officers, etc., position of the presiding officers, their importance in the scheme of the Constitution; Secretariat of the Legislature;

(iii) Privileges,—collectively of the House, individually of Members;

(iv) Payment of Members;

(v) Kinds of work before the Legislature: (a) Bills, their several stages through the Legislature; (b) Resolutions on questions of policy; (c) Interpellations; (d) Other Motions. Procedure in general; (e) Financial business;

(vi) Joint Sessions of the two Chambers.

(i) Meeting of the Legislative Chambers

As already observed elsewhere, it is the right of the Governor-General to summon the Legislature to work, to prorogue the Chambers, and to dissolve the Legislative Assembly.* The Council of State cannot be dissolved, as it is a permanent body. The only imperative obligation on the Governor-General in this connection is the provision of Section 19 (1), which requires that

> "The Chambers of the Federal Legislature shall be summoned to meet once at least in every year, and twelve months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session".

Within these limitations, the Governor-General has **absolute discretion** to summon the Chambers to work. The form of the summons to individual members has not much constitutional importance; and the usual method is by announcement in the Press, supplementing the individual summons.

*cp., Section 19.

Before the Members can proceed to work, they must take an oath, or make an affirmation, in the prescribed form.* The only constitutional points of interest connected with this formality are:—

(a) There are three forms of Oaths: for British Indians, for the subjects or nominees, and for the Rulers, of the Indian States becoming Members of the Legislature. The first makes the member promise—

> "to be faithful and bear true allegiance to His Majesty the King-Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter".

There is here no reservation of any prior allegiance, even to the Indian nation, or the Indian people;† and no reference to the capacity as member of the Legislature,—thereby making a reservation, which is of vital significance in regard to the two other forms prescribed for nominees of the Indian Princes, or one of that Order becoming a member of the Federal Legislature.

The second form, appropriate for the Ruler of a State becoming a member of the Legislature, makes pointed reference to the oath being taken only in the capacity of a Legislator. Such a person swears

> "to be faithful and bear true allegiance in my capacity as member of this House"—whatever that may be: "to His Majesty the King-Emperor of India, His heirs and successors".

The oath makes no reservation regarding any duty owed by such a person to his own State, and the people thereof,—thereby indicating that there is no distinction, in the view of this Constitution, between the person of a Ruling Prince and his State.

*See Schedule IV (Sections 24, 67, 200 and 220) for the form of the Oath.

†See however the oath taken by the Congress Members of the Provincial Legislatures at the National Convention at Delhi in March 1937.

The oath being sworn, or affirmation made, to bear allegiance to the King, Emperor of India, his heirs and successors, will, presumably, commit the swearer to the same allegiance even to a republican ruler succeeding in Britain to the office of the King to-day. The Princes may not intend it; but the implication of the Oath seems inevitable in the sense just quoted.

The third form relates to the nominee or subject of an Indian Prince. In this case, an express saving is permitted in regard to "the faith and allegiance" owed to the Ruler nominating, his heirs and successors. Specific reference is also made to the oath being taken only in the capacity of the Legislator.

(b) There is no objection to an affirmation being substituted for an Oath; and so no constitutional issues are likely to arise on grounds such as are associated with the name of Charles Bradlaugh in British Constitutional History.

By Section 24, this Oath is to be taken, or affirmation made, before a member takes his seat. Its solemnity is vouched for by the fact that it must be administered by the Governor-General, or by some person appointed by him, usually the presiding officer of the Chamber.

Disqualifications for Membership, for Sitting and Voting, in the Federal Legislature

There are several types of disqualifications for membership of the Federal Legislature, of either Chamber, and for sitting and voting. Appropriate penalties are provided for the violation of these provisions.

(i) Under Section 25, no person can be a member, at the same time, of both the Chambers of the Federal Legislature. Power is given to the Governor-General to exercise his individual judgment in making rules to provide for the vacation of his seat by a person elected to both the Chambers in one of them.

(ii) Under Section 68 (2), no person can be a member, at the same time, of the Federal as well as of a Provincial Legislature. The Governor of the Province affected is empowerd to make rules, exercising his individual judgment, to require that the seat in the Provincial Legislature shall be vacated by such a pluralist Legislator, unless he has previously resigned in writing his seat in the Federal Legislature.

