

(d) whether there is a work-charged establishment at any major port?

THE MINISTER FOR RAILWAYS AND TRANSPORT (SHRI LAL BAHADUR) : (a) Yes.

(b) Government have decided that 80 per cent. of the 582 posts treated until recently as work-charged establishment but which are actually required for the normal operation of the port of Cochin should be made permanent and treated as regular establishment. The staff recruited and employed for the execution of specific works will, however, continue to be borne on the work-charged establishment.

(c) With this decision the staff have become entitled to the privileges of leave, travelling allowance, medical attendance etc. applicable to permanent Government servants. It is regretted that the exact financial implication cannot be estimated with any accuracy, as it depends on several uncertain factors.

(d) Yes ; all major ports have got work-charged establishments.

8.30 a.m.

JOINT COMMITTEE ON THE
PREVENTIVE DETENTION
(SECOND AMENDMENT)
BILL, 1952

MR. CHAIRMAN : We will proceed to the next item. The Minister for Home Affairs.

THE LEADER OF THE COUNCIL (SHRI N. GOPALASWAMI) : Sir, with your permission I would like to move the motion which stands in the name of the hon. the Home Minister. The position is, Sir, that I propose to move this motion in a somewhat amended form. The motion as amended will read :

That this Council concurs in the recommendation of the House of the People that the Council do join in the Joint Committee of the Houses on the Bill further to amend the

Preventive Detention Act, 1950, and resolves that the following Members of the Council of States be nominated to serve on the said Joint Committee :

- (1) Diwan Chaman Lall.
- (2) Pandit Sitacharan Dube.
- (3) Shri R. C. Gupta.
- (4) Shri Bhalchandra Maheshwar Gupte.
- (5) Shri K. S. Hegde.
- (6) Shri Jai Sukh Lal Hathi.
- (7) Pandit Hriday Nath Kunzru.
- (8) Shri P. S. Rajagopal Naidu.
- (9) Shri K. P. Madhavan Nar.
- (10) Acharya Narendra Deva.
- (11) Shri Osman Sobhani.
- (12) Shri P. Sundarayya.

Sir, very little is required of me by way of explaining the object of this motion. Yesterday the House of the People passed unanimously the motion for the appointment of a Joint Select Committee consisting of Members of both Houses for the purpose of examining the Bill further to amend the Preventive Detention Act of 1950. They appointed Members of the House of the People to that Select Committee and they sent a request to this House to send twelve representatives of this House to participate in the work of that Joint Select Committee. The operative part of the motion that was passed in the House of the People, so far as we are concerned, is :

"That this House recommends to the Council that the Council do join in the said Joint Committee and communicate to this House the names of Members to be appointed by the Council to the Joint Committee."

Now this Joint Committee has got to sit at once and to make a report by the 29th of this month. That explains the expedition with which the passing of that motion was communicated to this House and as it was considered to be merely a formal matter it was expected that this House would communicate its concurrence at once. We have lost a day already and I suggest, Sir, that the participation of this House in the deliberations of a Committee which has to sit on so important a Bill is very desirable and I commend to this House this particular motion.

MR. CHAIRMAN : Motion moved:

This Council concurs in the recommendation of the House of the People that the Council do join in the Joint Committee of the Houses on the Bill further to amend the Preventive Detention Act, 1950, and resolves that the following Members of the Council of States be nominated to serve on the said Joint Committee:

- (1) Diwan Chaman Lall.
- (2) Pandit Sitacharan Dube.
- (3) Shri R. C. Gupta.
- (4) Shri Bhalchandra Maheshwar Gupte.
- (5) Shri K. S. Hegde.
- (6) Shri Jai Sukh Lal Hathi.
- (7) Pandit Hriday Nath Kunzru.
- (8) Shri P. S. Rajagopal Naidu.
- (9) Shri K. P. Madhavan Nair.
- (10) Acharya Narendra Deva.
- (11) Shri Osman Sobhani.
- (12) Shri P. Sundarayya.

SHRI B. C. GHOSE (West Bengal) : Sir, I have something to say on this motion. I do not object to the purpose of the motion and I agree with what the Leader of the House has stated that it is desirable that in important matters we should be associated in Joint Committees with members of the other House, but there are certain procedural matters which I should like to raise because there are certain things which have a bearing upon the rights and privileges and the dignity of this House.

The first thing is about the way in which these Joint Committees should be appointed. As you know, Sir, we have no precedent and we therefore usually follow the practice which obtains in England although I am ready to admit that it does not stand to reason that we must accept everything that is followed there, but if any practice followed there has reason behind it, then we should also accept that. The first thing that I find is that whenever a Joint Committee is desired in England, the procedure is for either House to send a communication to that effect to the other House and when the communication has been sent and it has been agreed to by the other House, then it is that members are appointed and another communication is sent

to the other House to appoint members to that Joint Committee. If I may read, Sir, from May's Parliamentary Practice, 14th edition, on page 625 it says :

"If either House considers it expedient that a Joint Committee should be appointed, it passes a resolution to that effect and sends a message to the other House to inform it of the resolution and to desire its concurrence. If the other House concurs in the resolution, it sends a message to that effect to the first House, who then appoints a Committee of a certain number of members and sends a message to the other House informing it that it has done so and requesting the other House to appoint an equal number of its members to join with the Committee appointed by the first House. The other House complies with this request and sends a report to the first House to inform it that it has done so."

