

# **RULES COMMITTEE**

## **SECOND REPORTS**



**LOK SABHA SECRETARIAT**  
**NEW DELHI**  
*April, 1956*

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## PERSONNEL OF THE RULES COMMITTEE

1. Shri M. Ananthasayanam Ayyangar—*Chairman*.
2. Sardar Hukam Singh
3. Pandit Thakur Das, Bhargava
4. Shri Satya Narayan Sinha
5. Shri N. Keshavaiah
6. Shri Shivram Rangoo Rane
7. Shri Ghamandi Lal Bansal
8. Shri Khushi Ram Sharma
9. Shri Kotha Raghuramaiah
10. Shri Satis Chandra Samanta
11. Dr. N. M. Jaisoorjee
12. Shri N. C. Chatterjee
13. Shri Bhawani Singh
14. Shri Kamal Kumar Basu
15. Shri K. S. Raghavachari

### SECRETARIAT

Shri M. N. Kaul—*Secretary*.

Shri S. L. Shaktiher—*Joint Secretary*.

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## **SECOND REPORT**

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( ii )

## SECOND REPORT OF THE RULES COMMITTEE

The Rules Committee held their sitting on the 17th April, 1956 to consider the procedure regarding Bills seeking to amend the Constitution.

2. The recommendations of the Committee are contained in their Second Report which the Committee authorise to be laid on the Table of the House.

3. The Minister of Legal Affairs in his letter dated the 23rd February, 1956 (Appendix 'A') has suggested that rules 167 to 169 dealing with the voting on Bills seeking to amend the Constitution be amended. According to him, article 368 of the Constitution provided for a majority of the total membership of the House and a majority of not less than two-thirds of the members present and voting (hereinafter called 'special majority') only at the final stage of the passage of a Bill, while all the earlier stages were covered by article 100(1) of the Constitution which required simple majority. He has accordingly suggested amendment of rules 167 to 169 so as to conform to this interpretation of the provisions in the Constitution.

4. The Attorney-General who was present reiterated his earlier opinion on the subject which he had given to the Speaker in 1951 in response to a letter from the latter (Appendix 'B'). According to him, on a strict interpretation of article 368 the special majority required was applicable only to the voting at the final stage of passing of a Bill seeking to amend the Constitution.

5. The Minister of Home Affairs, while agreeing with the views of the Minister of Legal Affairs and the Attorney-General, stated that in the case of omnibus Bills, i.e., Bills which contained proposals for amendment of articles of the Constitution on different subjects or aspects thereof, discretion might be vested in the Speaker to determine whether, when clauses were put to the vote, he should require that in view of the importance or other circumstances of the case, a particular clause or group of clauses should be adopted by a special majority so that there was no ambiguity as to the opinion of the members on the different provisions of the Bill.

6. Some members felt that the essence of article 368 was that no Bill seeking to amend the Constitution should be passed otherwise than by a special majority, and this meant that all effective processes leading to the passage of the Bill should be subjected to

this special majority. It was contended that the principle of the Bill should be accepted not by a simple majority but by a special majority as it was an important stage in the passage of the Bill. If the special majority was not forthcoming at that stage, it was no use spending the time of the House in the subsequent stages and throwing out the Bill at the last stage.

7. There was also the question of clauses of the Bill. The present procedure was to bring before the House omnibus Bills involving amendments of articles on different aspects or subjects of the Constitution and it might well be that members might be divided on the different provisions in different ways. If voting by a special majority was taken only at the last stage, the position of members would become anomalous. The votes would not reflect their true views on the different provisions. It was felt that if a Bill contained provisions relating to a single article of the Constitution or articles which were closely related to, or inter-dependent upon, each other, there might be some justification for a vote by a special majority being taken at the last stage only and omitting this requirement on clauses. But in the case of omnibus Bills, it was clearly desirable to insist upon clear expression of the views of the House on different provisions of Bills separately. The members also felt that instead of giving the discretion to the Speaker and placing the burden upon him to determine in each case how the voting should be taken, it was better if it was clearly laid down in the Rules themselves that special majority would be required on all clauses with a proviso that the Speaker might put a group of clauses together in order to save the time of the House.

8. Some members also thought that if a special majority was reserved only for the final stage of the passage of the Bill, it might well be that the whole consideration of the Bill and the clause by clause discussion would be concluded by the House in which 50 members need be present and only 26 voting in favour. Such a position, even theoretically, would run counter to the spirit and scheme of article 368 of the Constitution.

9. A point was raised that if the provisions of article 368 were not strictly followed, i.e., if a special majority was required on a stage other than the final stage, such action might be against the provisions of article 100(1). It was considered that when there was a doubt about the interpretation of the word "passed" used in article 368, it was safer to have a special majority rather than a simple majority in the case of other effective stages also.

