CHAPTER IX

MISCELLANEOUS MOTIONS.

Motion for Address in reply to the Speech of the Head of the State.

The Head of the State opens the first session of the Legislature in each year and the first session after dissolution with a speech which outlines the policy of the Government, the legislative proposals and financial recommendations and the achievements of the Government during the previous year. The Constitution lays down that the rules of procedure should provide for time for the discussion of the matters referred to in the speech. The Speaker fixes the time for the discussion of such matters. The Constitution originally expressly provided for giving precedence to the debate on the speech over other business of the House. But subsequently the provision has been amended and although it is not compulsory to give precedence to the debate, precedence is in fact given over other matters of business except urgent and formal ones.

The debate on the speech is initiated, as in the House of Commons, by a motion for giving an Address in reply expressing the thanks of the members of the House for the speech delivered. The motion usually takes the following form:--

1 Arts. 87, 176
'That a respectful Address in reply be presented to the .... as follows:-
'Sir,'
'We, the members of ................. assembled in this session beg to offer our humble thanks to you for the most excellent speech which you have been pleased to deliver to this House.'

This motion is generally moved and seconded by two members of the Government Party who are not in the Government.

Ordinarily, the motion is moved immediately after each House assembles after the delivery of the speech to the Houses assembled together. But the debate is usually adjourned to a future day in order to enable the members to table amendments if they desire to do so. The discussion may be adjourned on a motion made in favour of Government business or by an adjournment motion for the purpose of discussing a matter of urgent public importance.

Bills may be introduced or motions for leave to introduce Bills may be made or other business of a formal character may be transacted on a day allotted for the discussion before the discussion commences.

Amendments are tabled in the form of adding words at the end of the Address in reply or in any other form that the Speaker may consider appropriate. The usual form...
of an amendment is to express regret at the policy
enunciated in the speech or for the omission of reference
to any matter which may be sought to be raised by the
amendment.2

The usual form of an amendment is as follows:—

' That the following be added at the end of the
address in reply:—

' But regret that no reference has been made in
the speech to (the rehabilitation of refugees).'

By such an amendment the question of the rehabi-
litation of refugees may be discussed.

An amendment for the addition of words expressing
no confidence in the Ministers is admissible.3

Not only matters referred to in the Address but
those omitted from the Address may be discussed.4

The Prime Minister or the Chief Minister or any
other Minister whether he has previously taken part in
the debate or not, has a right of explaining the position
of the Government at the end of the discussion.

2 H.P.D. 19 May 1952, c.87; See also ibid. 17
3. H.C.D. 1924, vol. 169, c.880
vol.I, c.87.
Presentation of Address to the Head of the State

After the motion for an Address in reply has been agreed to, the Address is printed and sent to the Head of the State under the signature of the Presiding Officer. The Head of the State sends a formal letter of thanks for the Address which is usually read in the House.

Motion of No-Confidence in Ministers.

A motion of no-confidence in the Ministry can be moved by any member subject to certain restrictions. The restrictions provided for by the rules of procedure of the Lok Sabha Rules are that leave of the House must be granted before such a motion can be moved. If the prescribed number of members support a motion of no-confidence when leave is asked for, by rising in their places, leave is deemed to be granted; otherwise leave is deemed to be refused. No such restriction appears to be placed in regard to the motion of no-confidence against the Ministry in the House of Commons.

There is a convention in the House of Commons that when a demand is made by the Leader of the Opposition for the allotment of a day for the discussion of a motion of no-confidence in the Ministry, the Government always allots a day or days for the purpose. As May says,

5 May, p.305
"this convention is due to the recognised and responsible position of the Leader of the Opposition as a potential alternative Government - a position which guarantees the legitimacy of such an interruption of the normal course of business. For their part the Government have everything to gain by meeting such a direct challenge to their authority at the earliest possible moment."

The rules usually prescribe that leave must be asked for just after the questions are over and the business for the day is entered upon and also that a notice of such motion must be left with the Secretary of the House beforehand before the commencement of the sitting.

As the Constitution provides that the Ministry is collectively responsible to the Assembly, a motion of no-confidence can be moved against the Ministry as a whole and not against a particular Minister, although the action of a particular Minister can be the cause of the motion and his action can be criticised. It is so because the Ministry as a whole takes the responsibility of all actions of the Ministers.

A motion expressing disapproval of the policy of the Government but not expressing want of confidence in so many words may not come within the rule regarding

6 Arts 75, 164.
motions of no-confidence. As such, such a motion may be treated as a resolution. It is doubtful whether leave of the House would be necessary for moving such a motion or whether such a motion can be moved on a day other than a non-official day. The effect of such a motion may in certain circumstances tantamount to a vote of no-confidence although not expressed in so many words.