(iii) His seat in the Federal Legislature must be vacated if the member concerned is affected by any of the Disqualifications mentioned in Section 26 (1); or by resigning it in writing duly signed; or by continued absence for 60 days from the meetings of the Chamber, without counting any period during which a Chamber may be prorogued, or adjourned for more than 4 consecutive days.

(iv) Six different types of disqualifications are mentioned in Section 26 (1), *viz.*:—

(a) Holding of an office of profit under the Crown in India, unless the same has been declared by an Act of the Federal Legislature not to be disqualifying under this section. By subsection (4) of the same section, being a Minister of the Federation, or of a Province, and, while serving a State, being a member of one of the Services of the Crown in India, are not among the disqualification under this section;*

(b) being of unsound mind, and certified as such by a competent tribunal;

*But this may not cover the case of Parliamentary Secretaries to the Ministers. These must be regarded as holding an office of profit, and may as such be disqualified until Federal Legislation removes the disqualification.

(c) being an undischarged bankrupt or insolvent;

(d) having been convicted, or found guilty, of a corrupt or illegal practice under the elections law, or Order-in-Council in such behalf, which entails disqualification for membership of the Legislature, unless such period has elapsed as was specified in that behalf in the Order or Act, eliminating the disqualification;

(e) being convicted of any offence and sentenced to transportation or imprisonment for not less than 2 years, unless a period of 5 years, —or such other period as the Governor-General acting in his discretion may allow,— has elapsed;

(f) failure to lodge an Election-Expense-Return as required by law or Order-in-Council, if the person in question has been nominated as a candidate for the Federal or Provincial Legislature, unless 5 years have elapsed since the date appointed for lodging the return, or the Governor-General has removed the disqualification.

A person serving a sentence of transportation or of imprisonment for a criminal offence cannot even be a proper candidate to be chosen for either Chamber.

A person who by conviction, or conviction and sentence, becomes disqualified, does not automatically vacate his seat, if, at the time of the disqualification applying, he or she was already a member of the Legislature. Three months are allowed, presumably for appeal against the conviction or petition for revision of sentence. Pending the disposal of such appeal, or petition, the seat remains occupied. The member, however, in such a predicament, is not allowed to take the seat, or vote in the Chamber.*

*cp., Section 26 (3).

Penalty of Sitting, or Voting, When Disqualified

Says Section 27:—

27. If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of subsection (3) of the last preceding section, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Federation.

(ii) Officers of the Chambers

Section 22 allows each Chamber of the Federal Legislature to choose a presiding officer, and his deputy. Such an officer for the Council of State is called the President, while the deputy is called the Deputy President. In the Assembly, the corresponding officers are styled the Speaker and the Deputy Speaker. Each time that either of these offices becomes vacant, the Council is to elect to the vacancy. The office of President or Deputy-President is vacated by

(a) ceasing to be member of the Council;

(b) resignation of the office in writing, duly signed, and addressed to the Governor-General;

(c) removal from office by a vote of the Council, provided that no such vote can be moved unless at least 14 days notice has been given of this intention to move such a resolution in the Council.

If the office of the President is vacant, the duties of that office are discharged by the Deputy-President; and, if his office is vacant, by such person as the Governor-General may appoint for the purpose. During the temporary absence of the President, the

duties of his office are to be performed by the Deputy; and if he too is absent at the same time, by such person as the rules of procedure may provide; or if no such person is present, such other person as may be determined by the Council. The new Council of State would thus have the nominal power to elect its presiding officers, but the power is considerably circumscribed by the provisions of the Constitution.* The President and Deputy President are to be paid such salaries as may be fixed by an Act of the Federal Legislature. Until provision is so made by Act of the Legislature, these emoluments are to be determined by the Governor-General.

Substantially the same provisions apply to the presiding officer and his deputy in the Federal Assembly. The Speaker need not vacate his office when the Assembly is dissolved, until immediately before the first meeting of the new Assembly. The office is automatically vacated if he loses his seat at an election, or becomes disqualified to sit in the House.