That practice we have not followed in this matter. Even though we may not be able to follow that practice in this instance, I am suggesting it for future guidance so that we might know as to how we should proceed in such matters.

The second thing is about the members to be appointed to a Joint Committee. It is an extraordinary procedure for the House of the People to say that a Joint Committee should consist of 42 members and to ask us to send in 12 members. It appears that the House of the People is arrogating to itself powers which belong to us, and as this is a question of our rights and privileges, I should like you, Sir, to be very strong in this matter. The procedure should have been for them to ask us to send in a certain number of members and it is not for them to dictate as to what that number should be. Now, the procedure in the British Parliament is that the number of members is equal for both the Houses. Now, Sir, we may or may not accept that procedure because I feel that probably the other House thinks that as their number is larger, they must have a larger representation. I hear that their viewpoint is that the representation of the two Houses should be proportionate to the numbers of either House. Of course, we may or we may not have equal numbers. If we do not agree to have equal numbers, what should

[Shri B. C. Ghose.]

we do ? I suggest that there are two alternatives : One is that it should be left to this House. Since the Congress Party is in a majority in both Houses, it may be left to the Party to decide what the number should be and informally arrange it. It is that Party which moves the motion. When this Party in the other House has decided what number it would like to send, they might decide what the number should be from this House and they might bring in a motion to that effect. Or alternatively, we should have some provision in our Rules of Procedure that whenever there is a Joint Committee, this House should have a certain amount of representation on that Joint Committee, the number of members to be sent by the other House being left to them to decide. In that way, the difficulty can be obviated. It should not be left to the House of the People to dictate to us as to how many members we should send to a Joint Committee.

Then, Sir, I also find that under the procedure obtaining in the British Parliament, the names of the members to be nominated to serve on a Joint Committee are not communicated to the other House. They are simply told of the number of members who would be sent and they will know the actual members only when they go and join the Committee. It is not also the practice to say as to what would be the total composition of the Committee and to communicate the names of the members that one House elects because of a difficulty. The difficulty may arise in this way : In the British Parliament—I am again reading from May's Parliamentary Practice, page 625 :

“It was formerly the practice, when either House desired to refer a matter or to remit a Bill to a Joint Committee, for that House to appoint a Committee and send a message to the other House to inform it of the appointment and to request it to appoint an equal number of its members to join with the Committee appointed by the other House.

This course is not only inconvenient, as in the event of the other House not complying with the request, the order for the appointment of the Committee would have to be discharged, but would now be regarded as discourteous to the other House.”

Supposing we do not concur in this motion, then the whole motion for the appointment of a Joint Committee passed by the other House would be rendered nugatory. That, I believe, would not be convenient to the Government.

Then about the powers of the Committee, I find that in the motion which has been passed by the House of the People, the powers of the Committee are stated. Now, in the motion which has been brought before this House, nothing is mentioned about that. That also is not the correct procedure. The procedure that obtains in England is this : I am again reading from May's Parliamentary Practice, pages 627-628 :

“Generally speaking, each House gives identical powers to the members appointed by it to serve on a Joint Committee. A Joint Committee has only such authority and can exercise only such powers as have been conferred upon it by the two Houses concurrently, nor can the powers of a Joint Committee be enlarged by an order of one House alone. . . . For a Joint Committee to act on the authority which had been delegated to it by one House only would be *ultra vires*.”

So, I think that in the motion before us we should also state the authority that we are conferring upon this Joint Committee.

Then there is another small matter and that is about the quorum. It is extraordinary that in the motion passed by the House of the People, the quorum is mentioned, but nothing is stated in our motion. The quorum fixed should apply to the strength of the Committee from each House separately, because if the quorum is only in reference to the total membership, then it may so happen that the Committee may sit even though the members of one House may be absent and this will not be a desirable thing. I therefore think that we should also say something about the quorum in our motion. These are, I think, very important matters. There is also another small matter to which I should like to refer. The practice in England is for the Upper House to fix the time and place of the meeting and the Lower House concurs. But I don't say that we must also adopt that procedure:

but it is for the House to decide. But the other matters that I have referred to are very important matters which have a bearing upon the rights, privileges and dignity of the House which we should like to protect. How we should move in the matter, whether we should have a reference, if the House agrees, to the motion before us or whether you could take up this matter with your opposite number in the other House and settle this and what the future practice should be—these are matters which I should like you to decide for yourself. But before I went on to a discussion of the motion that has been brought before us, I wanted to raise these matters and to have your opinion on them.

SHRI C. G. K. REDDY (Mysore) : Sir, I think the House should be grateful to my Deputy Leader for bringing forward certain procedural matters which are observed in England especially with regard to Joint Committees. In the composition of the Select Committees the importance of having an equal number from each House is more in our country under the Constitution. I would like the House to anticipate the composition of this House—let us say—four or five years hence. You will find that this House probably will have a much bigger majority for the party in power today. It may so happen that the House of the People may not have an equal majority or that particular party may be in a minority. In that case, if you had a Select Committee which had a smaller number of representatives from this House and a larger number of representatives from the other House, then it will be one opinion against the other opinion. The opinions would not be properly represented.

Also regarding the procedure of the passing of a Bill, the Bill is passed from one House and it goes to the other. Supposing there is a conflict as I anticipate five years hence between one House and the other, then the Select Committee, if it is not composed of an equal number of representatives from each House, would upset the objective with which the Select Committee is

appointed. Therefore I should like to suggest that we follow the procedure which is being followed in England and we have an equal number of representatives from both the Houses so that the two Houses which have to pass any Bill that is referred to a Select Committee would have an opportunity of expressing its opinion individually and also collectively.

