CHAPTER 2

ELEMENTS IN THE SETTING OF THE FORUM OF THE LEGISLATURE

This chapter contains the following topics:

I) Mechanics of the Proceedings of the Legislature

II) Role of the Elements

(A) Government
(B) Speaker
(C) Opposition

Mechanics of the Proceedings of the Legislature

After new members, if any, have taken their seats, a period of one hour at every meeting is available for the asking and answering of questions. Questions are asked to elicit information, to criticise government policies, to build up cases against the government, for levelling allegations and ventilating the grievances of the constituencies. Eighteen conditions have been laid down for the admissibility of the questions. A member who desires an oral answer to his question distinguishes it by an asterisk and other questions are treated as unstarred questions.

A clear 45 days' notice is required for the starred questions. The Oral question, which is not replied in the House, is answered in a written form. Sometimes the members
require early reply for their questions. Such questions are called as short notice questions. According to rule 85(1), a member who desires an immediate reply to a question of an urgent nature has to give notice of it to the Secretary which is not to be earlier than seven days prior to the commencement of the session or an adjourned session.

For the purpose of eliciting more information the members can ask supplementaries. In case the demanded information is not with the Minister concerned, a separate notice of a fresh question on the same topic is required.

The information supplied by the Ministers sometimes does not satisfy the members. Therefore Half-an-Hour discussions are held. According to Rule 93(1), on every Tuesday and Thursday, at the close of the meeting of the Assembly the Speaker allots half-an-hour for the discussion.

The Members of the Assembly may topple down the Government by carrying successfully a motion of no-confidence against the ministry. If the Government deviates from the avowed policy or the members desire to disapprove the policy this motion can be moved. The leave for such motion is granted by the Speaker when at least 27 members support such motion.

A definite matter of urgent public importance can be raised by moving a motion for the adjournment of the business of the Assembly. A provision of such motion has been made in Rule 96.
Discussions on the matter of urgent public importance can be raised through other devices. The adjournment motion, though concerned with the matter of urgent public importance, is restricted to a specific matter of recent occurrence. In the explanatory note the reasons for raising discussion for short duration on matters of urgent public importance are to be given and supported by the signatures of other two members. The Maharashtra Legislative Assembly Rule 100 states, "Any member desirous of raising discussion on a matter of urgent public importance may give notice in writing to the Secretary specifying clearly and precisely the matter to be raised." Other members may participate in the discussions; the Speaker prescribes the time-limit for the speeches of the Members. The discussions are used to ventilate the grievances of the people.

The members, with the permission of the Speaker, may call the attention of the Minister to a matter of urgent public importance. The Minister may make a brief statement thereon, or may give a later hour or date for the statement. Though the discussion is not held, certain supplementaries can be asked provided the Speaker allows. Though the discussion is not held on such motions the members can collect adequate information from the minister's reply.

A clear notice of 15 days is required before the date is appointed for the disposal of the private members' resolutions. The maximum limit of speech is 15 minutes. With the
permission of the Speaker more time may be allotted. The provisions of Rule 105 are not applicable to Government Resolutions. The resolutions embody certain demands of the members. Government gives them thought and tries to fulfil the demands.

A private member desiring to move for leave to introduce a Bill is required to state the objects and reasons. If the introduction of a Bill is not opposed, then it is, along with the objects and reasons, published in the Gazette. The device of Bill may be used by the members to suggest some change in the Government Policy. The demand expressed in terms of bills generally relates to the Government Policy.

A Bill other than a private member’s involving expenditure is to be accompanied by a financial memorandum. The recurring and non-recurring expenditure are to be shown in case the Bill is passed into Law.

The Speaker does not allow the introduction of a Bill or amendment, where the President’s sanction under Article 304 of the Constitution is required. In case the Speaker does not refer such Bills to the President, the latter informs the Speaker accordingly and then the Bills cannot be entered in the list of business.