The Constitution is silent regarding the Secretary to either Chamber. Presumably, however, these may be appointed by the House concerned, and from among non-members of the Chamber. The matter will be provided for by Rules of Procedure, in all probability. The Secretary has considerable duties in the routine of the House; but not much importance in the Constitutional machinery.

*cp., Section 22 (1), (2) (3) and (4). The Lord Chancellor being ex-officio President of the House of Lords, it may be said the British Upper Chamber has no right to elect its own Chairman. But the Lords may in debate completely ignore the Chancellor, who, if not a Peer, cannot even be a member of their Chamber. The Chancellor's disciplinary powers also are in no way comparable to those of the Speaker of the House of Commons.

The office of the presiding officer is of considerable importance, even in the ordinary course of routine business before the Legislature. Points of order, with far reaching constitutional consequences implied in the decision given, constantly arise. Decision has to be given almost immediately on each as it arises. Matters of privilege of the Members, or of the House collectively, and also of its dignity, arise equally suddenly. Even the possibility of sharp conflict with the Governor-General under the new Constitution, and with the other Chamber, on Constitutional issues of the utmost complexity and importance, cannot be ruled out as unlikely or even rare. The personality of the Speaker or the President tells at once in such contingencies and the decisions given may have far flung consequences. That is why all parties consider these posts as of key importance. These officers are expected to have no partisan sentiment, even though they may have been, before election, Party candidates; to conduct the proceedings *suaviter in modo, fortiter in re*; to maintain the dignity, discipline, and decorum in the House, and its prestige outside. The larger membership, and the more active traditions of work in the Lower House ordinarily make the office of the Assembly Speaker far more important than that of the Council President, who, however, will preside at joint sessions of the two Chambers.*

(iii) Privileges: Collective and Individual

The only positive, statutory privilege accorded to the members of the Legislature, by Section 28, is "freedom of speech in the Legislature". This is subject to the provisions of the Act, and to the Rules of Proce-

*cp., Section 38 (4).

duties of his office are to be performed by the Deputy; and if he too is absent at the same time, by such person as the rules of procedure may provide; or if no such person is present, such other person as may be determined by the Council. The new Council of State would thus have the nominal power to elect its presiding officers, but the power is considerably circumscribed by the provisions of the Constitution.* The President and Deputy President are to be paid such salaries as may be fixed by an Act of the Federal Legislature. Until provision is so made by Act of the Legislature, these emoluments are to be determined by the Governor-General.

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dure and Standing Orders of each Chamber. The most important consequence of this freedom of speech in the Legislature is that:—

> "No member of the Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either Chamber of the Legislature of any report, paper, votes, or proceedings."*

Other privileges may be conferred upon the Chamber or Chambers collectively by Act of the Federal Legislature; or upon individual members. But the Constitution categorically forbids the Legislature to confer upon themselves, or either Chamber, or upon any Committee thereof, the status of a Court, and the right to inflict punishment.† Even disciplinary powers, except the right to remove or exclude persons infringing the rules or standing orders of the House, are denied to the Legislature or either Chamber thereof. Hence, even on its members, officers, or outsiders, it has no punitive authority, though they might be guilty of the grossest disrespect to the House. The power to remove or exclude persons, who behave disorderly,—no reference is contained in the section referred to to disrespectful behaviour on the part of members, or visitors, like Ministers from the other Chamber, even if they behave disrespectfully,—is not eough to maintain the dignity and prestige of the Legislature to the degree consistent with its exalted position in the life of the nation. Even Section 28 (4) permitting provision to be made for the punishment, on conviction before a proper Tribunal, of persons who refuse to give

*Section 28 (1).

†cp., Section 28 (3). This would impede the Legislature considerably whenever it wants to conduct an enquiry in any administrative matters.

evidence, or produce documents, before a Committee of enquiry into a public question appointed by a Chamber of the Legislature, is not enough as an aid for making a thorough enquiry, not only because the power to punish does not flow directly from the authority of the Chamber itself to judge of the offence; but also because considerable exceptions are allowed.* This must reduce substantially the authority of the Legislature. Needless to add, there is nothing like the offence known as contempt of Parliament (or of court in India) so far as the Legislatures are concerned.