SHRI P. SUNDARAYYA (Madras) : Sir, this is an extraordinary procedure which has been adopted by Government in bringing this motion for referring to a Joint Select Committee. This Bill is very important and it affects the democratic rights of millions of people in this country and as such it should have been brought simultaneously in this House also if Government had taken this House a bit seriously. There is a precedent for the Government to bring important measures simultaneously in both the Houses. For instance though the House is not entitled to vote on the General Budget demands, still the Demands for Budget as well as the Railway Appropriation Bill have been brought simultaneously here. This Preventive Detention Bill which would necessarily have to be passed by both the Houses and which affects the Fundamental Rights of our countrymen, has been introduced only in the House of the People and there after five days' discussion of which on two days both morning and evening Session lasting more than eight hours, this is brought here just to get our rubber stamp that some Members of this House also should be associated in the Joint Select Committee. I think the whole procedure is extraordinary and it shows the regard in which the Government holds this House. So I would request that before we could agree to a Joint Select Committee, a thorough discussion on the Bill itself should be conducted. It is only very proper for the House to do it and as such I do not know the scope of the motion. I would like you to explain to me whether on this motion we could discuss the whole Bill and if so, how many days you are fixing up for the general discussion on the Bill as well as the motion.

SHRI H. N. KUNZRU (Uttar Pradesh) : Mr. Chairman, I am glad that the procedure has been regularised today. It did not occur to the Government to make themselves a motion of the kind that has been made today by the Leader of the House. He was present but he made no effort, not the slightest effort, to ask the Chair to allow a member of the Government to put forward a motion asking for the concurrence of this House in the Resolution passed by the other House.

SHRI N. GOPALASWAMI : Just a correction of detail, Sir. I am sorry to say that I was not present most of the time when the points were discussed yesterday but I don't plead an excuse for that on behalf of Government. Government could have given notice of a motion but the whole procedure is a novel one and it was thought at the time that when this particular Message from the House was put before this House, the mere placing of it and the remarks or observations made by the Chair will enable this House to agree to it without any difficulty. That is why no actual motion was made yesterday. When that point was raised, we thought we should regularise the whole thing by a formal motion.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : As a member of the Government who was present at the time, may I make a short statement ? I stated this fact yesterday, but I find it has to be repeated. As soon as the Message was read out by the Secretary, I got up to move a motion much in the same terms as the Leader of the House has done today. Then before I had an opportunity to open my lips, points of orders came from the other side and everything was drowned. Then the hon. Deputy Chairman who was in the Chair, himself suggested from the Chair that the House might give its concurrence. In view of that, even if I had an opportunity of moving the motion afterwards, I would have cut out the portion relating to concurrence because that came from the Chair itself.

SHRI H. D. RAJAH (Madras) : One point requires correction. The points of orders raised by the Opposition were after the Deputy Chairman stood up and wanted to put this motion before the House.

SHRI H. N. KUNZRU : My hon. friend Mr. Rajah is perfectly correct. My hon. friend Mr. Biswas says that he intended to move a motion similar to that moved by Shri Gopalaswami Ayyangar today. But as he did not open his lips we, of course, could not guess what his intention was. He could certainly have been bold enough to ask the Chair to allow him to move the motion.

My hon. friend Shri Gopalaswami has pleaded a kind of *alibi*. I know, Sir, that he was absent from this House during a part of the time when the procedure that should be followed with regard to the Message of the other House was being discussed. But my hon. friend, after coming back to the House took part in the debate and instead of leading the House, misled it by saying that under the proviso to rule 22, the Chair could take up the consideration of the matter immediately. Now, that proviso, Sir, runs as follows :

"Provided that such order of business shall not be varied on the day that business is set down for disposal unless the Chairman is satisfied that there is sufficient ground for such variation."

He relied on this proviso, Sir, to justify what the Chair had proposed. But this proviso relates only to an alteration in the order of business and not to the introduction of any new business. I am aware, Sir, that there is a rule—rule 28—which deals with that matter. But if my hon. friend had recognised yesterday that the matter was not quite formal and that we, being as much ignorant of the procedure as the Government was, some time might be given to us for the consideration of the matter, this trouble would not have arisen and it would not have been necessary for him or for anybody, not even for the Chair, to take action under rule 28 (4). I hope, Sir, that what has happened will make my hon. friend Shri Gopalaswami and the representatives of the Govern-

ment in this House a little more alert in future and a little more mindful of the difficulties and of the rights of the Members of this House.

SHRI N. GOPALASWAMI : Thank you.

SHRI H. N. KUNZRU : I say this, Sir, with regret, because I have found in the past that my hon. friend Shri Gopalaswami, instead of helping the Members of this House in the discussion, instead of stretching a point in their favour when they desired a discussion on a subject, has unfortunately tried to restrict the scope of the discussion. He was perfectly within his rights in expressing his own opinions. But a man in his position is expected to take a broad view of the matters that come before this House and not to stick to technicalities.

9 a. m.

And now, I shall refer very briefly to the motion before us. The Chair ruled yesterday that notwithstanding our participation in the Joint Select Committee, we shall be free to question the principle of the Bill when the Bill comes before us in the regular way.

