CHAPTER XIX

Legislative and Executive Business

I—LEGISLATION (STAGES OF A BILL)

318. The Haryana State Legislature consists of the Governor and a house of the Legislature known as the Legislative Assembly.

(1) The Legislative procedure to be followed by the State Legislature is detailed in Chapter III, Part VI, of the Constitution of India. The Rules of Procedure and Conduct of Business of the House of the State Legislature regulate, subject to the provisions of the Constitutions, the business of the House in general, including legislation.

(2) Articles 245 and 246 of the Constitution of India empower the State Legislature to make laws for the State or any part thereof with respect to any of the matters enumerated in list II (State List) in the Seventh Schedule to the Constitution and, subject to the provisions of article 254 also in respect of any of the matters enumerated in List III (Concurrent List) in the said Schedule.

319. Legislative Powers of Governor.—The Governor also enjoys certain emergency legislative powers under article 213 of the Constitution of India. If at any time, except when the House of the Legislature is in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require. The proviso to clause (1) of article 213 prescribes the limitations and conditions under which the Governor shall not, without instructions from the President, promulgate any such Ordinance.

An Ordinance promulgated by the Governor has the same force and effect as an Act of the Legislature of the State assented to by him.

Every such Ordinance—

(a) shall be laid before the House and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature, or if, before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly; and

(b) may be withdrawn at any time by the Governor.

As soon as possible after the Governor has promulgated an Ordinance under the Constitution, the Administrative Department shall inform the Secretary of the Haryana State Legislature Secretariat of this fact, furnishing printed copies thereof for the information of the members of the Legislative Assembly.

320. Acts to replace Ordinances.—Superintendent of each Branch is personally responsible for seeing that every case in which an Ordinance is to be replaced by an Act is followed up in such a manner that the Act is promulgated before the Ordinance lapses.

321. *Procedure of submission of draft Ordinance to Government.*—All drafts of Ordinances proposed to be promulgated by the Governor should be sent by the Administrative Department to the Secretary, Legislative Department before its submission to the Governor so that the latter may scrutinise them and add his advice in regard to the constitutional correctness of their issue and whether the previous instructions of the President are required before their promulgation.

322. *Bills.*—Legislation may be initiated by the introduction of a Bill, in the Legislative Assembly, either by a Minister in charge of the subject matter or by any individual member of the Legislature. A Bill introduced by the Minister is known as a Government Bill and that introduced by a private member is known as a Private Bill.

323. *Policy in regard to legislation in respect of matters in Concurrent List of Constitution.*—A convention has been established between the Government of India and the State Government as to the general principal that there should be mutual consultation with regard to legislation in the Concurrent field. Then reasons under-lying this common policy are mainly (i) to maintain as far as possible, uniformity of law throughout the territory of India; (ii) to exchange ideas in cases of difficulty experienced in the working of laws falling in the Concurrent List of the Constitution. Mutual consultation also serves in some cases to bring to light at an initial stage defects or drawbacks in the proposed legislation which would be otherwise noticed at a late stage when the legislation is submitted for the assent of President under article 200 of the Constitution. The necessity for prior consultation with the Government of India may, therefore, be borne in mind in all cases in which the State Government propose to undertake l gislation on matters falling in the Concurrent List. The State Government should :—

(a) consult the Government of India, whenever possible, in respect of official bills before they are introduced in the State Legislature;

(b) supply the Government of India with copies of private Bills, which are likely to go forward at some convenient stage; after their introduction in the State Legislature;

(c) if time permits, inform the Government of India of all important amendments to such bills; and

(d) inform the Government of India of any difficulties encountered in the working of the laws falling within the Concurrent List in order that, as far as possible, legislation in the concurrent field is undertaken only after previous consultation between the State and Central Governments.

The method of consultation should be either by correspondence or conference, according to the importance of the legislation or the urgency of the case.

The above conventions need not be taken as restricting the discretion of the State Government to take independent action, should they consider that the need for action is so urgent that consultation is not possible in a ny particular case, but whenever such an exception is ma de, Government of India must be informed as soon as possible.

When a draft Bill is referred to the Government of India for consultations under the procedure set out above, the comments of the Government of India should invariably be awaited before the Bill is introduced in the State Legislature.

324. *Preliminary Stage of a Government Bill.*—(1) When the Legislative Department is the initiating Department. The Legislative Department is not, in res-respect of legislation, an originating or initiating Department except in respect of measures for the codification of the substantive law, or for consolidation, pure and simple, of existing enactments ; or legislation of a forma l character, such as repealing or amending Acts. The procedure in such legislation is for the Leg islative Department to draft the B ill and send copies thereof with a Statement of Objects and Reasons, to the Administrative Department concerned for consideration. When the proposed Bill is approved by the Council of Ministers, it should, be returned to the Legislative Department with the direction to take necessary steps. The Legislative Department then will transfer the final draft Bill to the Chief Secretary in the Political Branch as required by rule 43 of the Rules of Business of the Government of Haryana.

(2) *When the Legislative Department is not the initiating Department.*—Legislation of any other kind is initiated by the Administrative Department concerned, after the proposed legislation and all points connected wherewith have been discussed and settled by the Council of Ministers. When the question of the desirability of legislation is decided to be circulated for opinion before introduction in the House of Legslature, a date should always be fixed for the submission of such opinions and the case should be taken up immediately after such date, even if the opinions asked for have not been received, unless the Minister-in-charge thinks it desirable to wait for them. This procedure should also be adopted in the case where a draft Bill has been circulated for eliciting opinion after intoduction. The Legislative Department may thereafter be consulted un-officially as to the desirability or expediency from the legal–cum-administrative point of view the proposed legislation. On such a reference it open to the Legislative Department to point out, for example, tha t the proposal to legislate is unnecessary in that the Administrative Department concerned has misconcieved the effect of the existing law which infact, already meets the requirement which the Administrative Department concerned has proposed to meet by new legislation, or to suggest that general legal principles render it inexpedient that legislation in the sense proposed should be enacted. It is also open to the legislative department on receiving such a reference to suggest that the object in view would be better realized by legislation in a sense different from that proposed.