It is unnecessary to speculate upon other privileges, which the Legislature by an Act can confer upon themselves. The privilege, known as the Power of the Purse, and forming the keystone of the British system of Parliamentary Government, is, as already seen, of the most rudimentary in India, if it can be said to exist at all. The right of the British Parliament to receive Mass Petitions from the people may have its shadowy reflection in this country. But, inasmuch as the power of the Legislature over the Executive Government of the country is restricted, conditioned, or illusory, the right, even if it exists, is of very insignificant concern.

Who May Speak in the Legislature

Who may speak in the Legislature, and avail themselves of the privilege, known as the freedom of speech for anything said in the Legislature? The presiding officers,—the Speaker of the Lower House, particularly,—have the fewest occasions to speak ordinarily, except in so far as it is necessary to conduct the proceedings of the House, to give rulings, to announce

*cp., Proviso to 28 (4).

the result of any vote or election, to convey the messages from the Governor-General, and the like. The Speaker and the President have ordinarily no vote in the divisions taking place in the Chamber.* He is not supposed to take any part in the routine proceedings or debates in the House, except in so far as it may be necessary to maintain order, and decide points of order raised in the course of the debates. The Governor-General has the right to send messages, and also to address the Chambers in person; and he can, for that purpose, order the attendance of the members in either House he chooses.† Though formally a part of the Legislature, he cannot, however, take part in any proceedings within either Chamber. The conventions regarding the Governor-General's address to the Legislature, its form, contents and frequency, have not yet been settled. In the new Constitution, it would, therefore, be difficult to say what line this particular feature of the written Constitution will develop upon.

Ministers, whether they are members of a given Chamber or not, are entitled to address either Chamber, and take part in the debates, but not vote in the Chamber of which they are not members. According to Section 21:

> 21. Every Minister, every Counsellor and the Advocate-General shall have the right to speak in, and otherwise to take part in the proceedings of, either Chamber, any joint sitting of the Chambers, and any committee of the Legislature of which he may be named a member, but shall not by virtue of this section be entitled to vote.

It is interesting to note that while the Counsellors who are advisers only to the Governor-General in the

*Section 23 (1), para. 2: "The President or Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes."

†cp., Section 20 (1).

excluded departments, are entitled specifically under this section to speak in the Legislature, the Financial Adviser, who is an adviser as much to the Governor-General, as, in effect, to the Ministry, is not mentioned by name. He cannot be regarded as being included in the term Minister, or Counsellor. Unless he is specifically nominated to the Council of State as an Ordinary Member of that body, and is not disqualified for that purpose as holding an office of profit under the Crown,* he might not have the right to address the Legislature at all, or explain the advice he may have given to the Governor-General, or to his Government.

Of the other non-members ordinarily found in the Chamber, none except the Secretary has the slightest right of speech. That right is confined to making announcements, or reading out formal notices, which may be allowed him under the Rules of Procedure or Standing Orders of the House.

On the whole the Chapter of the Privileges of the Legislature in India has none of the Constitutional interest or significance, none of the historical romance, that has gathered round the corresponding subject in Britain. There is nowadays no question of the Member's obsolete privilege of freedom from arrest or judicial process. But the question is not altogether free from doubt, if the rights or privileges of the Legislature are not violated when members duly elected are prevented by executive action, or detention without trial, from attending to their duties in the House. It is permissible to hold that the Federal Legislature can

*cp., Section 26 (1). But can the Federal Legisature by its Act modify Section 16 of this Act, and declare the office of the Advocate-General not to be an office of profit under Section 26 (1)? Schedule II concerns only the authority of Parliament to amend this Act.

correct and finally settle this doubt by making exemption from such detention a privilege of members by Act of the Federal Legislature.