After the introduction of the Bill one of the following motions can be moved.

(i) that it be taken into consideration or
(ii) that it be referred to a Select Committee composed of such members of the Assembly and with instructions to report before such date, as may be specified in the motion, or

(iii) that it be referred to a Joint Committee of both the Houses, or

(iv) that it be circulated for the purpose of eliciting opinion thereon.

On the day when a motion according to Rule 122 is made, or on any subsequent day, a discussion is held on the general principles embodied in the Bill. As a motion has been agreed to by the Assembly that a Bill be taken into consideration, the Bill is presented clause by clause. The members can suggest amendments to the clauses. The Speaker is empowered to call upon any member, who has given notice of amendment. Afterwards, the Bill, or the Bill as amended is presented before the House. At this stage, arguments can be made either in support of the Bill or for the rejection of the Bill. The Speaker has power to correct patent errors. When the Bill is passed the Speaker signs it and certifies it. Then the Bill, so certified, is transmitted to the Secretary of the Council.

If the Council does not accept the Bill, as passed by the Assembly and amendments are suggested by the Council, then the Bill in the amended form is laid down on the table of the Assembly for consideration. The agreement or disagreement to the amended Bill is intimated to the Council. If more than a month elapses, from the date on which the Bill
is sent to the Council and the Council does not pass it, it is deemed to have been passed.\textsuperscript{12} When a Bill is passed second time by the Assembly, and the Council insists on its amendments, the agreement or disagreement of the Assembly is communicated to the Council and in the latter case the Bill is deemed to have been passed in the form in which the Assembly has passed it.

On the day appointed by the Governor, the Budget is presented before the Assembly. The Budget is discussed in two stages: (i) in a general form and (ii) during the voting of demands for grants. The Speaker decides the order in which the demands are to be discussed. At the most two days can be allotted for the discussion of one demand. The present provision enables the members to criticise the government policies and point out the administrative drawbacks in the government departments.

At the time of voting of demands for grants, a motion for reducing the grant, or reducing any item, can be moved. However, the complexion of the grant cannot be changed.\textsuperscript{13}

A supplementary statement can be presented before the House if the Speaker permits. The discussion of a supplementary grant is restricted and it does not permit the discussion on the original demand. The members cannot discuss even the policy underlying the demand.

The Legislature is assisted by a number of Committees.
Some of the important committees are as follows:

(a) Business Advisory Committee
(b) Public Accounts Committee
(c) Estimates Committee
(d) Committee on Subordinate Legislation
(e) Committee on Government Assurances

(a) Business Advisory Committee

The Speaker nominates not more than twelve members on the Committee. The Speaker is the Chairman of the Committee. The Committee allots the time for the various phases of the Bills and for other items in the proceedings of the House. It carries out the functions which are assigned by the Speaker. The Committee has to see that the Opposition is not shown any injustice as far as sharing of time of the House is concerned.

(b) Public Accounts Committee

Every year, this Committee is constituted of not more than nineteen members, fifteen from the Assembly and four from the Council. The Committee deals with the reports of the Comptroller and Auditor General of India relating to the Appropriation Accounts of the State.

The Minister cannot become a Member of this Committee. If a member of this Committee becomes a Minister he ceases to be a member of the Committee. The Committee also examines the Finance Accounts of the State Government.
(c) **Estimates Committee**

Every year after the beginning of the First Session this Committee is constituted. Fifteen members from the Assembly and four members from the Council are taken on the Committee.

The Committee examines the budget estimates. It suggests economies after scrutinizing the demands for supplementary demands.

The Public Accounts Committee and the Estimates Committee provide best opportunities for the members of the Opposition party as well as for the ruling party in the review and evaluation of the performance of, and observance of the rules and provisions laid down by the Legislature, by the administration.