SHRI KRISHNA MOORTHY RAO (Mysore) : I am afraid that is not correct.

SHRI H. N. KUNZRU : Am I not correct? So far as I remember the Deputy Chairman said very clearly yesterday that we were not going to commit ourselves to the principles of the Bill by selecting representatives for the Select Committee.

SHRI KRISHNA MOORTHY RAO : What I said was that mere concurrence was not concurrence with the principles of the Bill, or for participating in the Select Committee.

SHRI H. N. KUNZRU : But after all, Sir, of what use is your concurrence except for the purpose of participating in the Joint Select Committee. I certainly understood the Deputy Chairman to mean that our concurrence with this Resolution in its practical

aspect would not debar us later from questioning the principle of the Bill.

The other matter to which I would like to refer in this connection is that it is objectionable that the other House should arrogate to itself the right to fix the exact number of representatives of this House that should take part in the Joint Select Committee. It is the privilege of this House to decide how many members it will elect. If it is desired that an agreement should be arrived at between both the Houses that the strength of the two Houses should be taken into account in apportioning representatives to each House, that is a matter for consultation and agreement between the Speaker and the Chairman. I think the matter can be settled very easily and with much greater dignity in this way than it can be by the issue of fiats by the other House. We are not bound, Sir, by the requests made by the other House. Indeed, although it is a convention in England that the two Houses should have an equal number of representatives on the Joint Select Committee, a House has sometimes increased the number of its representatives and has asked the other House to agree to the increase and the other House has concurred in this request. This shows that we are not bound to nominate only twelve representatives as asked for by the other House. We can, if we like, propose that a larger number of representatives should be chosen by the Council. I do not propose to raise any such question today. I am pointing this out only in order to prevent friction from arising in future, and to ask you, Sir, to regulate these things in such a way as to take due account of the position of this House. In financial matters, this House occupies an inferior position. But in regard to ordinary legislation it does not, and it is therefore right that the methods that are adopted for dealing with any particular matter should be consistent with the position of the Council in regard to legislative matters.

I do not think I need draw your attention to any other aspect of this matter; but I do hope that in view of what has taken place, you will be able to confirm the view taken by the Deputy

[Shri H. N. Kunzru.]

Chairman yesterday regarding our subsequent freedom of action. I say this, Sir, particularly for this reason. It is open, so far as I know, to either House of the British Parliament to discuss the matter before referring it to a Joint Select Committee. I know of circumstances, Sir, where owing to the importance of the matter, Joint Select Committees were appointed before the matter was considered by either House. I am referring, Sir, to the Government of India Bills of 1919 and 1933. I believe that in 1919, the Government of India Bill was considered by a Joint Select Committee of both the Houses before it was considered by either House. The discussions on the Government of India Bill, 1919, took place so long ago that it is quite possible that I may be mistaken; but, so far as the second Government of India Bill goes, I think we all know that the draft of the Bill was referred to a Joint Select Committee of both the Houses before it was considered in either House. In view of the importance of the matter, Parliament desired that the two Houses should act in accordance with an agreed policy. I submit, Sir, therefore, that in a matter of this kind, in a matter of such cardinal importance as the liberty of the people and in a matter which has given rise to serious controversy, a Joint Select Committee should be appointed in order to arrive at an agreement on broad questions before the consideration of the matter by either House. I hope, Sir, that the suggestions that I have made will commend itself to you and to the Government and the other House.

SHRI H. D. RAJAH : Sir, the one point that remains to be added to the arguments of my friends Mr. Ghose and Pandit Kunzru is that the hon. Minister and the Leader of the House yesterday said that when this Joint Select Committee is appointed by both the Houses, the chances of another Select Committee being appointed, when this Bill is again brought to this House after the House of the People has passed it, does not arise. Therefore, it is all the more important, Sir,

that the privileges of this House must be perfectly protected and before we are able to agree to the appointment of a Joint Select Committee, this Bill itself must be discussed in this House. In the matter of Money Bills we are rubber stamps, but the Constitution provides that in respect of other Bills both the Houses must debate, discuss and pass and the appointment of Select Committees in both the Houses in respect of important Bills is a part of the proceedings and discussions of either House. Therefore, if the Leader's contention that we have no right to appoint another Select Committee is accepted...

SHRI C. G. K. REDDY : The rules say so.

SHRI H. D. RAJAH : Therefore, the point must be made very clear that we cannot agree to serve on a Select Committee or consider the motion for the appointment of a Joint Select Committee if that Bill is not discussed here.

DR. RADHA KUMUD MOOKERJEE (Nominated) : Sir, it was on my point of order yesterday that the Chairman of the House ruled that our concurrence would not mean that this House commits itself to the acceptance of the principle upon which the Bill is based. Now, as regards the other contentions raised by my hon. friends, I wish to remind them that the other House has really shown to us great courtesy in agreeing to ask us to help them by serving on the Joint Select Committee so that a Bill, which was initiated in the other House may be considered equally by us at the initial stages. This is a very important privilege which is not properly defined in the Constitution. It was by means of special pleading that we got this privilege and I earnestly request my colleagues of this Council to see that the privilege that is granted is continued. For, after all, the other House has every liberty to ignore this House.....

SHRI P. V. NARAYANA (Madras) : We can also ignore them.