(iv) Payment of Members

The British model of utterly honorary public service has been followed in this country, so far as the Legislators are concerned, even after the British Parliament had itself discarded its centuries old practice, in 1911. In practice, however, public service of this kind in India has not been quite an unqualified burden. All reasonable, out-of-pocket expenses according to a fairly liberal scale, for travelling from a member's residence to the place where the Legislature holds sittings, and the daily allowance by way of hotel expenses, are allowed, under certain none too strict regulations. Members are not unknown, either nowadays or in the past, who have made considerable savings out of these handsome allowances. But, theoretically, these are only expenses actually incurred. The time and energy devoted by the member, and the sacrifice of his private business involved in his presence away from his own place of business, receive no monetary compensation from Government.* In the volume on Provincial Autonomy, we have considered at greater length the whole question of paid vs. gratuitous public service of this kind, from the standpoint of public interest and individual integrity; and so need not repeat ourselves here

*Any Legislator, who would do his duty honestly, even on a limited number of subjects in which he would specialise, would find a twelve hours working day, including attendance throughout its sittings in the House, none too liberal an allowance for his work. But even legislators are human; and more of them are often found chatting in the lobbies or in the refreshment rooms than attending to their duties in the House. It is to be hoped in the new order of things, a more rigorous standard of public duty would be observed by these beings.

on the main theme. Suffice it to add that, corresponding to Section 72 in the case of the Provincial Legislators, there is Section 29 in the case of the Federal Legislature, which says:—

> 29. Members of either Chamber shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Federal Legislature and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of the establishment of the Federation applicable in the case of members of the Legislative Assembly of the Indian Legislature.

This speaks for itself, even if we had not added comments on the purport of Section 72 in the case of the Provincial Legislators. The only general remark we need add here is, that given the present atmosphere, there seems to be no hope of economy in this direction, whether they follow the existing practice of out-of-pocket allowance, or introduce the system of paid Parliamentary Service in India.

(v) Kinds and Course of Business in the Legislature

Let us next consider the kinds of business normally coming before either Chamber of the Legislature. With the single exception of Financial legislation which can originate only in the Assembly, and precedence in the submission of grants for expenditure, **both the Chambers of the Federal Legislature have identical rights and powers** in dealing with the normal business coming before the Legislature. Accordingly, the outline description of one would serve to illustrate the nature and course of business in both.

There are five types, normally speaking, of business before a Chamber of an Indian Legislature:—

(a) Interpellations; with Supplementary Questions;

mendations to the Governor-General. The latter was in no way bound to follow the policy suggested in a Resolution passed by either Chamber. There are scores of cases on record in which the clearly expressed wishes of the Legislature, in the form of such Resolutions, have met with no response whatsoever from the Bureaucratic Government. Whether the same tradition will be continued, or whether Resolutions will be allowed to be more mandatory in form, when a system of Responsible Ministry comes into being, remains to be seen. The matter is not free from doubt, inasmuch as the Governor-General has, even in the new Constitution, a wide margin of discretion, which may not only affect *ab initio* the Rules governing Resolutions, but which may render particular Resolutions of the Legislature, or of either Chamber, inoperative; and truncate the others so that the essence of the policy suggested is more than sacrificed. The responsible Ministry may, possibly, have to answer to the House for such a fate meted out to its Resolutions; but there are innumerable ways in which official excuses can whittle away the stark indifference shown by the Governor-General towards the wishes of the Legislature so solemnly, formally, expressed.

(c) Other Motions

We have already commented on the nature, purpose, and fate of the Motions for Adjournment in another section of this Chapter; and so need not devote any further space to that matter.

(d) Bills

Of proposals for legislation, Bills are the most considerable. Usually there are three or four stages

in the life of a Bill through the Legislature. The motion for, "leave to introduce the Bill", corresponds to the First Reading, when hardly any discussion of its basic principle, or particular details, takes place. Leave is generally granted without much difficulty, as it does not commit the House to anything. At times, this stage has been dispensed with by a mere publication of a Bill in the Gazette; but that nowadays rarely happens.

At the Second Reading stage, reached on the Motion to take the Bill into consideration, general discussion of the principle takes place. If the Motion is rejected, the Bill is killed for all practical purposes. A number of other Motions may also be made, such as referring the Bill to a Select Committee; or circulating it for opinion; or considering it in the (Committee of the) whole House. Except in regard to Finance Bills, or controversial legislation of first class national importance, this last course will not ordinarily be followed.