(d) **Committee on Subordinate Legislation**

The legislature prepares a broad framework of legislation and details are left to be worked out by the executive. This Committee examines whether these details are consistent with the original framework of the legislation. At the commencement of the first session this Committee is appointed for a year. During the period of our study, the Committee consisted of not more than fifteen members. Eleven members are nominated by the Speaker from among the members of the Assembly and four from among the members of the Council. The Minister cannot be a member of this Committee. If a
member becomes a minister he has to resign his membership of this Committee.

The Committee scrutinises whether the rules, regulations, bye-laws referred to in Rule 216 have been properly exercised.

(a) **Committee on Government Assurances**

This Committee scrutinises the promises given by the ministers on the Floor of the Assembly. It reports how far the promises have been implemented and how much time was consumed in implementing them.

The Committee during the period of our study consisted of eleven members. The term of the members cannot exceed a year. The Minister cannot be a member of this Committee.

II

**Role of the Elements**

(A) **Government**

In parliamentary set-up, the party which wins a majority of seats in the election forms the Ministry. Being a responsible government, it has to translate the programme and fulfil the assurances it has given during the election. The outline of the policy, which is announced during election, is based on the existing conditions in the country. The government has also to cope with problems which are products of unforeseen circumstances. The situation created by other
political groups and pressure groups is also to be attended to.

The atmosphere always brings certain challenges. If government does not meet these challenges efficiently and successfully, there is a fear that government might lose the confidence of the people. The Opposition Party also can exploit the situation against the government. Laski has described this situation as a crucial one, and at this time the Opposition party can hit hard.

Therefore, if the government desires to continue in office, it should not offer such opportunity to the Opposition Party. The government ought to be very cautious about the moves of the Opposition. But the feeble opposition does no harm to the government even if the government goes astray.

In fact the Opposition Party makes the government feel that it is a responsible government. In this process the government might get irritated. Government is expected to be an active listener to the grievances ventilated in the House. It should not be affected by a sense of complacency and should try to pacify the Opposition groups.

In parliamentary democracy the interests of the opposition parties and the ruling party cannot be conflicting forever. Certain circumstances demand co-operation between the ruling party and the opposition parties. Particularly when the country faces a grave danger of invasion or economic crisis, the administration cannot run smoothly without a
perfect understanding between the ruling party and the
opposition parties. In democracies, where opposition is
weak, in the House the ruling party might have a smooth
sailing without the support of opposition, but outside the
House the opposition might have firm roots among the people
which the government has to take care of.

As a parliamentary etiquette the majority and the
minority should honour each other. The majority enjoying a
large margin of seats over the minority might override the
interests of the minority. Though the minority may not have
a sizable voting strength, it can offer helpful suggestions.
Many acceptable suggestions from the opposition come through
resolutions, bills, amendments and discussions. If govern-
ment applies them an impartial mind, it may tone up admini-
strat ion. The opposition party is really a fountain of
criticism. K. C. Wheare has developed an inference from his
comparative study of the legislatures that the functions of
the legislature, specially the function of controlling the
administration, have been carried out by the Opposition Party.

Some members from the majority party also participate
in the criticism of the government. One of the reasons for
this tendency might be traced in the personal dissatisfaction
of some members. They expect promotion as a chairman of a
committee of the legislature or an ad hoc inquiry or standing
committee of the government. In case of a few legislators
of the ruling party, they expect even ministerial positions.
When they find that their expectations are not realised, they are frustrated and are even apt to forget the party discipline. Secondly, the members belonging to the majority party might criticise the government when the justifiable demands of their constituencies are not satisfied. But, here the legislators may not be motivated by selfish interests. The majority party in itself has some factions. The reasons of these factions might be attributed to the uneven economic growth of the various regions and/or inadequate or lack of representation in the ministry. Presently, it is a growing belief in the country and the constituent states that without due representation of the particular region in the ministry progress of that region cannot be speeded up.

Sometimes a popular pressure builds up in this constituency or that on account of this factor and might erupt in a violent form. This might turn the legislator representing the constituency, even belonging to the ruling party, into a militant advocate of his constituents' grievances.