325. *Submission of official memorandum*—When all points pertaining to the proposed measure have been settled, the Administrative Department concerned will submit to the Legislative Department an official memorandum containing a complete explanation of the required legislation together with all instructions for drafting the same. This official memorandum will be accompained by a rough/draft of all or any portion of the proposed Bill by the department concerned of in order to shorten or to classify the necessary instructions. The official memorandum should be accompanied by a copy of the statement of objects and reasons of the Bill and the decision of the Council of Ministers in regard to the proposed legislation.

The Legislative Department will then prepare a draft of the proposed Bill in consulation, if necessary, with the Secretary of the Department concerned or some official deputed by that department who is fully acquainted with the proposal.

When the draft Bill has been prepared, it will be sent to the Department concerned for approval by the Council of Ministers. The Legislative Department will, at this stage, also advise whether the proposed legislation is intra vires the State Legislature and whether or not it requires the previous sanction of the President of the recommendation of the Governor to its introduction. If necessary, such recommendation/sanction will then be obtained by the Secretary of the Department concerned and when this has been done, the House of the State Legislature must be informed under advice to the Legislative Deparrment.

326. *Introduction and Publication.*—The draft Bill is now ready for introduction in the Legislature and its adventures from this Stage are governed by the Rules of Procedure and Conduct of Business of the House of the Legislature Ordinarily, these rules require fifteen days' notice before any member may move for leave to introduce a Bill, but in the case of Government Bills, the rule may provide then motion for leave to introduce the Bill may be dispensed with when order is made by the Governor for publication of the Bill together with the Statement of Objects and Reasons in the Gazette and such a provision is invariably invoked so that it shall not be necessary to move for leave to introduce it and the Bill when afterwards introduced, shall not be published again.

327. *Governor's recommendation required on Financial Bill.*—Under article 207 of the constitution of India, a Bill or amendment thereto making a provision for any of the matters specified below, shall not be introduced or moved except on the recommendation of the Governor :—

(a) the imposition, abolition, remission, alteration or regulation of any tax ;

(b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State ;

(c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of money into, or the withdrawal of moneys from any such Fund ;

(d) the appropriation of money out of the consolidated Fund of the State ;

(e) the declaring of any expenditure to be charged on the consolidated fund of the State, or the increasing of the amount of any such expenditure ;

(f) the receipt of money on account of the Consolidated Fund of the State or the Public account of the State or the custody or issue of such money.

No such recommendation shall be required under the said article for the moving of an amendment making provision for the reduction or abolition of any tax.

A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

A Bill which, if enacted and brought into operation would involve expenditure from the Consolidated Fund of the State, shall not be passed by the House of the Legislature, unless the Governor has recommended to the House the Consideration of the Bill.

Arrangement for obtaining and conveying the recommendation of the Governor shall be made by the Administrative Department concerned.

328. *Previous sanction of the President.*—Under the proviso to article 304 of the constitution no Bill or amendment of any law which imposes restructions on the freedom of trade, commerce or intercourse with or within the State, shall be introduced or moved in the legislature of the State without the previous sanction of the President. All communications relating to the sanction of the President under the proviso aforesaid should be addressed to the Government of India, Ministry of Commerce with a copy thereof to the Ministry of Home Affairs for information.

In all other cases, when a Bill or amendment requires the previous sanction of the President, it should be forwarded to the Government of India Ministry of Home Affairs, by the Administrative Secretary concerned through the Governor, after previous consultation with the Ministry concerned.

329. *Previous Recommendation of the Governor.*—(1) When a Bill or amendment requires the previous recommendation of the Governor, the Secretary, Administrative Department will move the Governor for the grant of such sanction.

(2) If the President or, as the case may be, the Governor grants or withholds sanction or recommendation to the introduction of a Bill or amendment in the State Legislature, the Secretary to the Governor shall communicate the information to the Legislative Department through the Administrative Department concerned who shall, in all cases, inform the Secretary, Haryana State Legislative Secretariat accordingly.

330. *Private Members Bills.*—Fifty copies of every proposed Private Bill shall be sent by the State Legislature Secretariat to the Legislative Department as soon as notice of motion for leave to introduce it is received. The Legislative Department on its receipt will forward four copies each to the Governor and the Administrative Department concerned together with the advice whether such Bill requires the previous sanction of the President or recommendation of the Governor to its introduction in the Legislature.

If under the Rules of Procedure and Conduct of Business in the House of the State Legislature, the Bill or amendment thereto given notice of by a Private member is a Bill or amendment thereto which under the Constitution cannot be introduced without the previous sanction of the President or the recommendation of the Governor, the member shall annex to this notice a request for such sanction or recommendation, as the case may be, and the motion for the leave to introduce the Bill shall not be moved until the required sanction or recommendation has been obtained and nitimated to the House and the Member concerned.

331. *Publication of Bills.*—The Rules of Procedure and Conduct of Business of the State Legislature may provide that the Governor may order publication of any Government Bill together with its Statement of Objects and Reasons in the Gazettee. Such publication takes the place of the motion for leave to introduce the Bill and obviates the necessary for any previous notice, and if this Bill is afterwards introduced,