Only after the principle of a Bill has been accepted, can it be referred to a Select Committee. Bills referred to Select Committees are thrashed out in detail by the Committee; but the final report of the Committee, when taken into consideration by the Chamber, may be considerably modified by the House. Bills circulated for opinion are usually politely shelved, unless Government are interesting in expediting the Legislation. The third stage usually commences when Bills are taken into consideration by the House in detail. They may then be amended in the course of the discussion in any respect, short of negativing the basic principle of the Bill.

If in the course of the discussion the Bill, or at any stage after the Introduction, the Chambers are prorogued, the Bill in question is not *ipso facto* killed. Nor will a Bill, introduced and pending in the Council of State, would lapse if the Assembly is dissolved in the meantime, without that Chamber having considered or passed the Bill. A Bill introduced in the Assembly, and pending at any given stage; or which, having been passed by the Assembly through all its stages, is pending in the Council of State, will be deemed to have lapsed, if the Assembly is dissolved in the meantime, subject to there being no Joint Sessions of the two Houses called to consider such a Bill, within 6 months of its passage by one of the Houses.* No Bill is deemed to have passed both Chambers of the Legislature, which has not been agreed to by both Houses in identical terms.†

In the so-called Third Reading Stage of the Bill, only a Motion for its complete rejection is in order, to permit funeral orations by the Party defeated in the course of the general and detailed discussion of the principle and provisions of the Bill. No amendments are allowed to any specific provision at that stage of the Bill.

Throughout the various stages of a Bill in the Legislature, there is under the existing system no time limit on the speeches in support or opposition to any given provision, or to the general principle, except that under the Rules of Procedure to be made in that behalf, Financial legislation must be completed within

*cp.; Section 30.
†Ibid (2).

a given time.* Under the new Constitution many if not all of these rules or conventions of procedure may be repeated.

When a Bill has passed through all the prescribed stages in the Chamber in which it was first introduced, it is sent up to the other House, where it has to go through practically the same stages of discussion and dissection, amendment and adoption. Usually, however, the Lower House being the more important Chamber, all the more considerable legislative proposals originate in that body; and the fate there meted out to the measure would generally be repeated in the Upper Chamber without much further discussion. In the new Constitution, however, this stage of things may not remain, especially in regard to measures supposed to affect Indian States, or which have a strong minority to oppose it even in the Assembly. When the Chamber which originated a Bill has passed it, and the other Chamber rejects it; or does not agree to the Bill in the identical form in which it has left the originating Chamber; or more than 6 months have elapsed since the date of the introduction of that Bill in the other Chamber without its coming up for the Assent of the Governor-General.

> "the Governor-General may, unless the Bill has lapsed by reason of a dissolution of the Assembly, notify to the Chambers, by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill."†

Under an express proviso added to this section, the Governor-General is empowered to summon a joint

*cp., Section 38 (1) (b and c).
†cp., Section 31 (1).

sessions, even before 6 months, in the case of a Finance Bill, or a Bill that affects any of his discretionary functions, or those in which he is required to exercise his individual judgment. This makes the procedure of a joint sitting a much more regular point in the programme than has been the case under the existing constitution,* and may quite possible affect the fundamental importance and position of the Assembly, as the direct representative of the people of India.

(e) Finance Bills

Financial Bills have to follow practically the same procedure, except that, they originate only in the Assembly, and the intermediate period of 6 months will not be necessary for summoning a joint sitting of the two Houses for putting an end to the differences, if any, between the Houses.

(vi) Joint Sittings

The procedure at Joint Sitting is outlined in Section 31 (4):—

> 31—(4) If at the joint sitting of the two Chambers the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting it shall be deemed for the purposes of this Act to have been passed by both Chambers: Provided that at a joint sitting—
>
> (a) if the Bill, having been passed by one Chamber, has not been passed by the other Chamber with amendments and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

*cp., Section 31 (5), which provides: "A joint sitting may be held under this section and a Bill passed thereat notwithstanding that a dissolution of the Assembly has intervened since the Governor-General notified his intention to summon the Chambers to meet therein."