DR. RADHAKUMUD MOOKERJI :and may proceed with the legislation which they have initiated without reference to this House. I think, Sir, under the circumstances in which this matter stands, it is better that instead of discussing all these technicalities of the present occasion and raising questions of privilege, we should in a business-like manner see what help we can render for the expedition that is required for passing the legislation that has been proposed in the other House. I wish my colleagues only to remember that the other House is not bound to set up a Joint Select Committee to associate us at this stage with the legislation that has been initiated in the other House. We should also respond to this courtesy in accepting the position that has been created just now. Of course, the position is subject to improvement as regards the number of members to sit on the Joint Select Committee ; that certainly is a matter for serious consideration. For the present, let us waive all these technicalities and let us, as practical statesmen, accept this gesture of goodwill by agreeing to act together for the purpose which all of us have equally in view.

SHRI H. P. SAKSENA (Uttar Pradesh) : Sir, is that a gift from the other House to us ?

SHRI K. S. HEGDE (Madras) : Mr. Chairman, I think there is an amount of inferiority complex felt in a certain section of this House.

SHRI C. G. K. REDDY : By all of us.

SHRI K. S. HEGDE : My friend Mr. Sundarayya, the Leader of the Communist Party, obviously is not well conversant with the procedure of Joint Select Committees either in this House or in the other Houses of Parliament in different countries. When we are discussing a Message from the other House, we are not discussing the Bill at all. The Bill has not been introduced in this House and it will be taken up for consideration at a later stage. What we are really discussing is a Message from the other House and not the Bill.

That has been the accepted position both in England, in America and in other countries as well.

SHRI P. SUNDARAYYA : We need not follow their procedure.

SHRI K. S. HEGDE : My friend does not follow anybody but Russia.

MR. CHAIRMAN : No reference to any other country.

SHRI M. MANJURAN (Travancore-Cochin) : We want authorities to be quoted.

SHRI K. S. HEGDE : I can quote chapter and verse but this is neither a class-room nor my friend a student. But, he can take it from me.....

SHRI M. MANJURAN : It is objectionable. This is neither a class-room nor a court of law. We are in Parliament and it is necessary.....

SHRI K. S. HEGDE : I can quote to his satisfaction. I would invite him to read pages 640 and 641 of May's Parliamentary Practice in 15th edition and not the 14th. If he further wants, I would invite him to read page 249 of Gilbert Champion's Interpretation of Rules and Procedure ; I would also invite him to read Jefferson's Manual of the American Constitution, sections 325 to 326. I would further if necessary invite him to read the old Council of State's Rule 111 and also Rules of the Senate and the Representative Houses of Australia in Chapter XXVII. If he wants other rules, I am prepared to help him in this matter. If he only spends an hour in the Library I could give him all the information.

SHRI M. MANJURAN : Let him quote the authority of Russia also.

SHRI K. S. HEGDE : Russia has got only a window dressing but has no rules.

Proceeding further, Sir, there is no question of the Bill being introduced in this House. My friend is thinking that merely because during the Budget session the Budget proposals are placed concurrently in both the Houses the

[Shri K. S. Hegde.]

other measures should also be done likewise. That is expressly provided for in the Constitution. In all the other matters, the regulations and the Rules of Procedure require that one of the Houses must consider a Bill and should pass it. Then alone the other House discusses the matter.

So long as one House is seized of the Bill, the other House has no jurisdiction to get at it, nor can we discuss the Bill as such. What we are discussing today is merely the Message from the other House and not the Bill as such. Again, it is true, Sir, that there are no definite provisions in the Rules as regards the formation of Joint Select Committees. So far as that matter is concerned, I can take the House into my confidence and inform the House that in the Rules Committee the matter is being discussed and we are making our recommendations to the Chairman for taking further steps in the matter. So till the rules are formulated, naturally we are now taken by surprise and we must follow some procedure. Some of my learned friends have taken a number of technical objections. My learned friends Mr. Ghose and Pandit Kunzru said that the number of members should be equal. In many Houses of Parliament the number of members has been equal, but not in all Houses. That again depends upon the powers of the two Houses. Here we are having equal powers in many matters with the House of the People. Naturally, some of our powers are more than these of the Upper House in England. In America—I am quoting from Jefferson's Manual—"It is the practice in the Congress that the Joint Select Committee shall vote *per capita* and not as representatives of the two Houses although the number of members of the House of Representatives is, usually but not always, larger than that of the Senate." And that for very good reasons. Let us not discuss these matters now. We shall have occasion to discuss that at a later stage. But I may state one thing that this is not going to be a precedent, because we will be governed by the rules that may be framed hereafter. None of the Members need have

any apprehension whatever. It is not that whatever we decide today will not be open for discussion at a later stage or that the doors will be closed permanently. That is not a correct impression at all. I am sure the House will agree with me that the matter could be discussed by the Chairman and the Speaker and we may be able to formulate the necessary rules so far as Joint Select Committees in the future are concerned. But what pained me most was that a member of my Party was just telling the House that the other House has graciously granted us some seats in the Select Committee.

SHRI C. G. K. REDDY : He is not a member of the Party, Sir.

MR. CHAIRMAN : He is a nominated Member of the House.

DR. RADHA KUMUD MOOKERJI : I am a member of that Party.