Thirdly, members on few occasions are guided by their own conscience.

Apart from this, divergent views are frequently visible in the legislature, when the business of the House is informal or private. Members of the majority party might support the resolutions of the opposition parties, they might also oppose some resolutions proposed by their own party members.
(B) Speaker

The Maharashtra Legislative Assembly Rules 6 to 11 relate to the election, removal and other details of the Office of the Speaker. The significance of the Office of the Speaker can be judged easily from the function he performs and the powers he exercises. He is empowered to exercise a casting vote in tie, and his decision is final in regard to the dispute over a money-bill. The rulings given by the Speaker cannot be challenged and in the exercise of his power he is responsible to the House only. Within the framework of the rules and regulations of the House he admits the notices of questions, bills, motions and resolutions. His decision regarding the urgency and priority of the matter is final.

The Speaker safeguards the rights of the members, and sees that no injustice is done to the opposition party. He has to maintain parliamentary discipline in the House. His office is characterized by high dignity, impartiality and independence. Pandit Nehru, while unveiling the portrait of the late V. J. Patel said, "There is always a danger ... from a majority that it may choose to ride roughshod over the opinions of minority, and it is there that the Speaker comes in to protect each single member or each single group from any such unjust activity by a dominant group or a dominant Government. ...."

The Speaker represents the House. He represents the
dignity of the House, the freedom of the House, and because the House represents the nation, in a particular way, the Speaker becomes the symbol of the nation's freedom and liberty. Therefore it is right that the Speaker's should be an honoured position, a free position and should be occupied always by men of outstanding ability and impartiality.19

In Great Britain, by convention, he enjoys continuous tenure. Once he is elected, no rival candidate contests against him in as many elections, as he likes to stand for. This convention demands impartiality from the office of the Speaker and he has to satisfy the same. After being elected he ceases to be the member of any political party. It enables him to safeguard the interests of the members belonging to the minority.

He has to see that the Opposition gets adequate time to express its views. In Great Britain a convention has been created in this behalf. When the House in 1947 was discussing the extent to which ministers were prepared to answer questions about the everyday administration of the nationalised industries and the government declared for the maximum restriction, the Speaker informed the House, at the urging of some members, that he and not the government was the authority to settle what questions were admissible.20

The Indian Speaker differs from the British. The convention in Britain regarding Speaker's unopposed election in the next general election was not emulated in India.
Indie though the Speaker is expected to be impartial, he is
not required to sever his party-affiliation. After 1947
some Speakers in India declined to regard the British model
of Speaker suitable to India. They argued that their parti-
cipation in the national movement cannot be an obstacle in
the path of impartiality. As the attachment to national
movement loses its earlier significance non-participation in
politics might become more general.

As he is a custodian of the rights of the members of
the Parliament, he is appealed to, at the time when members
feel their rights are invaded by the Government. Herman
Finer states that the power of speakership in Britain issues
from tradition, ceremony and the possession of present-day
rights by practice, rule and statute.

The Speaker is in charge of the House. He maintains
order in the House. He decides the order of the participants
in the discussion. His decision regarding the procedural
difficulties is final.

He checks the members who speak irrelevant matter.
He does not permit the repetition of arguments. He allots
time for supplementaries. He chooses the amendments. Many
a time, the legislature has no sufficient time to discuss
the matter and he exercises 'closure of debate'.

The Speaker in the U.S.A. cannot be impartial. The
partiality results from the close relationship which the
Speaker continues with his party even after his election.
The members of the legislature in the U.S.A. challenge the rulings given by the Speaker and cause waste of time. The party decides who should be the Speaker. He is in constant touch with the leader of the House and other big leaders. He is authorized to move bills.

(C) Opposition

The Opposition during the Samyukta Maharashtra Movement witnessed a high tide by claiming 105 seats out of 262. The Congress Party obtained 157 seats.