> (b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill, and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed, and the decision of the person presiding as to the amendments which are admissible under this subsection shall be final.

This, it need hardly be added, is a means, not to avoid the differences between the two Chambers; nor even to provide for negotiations and amicable settlement of these differences. It is only an arbitrary manner of settling them,—which will in no way add to the harmony between the Chambers.

Assent or Veto

When Bills have passed through all the stages in both Houses of the Legislature, they do not *ipso facto* become laws. The Governor-General must assent to them before they can have the force of law.

We have spoken elsewhere of the various forms of the final authority vested in the executive chief in regard to legislation, *viz.*, assenting to, withholding assent from, or reserving bills for the significance of the pleasure of superior authorities, including therein specific disallowance of a measure passed by the Indian Legislature, as well as a silent veto,— and so need say no more on that head in this place.

The Private Member

It may be mentioned here that, in the new Constitution more even than in the existing one, the ordinary Private Member has very little scope for personal distinction or initiative in matters legislative, or even in laying down lines of public policy. With the growth of strong, disciplined Parties and with the increase in the number of members, what little scope was left

under the existing Constitution to Private Members will disappear. Moreover, while in the existing Constitution, practically all elected members tended to make common cause against the Government, under the new Constitution, with its theoretically Responsible Government made up of Ministers chosen from among the Members of the Legislature, important legislative business, as well as matters of policy would be more and more monopolised by the Government. The Private Member,—except perhaps when the Opposition is strong and powerful,—would have little scope but to register his vote for his Party every time that a Division Bell intimates the need for such service. The Parties guaranteeing election will virtually free the member from that sense of direct personal responsibility to his constituents, which spurred individual members under the existing Constitution to make special efforts for personal initiative or distinction,—for which under the new Constitution there would be no great scope.

III. The Legislature and the Ministry

Of the remaining subheads of this Chapter, we have already discussed at some length the subject of the Legislature and the Governor-General:* The relations of the Legislature and the Ministry, are difficult to forecast, while the Federal Legislature has yet to come into being. This much, however, is clear: The Federal Ministry will be even more composite and heterogenous than that in the Provinces. It is possible that no single Party might obtain an absolute majority, at least in the initial period, in the Federal Legislature collectively, even though in the Federal Assembly,

*Chapter VI, ante p. 221.

there might be a single Party in absolute majority, over all other groups or Parties put together. But even that seems a very, very remote possibility. The Cabinet being composed of elements, representing not only the dominant Party, but also particular Minorities and the Federated States, as far as practicable, it will have affiliations with a number of groups, which may not all remain equally loyal or cohesive for the life of the Assembly. There may develop, under the peculiar conditions created or emphasised by this Constitution, that multifarious Group system in the National Legislature, which is such an outstanding characteristic of the French political system. With these groups, the personnel of the Ministry may go on frequently shifting; and the loyalties of the larger portion of the Assembly would change with it. A Ministry in such a delicately balanced position may quite possibly find the Legislature more exacting and critical than would consort with harmonious relations. The only permanent elements might be the Governor-General's non-responsible Counsellors for the reserved or excluded Departments, and, perhaps, the representatives of the Federated States. From the standpoint of a working democracy, this consummation, if it occurs, is not altogether desirable; but there seems to be no possibility of altogether avoiding it, at least in the first years of the new regime. For the rest the reader must be referred to the chapter on Ministry.

The Legislature and the People

The same must be said, on the whole, regarding the relations between the Federal Legislature and the Indian people. The more popular Chamber, the Assembly, would be only indirectly elected. It would be a

reflection of all the communities, interests and classes, which may not have the same urge to cementing the national solidarity as a directly elected House of Representatives of the People might show. The Upper House, paradoxically, is an elected body. But the electorate is extremely narrow, and mainly reactionary. Its voice will, therefore, in all probability, never be in harmony with the popular voice, and so not of the weight and importance which attach to a really popular expression. Besides, the Council of State is a permanent, non-dissoluble institution; its members have a tenure of 9 years; and though a third of them might retire every three years, their contact with the real public sentiment is apt to be obsolete, disjointed, unreal. Methods of keeping the electorate in direct touch with the doings of the Assembly, or of the Council of State, may be devised hereafter, more efficient and expeditious than is the case so far.