10. The Committee were of the opinion that as the report of the Select or Joint Committee was subsequently considered in the

House and that as, by well established convention each such Bill was always sent to the Select or Joint Committee, no special majority for reference of a Bill seeking to amend the Constitution to the Select or Joint Committee should be insisted upon.

11. As regards the motion for circulation of a Bill for eliciting public opinion, the Committee were of the view that as the House was not committed to the principle of the Bill while voting on such a motion, insistence upon special majority was not necessary.

12. The Committee having considered all the aspects of the matter recommend that draft amendments shown in Appendix 'C' may be made in the Rules of Procedure.

NEW DELHI;  
The 18th April, 1956.

M. Ananthasayanam Ayyangar,  
Chairman,  
Rules Committee.

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## **APPENDICES TO SECOND REPORT**

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## APPENDIX 'A'

*Copy of letter dated the 23rd February, 1956 from  
Shri H. V. Pataskar, Minister of Legal Affairs to  
Shri M. Ananthasayanam Ayyangar*

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Some time ago, the Law Ministry had raised the question whether, in view of the mandatory provision contained in article 100(1) of the Constitution, it was constitutionally correct for the Rules of Procedure to provide that various interim motions in connection with a Constitution Amending Bill must also get the special majority which is laid down in article 368 *only* for the passing of such a Bill. Our view was, and still is, that the words "when the Bill is passed in each House" which occur in article 368 refer to the final stage when, after all clauses, Schedules, the short title, the enacting formula and the long title have been adopted, the motion is put to the House that the Bill be passed. Even in regard to clauses, Schedules, etc. the form of motion is "that clauses such and such do form part of the Bill". It cannot be said that any such motion, much less a motion that the Bill be taken into consideration or that it be referred to a Select Committee of the House or that it be referred to a Joint Committee of the two Houses or that it be circulated for eliciting public opinion, is a motion for which the Constitution "provides" for any majority other than a majority of votes of the members present and voting. We think, therefore, it is contrary to article 100(1) to provide for a special majority for all sorts of interim motions in respect of Constitution Amendment Bills. We have specially consulted the Attorney-General on this point and he agrees with this view.

2. I need hardly remind you of the most embarrassing and awkward situation in which we found ourselves during the last session, when although the House was almost unanimously in favour of the Bill to amend article 3 of the Constitution, it could not proceed with it, because the number of members actually voting for the reference to a Joint Committee fell short of the requisite absolute majority by three or four. You are also aware of the amount of time which has to be spent on divisions. I for one can see no justification, either theoretically or from the practical point of view, for valuable parliamentary time being spent in this way. I would, therefore, request you to place the matter once again before the Rules Committee and reconsider rules 167 to 169 of the Rules of Procedure. I shall be glad to put my views before the Rules Committee also, if necessary.

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## APPENDIX 'B'

*Extracts from Attorney-General's letter dated the 18th May, 1951  
to the Speaker*

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As to the meaning of the words "when the bill is passed in each house" in article 368, it appears to me that the expression "passed" has, I think, reference to the passing of the bill at the final stage. The expressions "the introduction of a bill" and "when the bill is passed" have to be understood in reference to the practice and procedure usual in Houses of Parliament. Though various clauses of a bill may be voted upon at different stages and "passed", the bill as a whole is "passed" only when the voting takes place at the final stage. The majority insisted upon by article 368 is, therefore, I think, applicable only to the voting at the final stage.

As a matter of the true interpretation of article 368 I think that the view put forward in the last paragraph is the correct view.

However, I agree that it is better to err on the safer side and take the stricter view insisting on the requisite majority at all stages of the passage of the bill.

## APPENDIX 'C'

*Amendments to Rules of Procedure and Conduct of Business in the House of the People (Fourth Edition), as recommended by the Rules Committee.*

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### RULE 167

1. In the first proviso to rule 167, the words "with the unanimous concurrence of the House" and the commas after the word 'may' and before the word 'put' shall be omitted.

### RULE 169

2. In rule 169—

(a) in clause (i), for the word "it" the words "the Bill" shall be substituted;

(b) for clause (ii), the following shall be substituted, namely:—

"(ii) the Bill as reported by the Select Committee of the House or the Joint Committee of the Houses, as the case may be, be taken into consideration, or";

(c) clauses (iii) and (iv) shall be omitted;

(d) clause (v) shall be re-numbered as clause (iii);

(e) for clause (v) re-numbered as (iii), the following shall be substituted, namely:—

"(iii) the Bill, or the Bill as amended, as the case may be, be passed,"

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