SHRI K. S. HEGDE : I said "a member of my Party" and I am proud of it. He said that the other House has thrown us some crumbs. We are not here as beggars. We do not want anything like that. We are here on our own and the other House has treated us as such. They have not challenged our right to be in the Select Committee ; they have not said : "Take it or leave it". It is not in that spirit that they have come up with this proposal. Because they had no rules to follow, they had to suggest certain things. The matter cannot be allowed to go on for days together. That House has already discussed it for five days and this House may take another five days, but that is an entirely different matter. For the time being some steps had to be taken to constitute the Select Committee. They have not said : "Here are 12 seats for you. Either take it or leave it". Why should we suffer from inferiority complex ? We may accept it or reject it. Taking the importance of the subject into consideration, let us agree to the proposal. At a later stage Dr. Kunzru and others will sit at the round table and discuss the matter in the Rules Committee and decide what would be in the interest.

of the House. The House can rest assured that the members of the Rules Committee and the Chairman of the House will be very anxious to protect the rights of this House. The rights of this House will never be ignored. I can give this assurance and certainly this assurance can also be given on behalf of the Government, by the Leader of the House as well. We must not waste further time. A time limit has been fixed; and the Report has to be submitted by the 29th. Already much valuable time has been lost and every hour that we lose here is an important hour that may be available for discussion in the Joint Select Committee and I would beg of this House to think that way and not to simply go on fighting for rights and privileges at this time in a manner that will defeat the very purpose. In matters of convention, it is not a question of challenging one another; it is not a question of assertion of each one's rights. It is a question of trying to meet another man's point of view. It is a question of sitting at the table and trying for an agreement, and arrive at a formula. I am sure that we will do it better in the Rules Committee than in the open House. We shall be able to do it better by a mutual discussion between the Chairman and the Speaker rather than by a debate in this House. I therefore submit that we accept the motion without any further discussion and without any further ado about it.

MR. CHAIRMAN: I think we have had discussion on the different points of order raised. Actually, there are as yet no rules for the formation of Joint Select Committees, but I was informed that many Members of this House were anxious for Joint Select Committees and in the Rules Committee also a suggestion was made that such Joint Select Committees be formed. Pending a complete drawing up of the procedure by which such Joint Select Committees are to be established, whether the reference comes from this House when a Bill is initiated here or from the other House when a Bill is initiated there, pending a complete formulation of the principles which should govern the formation of these Select Commit-

tees, I pressed on the Government that, as far as possible, such Joint Committees should be set up forthwith without prejudice to the question of the framing of the rules of procedure in that regard. It is in accordance with this suggestion that this particular Joint Select Committee is sought to be established. The procedure adopted on this occasion does not bind us (*Cheers.*) The Rules Committee will have every opportunity to define the procedure and suggest it to the Chairman who will confer with the Speaker and with the Government and try to see that the suggested procedure is adopted as far as possible. Whether identical powers are to be given, whether the quorum should be a third, whether the numbers should be equal or, as Dr. Kunzru suggested, they should be proportionate to the strength of the different Houses, these are details which yet require to be considered.

The other question has been raised—whether it will be necessary for us to discuss the principles of the Bill before we concur in this particular motion. So far as that is concerned, we will have ample opportunities when the House of the People refers this Bill back to us to enter into complete detail, to consider whether an Act like this is necessary at all and whether particular details require to be modified or not—all these questions we will have at a later stage when the House of the People refers this matter to us. It will be most unfair to have a preview of the whole show at this stage. Our Members who will be sent to the Select Committee will have opportunities of expressing their views in the Select Committee and when the Bill comes up to us we will have adequate opportunities of discussing even the minutiae of the Bill during its three readings. Therefore I hope that a full discussion of the Bill is not necessary at this stage. I have seen, by references to the parliamentary practices of other countries, that when a motion for concurrence comes up, a few general remarks are made, but the remarks are few and the remarks are general, and provided we limit ourselves to that kind of thing, I have

[Mr. Chairman.]

no objection to allow members who would like to say briefly what they have to say. My anxiety is that we should foster courtesy and friendly relations between the two Houses. We are two wings of one Parliament and we should not pull in different directions. I would therefore appeal to you to drop all technical questions. We have a reference from the House of the People recommending to us that we associate ourselves with this Select Committee which they propose to set up. Some of us may not be satisfied with the numbers which are allotted to us. But these are other questions. But I would like hon. Members to concede the principle and accept this recommendation.

SHRI C. G. K. REDDY: May I rise on a point of privilege? I have with me a report of the debates in the House of the People. We find that the motion for a Joint Select Committee was adopted at 12.24 p.m. yesterday. I should think that the Message containing the motion that was adopted there would have been typed, signed and sent here. But we found that we took up the consideration of the Message at 12.27 p.m.—subject to correction. I should like to know how this miracle happened. I do think it is a very serious matter. I do think that possibly the Message was sent here a little before it was actually adopted in the other House.

KHWAJA INAIT ULLAH (Bihar) : It is due to the efficiency of our office.

SHRI N. GOPALASWAMI : May I explain the position? There was absolutely no miracle. The fact is, the Speaker had put the amendments which had been debated in the other House to vote one after another. Before he put those amendments to vote, there was a general agreement arrived at in the House that on the motion for a Joint Select Committee there would be a unanimous decision. At first it was thought that the other amendments would be withdrawn by the Members who had given notice of them. But one of them said that the amendment

for circulating the Bill would be pressed to a division, and so a division was taken. Everybody knew what the fate of the division was likely to be. This motion was to come up immediately after that particular amendment was disposed of. Naturally, in order to expedite matters, because the Bill is so important and the time allowed to the Select Committee was so short, the motion which was agreed to be accepted unanimously by the whole House was put into shape, typed and got ready.....