One of the handicaps, however, to a close and constant popular contact with the Federal Legislature would be the rule of the Constitution that "all proceedings in the Federal Legislature shall be conducted in English."* Though the same section has a proviso permitting, by special rules of procedure, members insufficiently acquainted with the English language to express themselves in another language, the fact remains that so long as the proceedings of the Legislature are to be mainly in a foreign language, the mass of the people unacquainted with that language cannot take a close and steady interest in the proceedings of the national Legislature.

*Section 39.

The Legislature and The Press

The principal agency for keeping up contact between the public and the Legislature would be, of course, the Press. Except providing a Press gallery, the Indian Legislature has hitherto done little towards keeping up a living contact with the masses. India is unfortunate in having no National News Agency of its own, though, in recent years, the deficiency has been attempted to be remedied by such ventures as the United Press of India. These are, however, still in their infancy; and the fact of their well-known popular sympathy bar them from any substantial aid or material sympathy from the powers that be. Official patronage for the dissemination of such matter, as the proceedings of the Legislature, the plans of the Ministry, etc., is still reserved mainly for non-Indian News Agencies. It may be questioned if the powerful vested interest already established in this field will ever surrender the advantages enjoyed by them, simply in order that Indian enterprise or Nationalist News Agencies may grow, and flourish. Party propaganda would, of course, make up the deficit; but obviously Partisan statements or propagandist publicity suffers from a severe though intangible handicap. Exigencies of maintaining Party discipline, or the inmost fondness of Party bosses for unquestioned authority, may lead to a stifling of discussion in the Press, which might then be only a first step towards Fascist dictatorship. Already there are omens of such a development in some of the most influential political circles in India. And unless the love for civil liberties is somewhat deeper than the irresistible allure such ideas have always offered in the

abstract to individuals of ardent imagination, there is appreciable risk of the new regime in India offering stone when the people have been crying for bread.

The ordinary newspaper has a limited circulation and resources, is usually handicapped very badly for finance as well as in respect of writers; and has very little organisation of its own to procure, judge, sift, or disseminate information. Reporting in India is scarcely born; and the institution of the Special Correspondent is a luxury open only to the select few. Foreign connection is rudimentary, and the domination of one or more capitalists often fatal to the independence as well as the integrity of the Press. Nevertheless, such as it is, it is doing considerable service in the cause of national awakening, and spreading political consciousness. For doing political education of the masses, the daily press is perhaps not so well suited as the periodical; but even that is in its infancy. The radio and the cinema, as efficient weapons of political education, have yet to be appreciated. Taking it all in all, the new India will have to evolve its own press, or methods of propaganda, if the task of a thorough political awakening among the masses, leading to an unbending resolve to win our birthright at any cost, is to be carried out satisfactorily.

CHAPTER IX

SECRETARY OF STATE FOR INDIA

The doctrine of the British Parliament as Trustee of the Indian people, responsible for the welfare and good government of India, is still maintained. The medium and vehicle for the enforcement of that responsibility, and the carrying out of that Trust, continues to be the Secretary of State for India. With the institution, however, of a measure of Responsibility to the elected representatives of the Indian people in the Provincial Legislatures, and also in the Federal Legislature when Federation becomes at last established, the necessity of retaining the full measure of control and authority in a member of the British Cabinet disappears,—at least in the theory of the new regime. In practice, of course, as we have already seen in part, the Secretary of State for India retains vast powers of the same essential type as those vested in him under the Government of India Acts right down to 1919. But the letter of the law has modified considerably the legal powers of the Secretary of State over the Provincial and the Federal administration, in part at any rate. The machinery, also, described under the system in force before the Act of 1935, is brought fully into operation, as the Council of India,—with the corporate entity called, the Secretary of State for India in Council,—has been altered and renamed; and the routine