The position of the various parties was as follows:

<table>
<thead>
<tr>
<th>Party</th>
<th>Seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congress</td>
<td>157</td>
</tr>
<tr>
<td>Praja Socialist Party</td>
<td>27</td>
</tr>
<tr>
<td>Peasants and Workers Party</td>
<td>24</td>
</tr>
<tr>
<td>Communist</td>
<td>19</td>
</tr>
<tr>
<td>Republican</td>
<td>15</td>
</tr>
<tr>
<td>Lal Nishan Gat</td>
<td>8</td>
</tr>
<tr>
<td>Independent</td>
<td>7</td>
</tr>
<tr>
<td>Bharatiya Jana Sangh</td>
<td>4</td>
</tr>
<tr>
<td>Hindu Mahasabha</td>
<td>1</td>
</tr>
</tbody>
</table>

Nearly 40 per cent seats were secured by the opposition. Some members had formally joined the Samyukta Maharashtra Samiti, who comprised 60 per cent of the strength of the Opposition. The P.S.P., Bharatiya Jana Sangh, and Hindu Mahasabha members, though supported the Samiti, many a time did not align with it formally. Five Independent Members out of seven were affiliated to the Samyukta Maharashtra Samiti. Seven Republicans out of fifteen joined the Samyukta
Maharashtra Samiti. It meant that the total strength of the
Opposition Party in the Assembly was quite sizable as
compared to that in the past.

During 1957 to 1961 the Opposition had an impact on
the government policy. The strength of the Opposition Party
was considerable. A member of distinguished personalities
exerted themselves to influence the administrative policies
of the government. Servashti S. M. Joshi, Datta Deshmukh,
V. D. Deshpande, K. S. Dhondge, Dhulup, Karkhania, Athalye,
Uddhav Rao Sehebrao Patil, R. D. Bhandare (Members of the
Legislative Assembly) and Servashti K. R. Patil, Gogate,
Donde, Harris, Chhapeker, Ogale and Rajhans (Members of the
Legislative Council) contributed their mite on behalf of the
Opposition. They enlivened the debates. Shri P. K. Atre,
though not so conspicuous inside the House, poured all his
energies for the movement outside the House for the realisa-
tion of the Samyukta Maharashtra. This raised the status of
Shri Atre in the Assembly itself.

But after the realisation of the Samyukta Maharashtra
the Opposition suffered a serious setback. The Congress
marshalled all the political resources at its command in the
whole country and Maharashtra to revive its position. During
the heyday of Samyukta Maharashtra Movement one was tempted
to fancy the existence of a real parliamentary system in the
State. But the hopes proved ephemeral. The reasons for this
setback were as follows:
(a) The Congress sought to weaken the opposition parties by weaning opposition leaders by offers of ministerships or deputy ministerships. For personal benefits many leaders changed their party affiliation. After the realisation of Samyukta Maharashtra no worthwhile common programme or plan was before the constituent parties of the Samyukta Maharashtra Movement. It was alleged by the Opposition that by hook or crook the Government tried to liquidate the Opposition.

(b) The measures implementing democratic decentralisation tended to strengthen the ruling party. Numerous administrative posts were created at the local levels, which attracted some of the leaders of the Opposition to the ruling party. On the contrary the Panchayat Samitis and Zilla Parishadls administered by opposition parties were put in difficulties now and then.

(c) The Opposition suffered from the paucity of funds. Industrialists and capitalists supported the Government by rendering it financial assistance.

(d) It was alleged by the opposition that the Government used the entire administrative machinery for its propaganda.

(e) Development works were undertaken or accelerated in those constituencies from where Congress candidates were elected.
According to some Opposition leaders the setback of the opposition was due to the non-responsive nature of the people in Maharashtra. But this reason was not justifiable. At the time of Samyukta Maharashtra Movement people supported the movement which did not vindicate that the people in Maharashtra were non-responsive.