SHRI C. G. K. REDDY : And signed also, probably.

SHRI N. GOPALASWAMI : Well, I do not think the hon. Member is justified in saying that. The time taken after the actual passing of the motion, that is, the declaration of the result of the motion in the other House, did give time quite sufficient for the document being signed after the motion was carried and being sent to this House. The real fact was that we wanted to expedite business and, therefore, we wanted this House to have the Message as quickly as possible. I submit that there was nothing improper in having got these things ready for being sent to this House immediately after the motion was carried.

SHRI C. G. K. REDDY : I should invite the attention of the Leader of the House to the debates as they have been published, and he will find that some time between 12.24 and 12.25 p.m. the actual motion for reference to a Select Committee was adopted. You will find it ending with Mr. Deputy Speaker calling upon those in favour to say "Aye" and those against to say "No". There were no "Noes" and the motion was adopted between 12.24 and 12.25 p.m. I am really sorry that the hon. the Leader should think that there was nothing wrong in getting something prepared even before the motion was adopted. This is a very serious matter.

MR. CHAIRMAN : On the point of order, I would say the hon. Member is quoting from uncorrected proceedings.

SHRI C. G. K. REDDY : I should like the Committee to look into it and find out the facts of the case—whether the Message that we got was really something which actually was adopted before it was sent here.

PROF. G. RANGA (Madras) : Mr. Chairman, I should like to make only one remark. I very much deprecate this kind of procedure, and for this reason. It was not signed by one of the servants of the Government. It was signed by the Secretary of the House of the People, and I would not like any of my friends in this House to attribute any kind of motive at all. (*Interruption.*) It amounts to that. Within those three minutes—between 12.24 P.M. and 12.26 or 12.27 p.m.—within that time the Secretary had time to sign the papers, and send them across the lawn. It is not as if we were living in different towns. We are just across the lawn. It was the Secretary of the House of the People who sent it over. If it had had anything to do with the Government, certainly I would have been willing to stand by my hon. friend. But when it comes from the Secretary of the other House, we should assume that that Secretary would be just as independent of Government as our Secretary would be, just as the Speaker and our Chairman would be independent of the Government.

SHRI N. GOPALASWAMI : I am thankful that such consideration is shown to the officers of the other House, though not to the Government.

SHRI B. C. GHOSE : Sir, there is one point which you did not answer, and that is whether our participation in the Joint Select Committee binds this House—I do not say any individual Member—to the principle of the Bill, because there is nothing said in the Rules of Procedure about it, excepting that if there is a Select Committee and if the Select Committee is set up by the House, the House as such is bound by the principles of the Bill concerned. Since this is also a Select Committee, and the Select Committee is set up by this House, and then it becomes a Joint Committee—I believe that is the position—it means that the setting up

of this Committee also binds this House, even though it does not bind individual hon. Members. That was the ruling which was given by the hon. the Speaker in the other House.

MR. CHAIRMAN : That is my ruling also. What I say is, when this motion is carried in this House, the House is undoubtedly committed to the principles. But any Members who serve on the Select Committee may if they so desire, make their own reservations, open or otherwise.

SHRI H. D. RAJAH (Madras) : Sir, this has created a very serious situation. Your eloquent appeal to us left us under the impression that we should allow this House to send representatives to the Joint Select Committee and the House itself is not committed to the principle of the Preventive Detention Act. But now you have put us completely out of gear. We are not able to know.....

MR. CHAIRMAN : What I say is this. Any majority decision taken in this House is a decision of the House, and in that sense of the term it is binding. But several Members in the other House have openly declared that the fact that they are serving on that Committee does not mean that they are committed to the principles of the Bill. So, the persons here who wish to serve on the Committee may make those reservations themselves. Now, I put the Motion.

SHRI H. N. KUNZRU : May I say one word before you put the motion ? In the British Parliament, even when a Bill is referred to a Joint Select Committee, neither House loses its right to refer it to a Committee of the whole House. The Committee stage may only be a formal stage. But I understand from Erskine May that the Houses have been reluctant to give up their right to refer a Bill to a Committee of the whole House.

MR. CHAIRMAN : When it comes up from the House of the People, if we so choose, we may do so.

SHRI H. N. KUNZRU : What you said earlier made me feel that the entire field was open to discussion.

MR. CHAIRMAN : Quite so.

SHRI H. N. KUNZRU : Including the principle underlying the Bill.

MR. CHAIRMAN : Quite true. I agree.

SHRI H. N. KUNZRU : If you agree, there is nothing more to be said. But your subsequent remarks created a doubt about this position.

MR. CHAIRMAN : What I said was this. When the Bill comes to us from the House of the People, we will be at liberty to discuss the principles, the implications, the details, the clauses, and so on.

SHRI H. N. KUNZRU : If you agree that the principle of the Bill will also be open to discussion, then there is nothing more to be said about it.

SHRI V. K. DHAGE (Hyderabad) : If the House does not agree to the Bill, what happens to the agreement in the Select Committee ?

MR. CHAIRMAN : The hon. Member knows the House.

SHRI B. C. GHOSE : The House is supreme. Even if the House has agreed to the Select Committee, as far as the principle of the Bill is concerned, it is open to the House to change or amend that position. The fact that the Select Committee accepts it should not be taken to mean that we are in agreement as a House with the members of the Select Committee.

