive powers, they militate against the demarcation of

responsibilities between the legislature and the executive. Also, almost all the items on which the funds under the MP LAD Scheme are to be spent are in the State List and, in fact, many are in the Eleventh and the Twelfth Schedules. The role of a Member of Parliament must undergo some change as a result of Panchayat Raj institutions taking charge of some local matters. The MP LAD Scheme is inconsistent with the spirit of federalism and distribution of powers between the Union and the States. It also treads into the areas of local government institutions.

5.19.2 The Commission recommends immediate discontinuance of the MP LAD Scheme as being inconsistent with the spirit of the Constitution in many ways.

Secretariats of Parliament

5.20.1 No law has so far been passed under article 98(2) to regulate the recruitment and the conditions of service of persons appointed to the secretarial staff of either House of Parliament. The Constitution provides for such a law being passed and it would be desirable to do so. **The Commission recommends that legislation envisaged in article 98(2) be undertaken to reorganise the Secretariats as independent and impartial instruments of Parliament, with special emphasis on upgrading professional competence.** Parliament does not need a big staff. It needs a small staff of high calibre. If this matter is not taken in hand now, chances are that the professional quality of staff recruited to serve Parliament will suffer. Moreover, their independence and impartiality may on occasions be questioned.

Other Procedural Reforms

5.21.1 Some of the archaic practices and time-consuming procedures may not be suitable to present day needs of parliamentary institutions. A number of small but effective reforms can be carried out to make the functioning of Parliament more efficient and economical. These are not spectacular things that catch headlines, but solid, modest steps that build up to an efficient use of time and to a bigger focus on substantive discussions on policy and legislation. They have to do with reorganisation of parliamentary time table, the question hour, the 'Zero Hour', adjournment motions, absenteeism etc.

5.21.2 It would be useful to reform the budgetary procedure for streamlining the work of Parliament.

5.21.3 The number of days on which voting is considered essential should be reduced to the barest minimum and the time for such voting in a given session be fixed in advance with appropriate whips requiring full attendance of members.

5.21.4 Also, to ensure better scrutiny of administration and accountability to Parliament, parliamentary time in the two houses may be suitably divided between the government and the opposition.

5.21.5 As a general guideline, members have to ensure that the houses of Parliament are allowed to run and conduct their business with dignity and decorum in order to most vigorously exercise vigilance, surveillance and control over the government. Anything that makes the houses dysfunctional is a disservice to the basic values of parliamentary polity. At the same time it has to be realised and accepted by all concerned that the purpose of rules of procedure etc. is to enable and facilitate members to freely and fearlessly express themselves on the floor of the house. It is not to prevent them from

having their say. **The best way to deal with issues of procedural reforms in a professional (and not political) manner is to have them studied by a Study Group outside Parliament as was done in U.K. The conclusions and suggestions of the Group can be considered by the Rules Committees of the houses of Parliament. The Commission recommends the setting up of a study Group of Parliament outside Parliament.**

5.22 **Conclusion:** Our parliamentary institutions have much to be proud of. They have come through periods of exceptional stress and strain with positive achievements. One of the most important gains of the working of the Constitution during the last half-a-century and more has been that the habit of parliamentary institutions and democracy have struck deep roots in our country and society. Parliament has played the role of a great unifier amid all the diversities. The Parliament is the guardian of our great traditions of national unity, democracy and secularism. The Commission cognisant of this vital truth has ventured to suggest only for the consideration of Parliament a few areas of action to strengthen its hands for the challenging tasks that lie ahead.