The facts are not far to seek. After accomplishing the end of Samyukta Maharashtra, the Opposition had no attractive programme for the masses. Practically the Opposition had done nothing to retain its popularity. A model phase in the parliamentary system seemed to be in reach. Every opposition has to pass through two phases if it is to transform itself into government. During the first phase it exerts to make the case against the ministry of the day. During the second and more difficult phase, the negative case is sought to be transformed into a positive one by winning the trust of the people in its credibility to form the government. This criterion if applied to Maharashtra appears to be non-existent. After the decline of the Samiti the first phase which appeared in the State receded. In the next election (1962) the Opposition lost its hopes for forming an alternative government for years to come.

The position in the Assembly in August 1962 was as follows:
<table>
<thead>
<tr>
<th>Party</th>
<th>Seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total seats</td>
<td>263</td>
</tr>
<tr>
<td>Congress</td>
<td>220</td>
</tr>
<tr>
<td>Peasants and Workers Party</td>
<td>14</td>
</tr>
<tr>
<td>Democratic Front</td>
<td>13</td>
</tr>
<tr>
<td>Praja Socialist Party</td>
<td>4</td>
</tr>
<tr>
<td>Samyukta Socialist Party</td>
<td>2</td>
</tr>
<tr>
<td>Communist</td>
<td>4</td>
</tr>
<tr>
<td>Independent</td>
<td>4</td>
</tr>
<tr>
<td>Lal Nishan Gat</td>
<td>1</td>
</tr>
<tr>
<td>Nominee</td>
<td>1</td>
</tr>
</tbody>
</table>

The total number of seats claimed by the Opposition were 43 only. The Peasants and Workers Party got 10 seats less while Praja Socialist Party got 23, Communist 23, Lal Nishan Gat 7, Independent 3, seats less. The Samiti had 63 seats in the previous general election while in 1962 it claimed 20 seats only.

Another drawback of the Opposition was the existence of divergent groups. The crushing majority of the Congress vis-à-vis the Opposition held out a bleak prospect for the growth of a healthy parliamentary system. No semi-equilibrium position was expected to be attained in the near future.
REFERENCES

1. Maharashtra Legislative Assembly Rules Part II, Rule 17.
2. Provisions in this respect have been in Rule 94(1). The Maharashtra Legislative Council has not been empowered to move such motion.
3. Maharashtra Legislative Assembly Rule 97(ii).
4. Maharashtra Legislative Assembly Rule 104(1).
5. Maharashtra Legislative Assembly Rule 105(1).
6. Maharashtra Legislative Assembly Rule 110(2).
7. Maharashtra Legislative Assembly Rule 113(2).
8. Maharashtra Legislative Assembly Rule 119(1).
9. Maharashtra Legislative Assembly Rule 122.
10. Maharashtra Legislative Assembly Rule 133(3).
11. Maharashtra Legislative Assembly Rule 142(1).
12. Maharashtra Legislative Assembly Rule 145.
13. Maharashtra Legislative Assembly Rule 242(1).
15. Maharashtra Legislative Assembly Rule 204(1).
17. Maharashtra Legislative Assembly Rule 217(2).
18. Maharashtra Legislative Assembly Rule 224.
21. Ibid., p. 475.
22. Dr. P. V. Mandlik, a Praja Socialist Party leader, said, "If you remember even in the election of 1962
and earlier whenever an Opposition member contested election, the stock argument that was thrown against him was that a vote which is not given to the Congress is a vote given to anti-social, anti-national, or something bad in the country."


In an interview Shri P. J. Khatel, ex-member of the Council of Ministers, said, "The chances of showing injustice to Opposition Party in the Business Advisory Committee are remote because the members from the Opposition Party are there and the rivalry between majority and Opposition Party is not keen."

(He was interviewed in Sangamner, District Ahmednagar on 18th June 1974.)