MR. CHAIRMAN : The motion moved is :

This Council concurs in the recommendation of the House of the People that the Council do join in the Joint Committee of the Houses on the Bill further to amend the Preventive Detention Act, 1950, and resolves that the following members of the Council of States be nominated to serve on the said Joint Committee:—

- (1) Diwan Chaman Lall.
- (2) Pandit Sitacharan Dube.

- (3) Shri R. C. Gupta.
- (4) Shri Bhalchandra Maheshwar Gupte
- (5) Shri K. S. Hegde
- (6) Shri Jaisukh Lal Hathi.
- (7) Pandit Hriday Nath Kunzru.
- (8) Shri P. S. Rajagopal Naidu.
- (9) Shri K. P. Madhavan Nair.
- (10) Acharya Narendra Deva.
- (11) Shri Osman Sobhani.
- (12) Shri P. Sundarayya.

The motion was adopted.

SHRI NARENDRA DEVA (Uttar Pradesh) : While agreeing to serve on the Joint Select Committee I would like to make my own position and the position of the Socialist Praja Party perfectly clear in this matter. As a matter of fact we are opposed to this Act in its entirety and while serving on the Select Committee we do reserve to ourselves the right to express our difference of opinion even as regards matters of underlying principles of the Bill. It is with this reservation that I, on behalf of my Party, have agreed to serve on this Joint Select Committee.

SHRI P. SUNDARAYYA : Mr. Chairman, when I agree to serve on the Select Committee on behalf of the Communist Party and those friends who are here with us, I make it clear that we are totally opposed to this dangerous and black Bill and we will be fighting it tooth and nail and only with that purpose we are going to the Joint Select Committee to oppose every stand at every stage, every clause in it, every comma and full stop. Now we have had no opportunity of a general discussion. But we shall be opposing the very principle of the Bill when it comes to this House. With this reservation I, on behalf of the Communist Party, am serving on the Select Committee.

SHRI B. K. MUKERJEE (Uttar Pradesh) : On a point of order, Sir. Is there any Party in this House by the name of 'Communist Party' ? As we are aware there is not Party in this House excepting the Congress Party. I would like to have your ruling on that point as the hon. Member who just now spoke referred to a Communist Party.

SHRI B. RATH (Orissa) : May I know, Sir, if there is any Party known as Congress Party in this House ?

SHRI H. N. KUNZRU : Like my hon. friend Shri Narendra Deva I should like to make it clear that in spite of my participation in the Joint Select Committee I hold myself free to follow any course I consider proper after the Bill comes back to this House. I say quite explicitly that my taking part in the Joint Select Committee will not restrict my freedom of action in any way.

PROF. G. RANGA : That is the case generally with everybody.

SHRI B. GUPTA (West Bengal) : On a point of submission. You, Sir, said while giving your ruling that there could be a brief discussion or brief remarks in regard to this Bill. I request you, Sir, to ask the Government to state their case and allow us to have initial discussion.

MR. CHAIRMAN : Not at this stage. Mr. Sundaraya has already characterised this Bill as a black Bill. That was the remark he has just made.

THE CRIMINAL LAW AMENDMENT BILL, 1952—*continued*

MR. CHAIRMAN : We now proceed with further discussion of the following motion moved by Shri C. C. Biswas on the 23rd July 1952 :

That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and to provide for a more speedy trial of certain offences, as passed by the House of the People, be taken into consideration.

A long speech was made by Mr. H. D. Rajah. But he had to stop it in the middle or towards the end. Have you finished it ?

SHRI H. D. RAJAH (Madras) : No, Sir. But if you do not want me to speak on this Bill, I will keep quiet.

MR. CHAIRMAN : I want to tell you one thing that moderation and restraint are not signs of weakness; but are evidence of strength and reason.

SHRI H. D. RAJAH . Sir, this Bill which has been brought into this House

is mainly on the basis of the recommendations of Tek Chand Committee. You will see from paragraph 14 of that Committee's Report that investigation is started on the information received from officers. It may be from the head of a Department or from a subordinate of a delinquent officer or from a member of the public. That statement will clearly indicate the opportunities afforded to malevolent forces that want to create trouble even to honest public officers. I would suggest that when the Investigation Department proceeds on the basis of an anonymous letter or on the information received from a subordinate officer, you can understand to what length the morale of the subordinate officers of a department will be put to and every officer has to be on his watch whether somebody else is carrying tales or sending on anonymous letter about his conduct. No honest officer can put up with this nightmare. Now we will see that as soon as that procedure is accepted, a case is registered against that officer and then investigation starts. It is in this way that the investigation is starting. When the Inspector General of Police is seized with such matter, he sets up his constabulary to find out who is the bribe giver and who is the bribe taker and undesirable features creep in.

The provision in this Bill for ' approvers ' is the point in view. Yesterday, Sir, I told you how approvers are manufactured in this country. There was an interesting event of a Congressman being put into jail by the Congress Government itself because of his antecedents. You will see politically the police are totally unconcerned. They are concerned in getting conviction when a case is launched. Therefore, when the question of an approver is taken into consideration, the police are apt to concoct evidence even against honest officers or the public. I will tell you here what is said in another portion of Tek Chand Committee Report which clearly indicates that there are two ways by which this question of bribe is to be considered. We cannot ignore the other classes of cases which are perhaps not less numerous and which possibly involve corruption on