Motion of No-Confidence moved in the Upper House

The rules of the Rajya Sabha do not provide for the moving of any motion of no-confidence in the Ministry. Some Legislatures in India have adopted that rule. In West Bengal, however, on 25.3.58, a motion of no-confidence was allowed in the Upper House. The fundamental principle underlying modern parliamentary democracy is that the Ministry is responsible ultimately to the people; this principle has been tersely expressed by Herman Finer when he says that "The Constitution is no longer parliamentary but plebiscitary." The necessary corollary following from this principle is that the Ministry is proximately responsible to that House of the Legislature which is directly elected by the People. This was accepted in England as long ago as 1850 when Lord John Rusell, Prime Minister of England, declined
to resign after a vote of censure was passed on the Ministry in the House of Lords. It is this principle which has been embodied in Art. 164, clause (2) of our Constitution which lays down that "the Council of Ministers shall be collectively responsible to the Legislative Assembly of the State." It has, however, to be seen whether Article 164, clause (2) debars the Council from passing a motion of censure on the Ministry. There is nothing in this Article as regards the passing of motions of censure. This Article only indicates the constitutional position of the Ministry vis-a-vis the Assembly. This Article or the Constitution in no way takes away the right of the Council to criticise the conduct of the Ministry or to show its disapproval of the policy of the Ministry. In fact, there are provisions which envisage that the Council can show its disapproval of the policy of the Government, e.g., by rejecting the Appropriation Bill or by adopting an amendment to the Address in reply to the Governor's speech. Another method is to adopt a motion expressing in precise terms the disapproval of the policy of the Council of Ministers in any particular respect. Although technically, the expression in terms of "want of confidence" in the Ministry may not be a very happy form of a motion censuring the Ministry in the Council, yet, the
result is the same. A vote of censure was passed in the House of Lords in 1850. Sir Courtenay Ilbert in his book on "Parliament" says in regard to the House of Lords: "And, as the power of the executive Government depends on the power of the purse, the whole range of executive government is placed beyond their (i.e., the House of Lords') effective control. They can criticise and their criticisms are often valuable and influential, but they cannot enforce their criticisms. The Ministry cannot afford to disregard a resolution or vote of the House of Commons expressing or implying condemnation of their policy or action. Such a resolution or vote must shake them, may destroy them. But they can afford to disregard a condemnatory resolution passed by the Lords."

It should also be mentioned that immediately after the House of Lords had passed the motion of censure on the Ministry in 1850, the Ministry obtained a vote of confidence in it in the House of Commons (Parl. Deb. vol. 112, June 28, 1850), and this was a necessary measure to emphasise the constitutional ineffectiveness of such a motion of censure from the Upper House.

At a subsequent occasion on 8th August 1911 a motion of censure was moved in the House of Lords by no less a person than Lord Curzon of Kedleston against the King Emperor's Ministers, and it was passed. It does not appear, however, that anything further was done in the House of Commons excepting passing the Parliament Bill, the introduction of which was the reason for this motion in the House of Lords. Thus it may be seen that the House of Lords is entitled to pass a resolution condemnatory of the policy of the Government. If a motion of censure is allowed in the House of Lords which is not an elected body at all but is largely hereditary, the Council, which is in a way elected — although it may be by indirect election — seems to be entitled to discuss such a motion. But the reason why a no-confidence motion is not allowed in some of the Upper Houses in India may be traced to the fundamental distinction between the House of Lords and Upper House in India. The House of Lords is not an elected body and therefore the members have not to look to the electorate for their acts. They can give their opinion independently of any popular support and in the national interest. Consequently, their verdict carries a great weight. In India, however, the Upper Houses are elected bodies and it may be said that it cannot have any greater

9 Parl. Deb., Lords, 1911, vol. IX, c.815
value than the Lower House which is elected on adult
franchise and is really the representative of the people
and it is the Lower House which can effectively control
the Ministry. Besides, many channels have now been
opened for the Council, e.g. moving for papers, half-
an-hour debate, etc., whereby the Upper House can discuss
or criticise the Ministry concerned. The absence of the
right to move a no-confidence motion in express terms
therefore does not affect the Upper House adversely in
any way.

Motion of No-Confidence in the Presiding Officer

The Constitution provides that a Presiding Officer
can be removed by a resolution of the House subject to
certain conditions. As there is a specific provision
in the Constitution, it appears that a resolution in terms
that so-and-so be removed from his office as the Speaker
(or other Presiding Officer) as the case may be, would be
the proper form of such a resolution. Resolutions used
to be moved in this form in the pre-Constitution period
also. After the Constitution came into force such motions
have been moved in the Lok Sabha and some other State
Legislatures.

10 Arts. 90, 94, 179, 183.
12 L.S.D. 18 Dec. 1954 Vol IX, no. 3281-3309,
3398-3456, Or. L.A.D. 10 Apr. 1954; And. L.A.D.
Fourteen days' notice of a resolution for the removal of the Presiding Officer must be given and in order to be effective the resolution must be passed by a majority of all the then members of the House concerned. Although the Constitution does not require that specific charges should be given in a motion for the removal of the Presiding Officer, in the opinion of Mr Deputy Speaker of the Lok Sabha, the principles of natural justice require that specific reasons or charges for the removal should be given so that the Presiding Officer who has a right under the Constitution to speak and take part in the debate may refute the reasons or the charges in his reply if he chooses to do so.

Rules of some Legislatures provide that leave to move a motion for the removal of the Presiding Officer must be granted by the House by a specified number of members rising in their seats before such a motion can be moved. In view of the clear provision in the Constitution that a Presiding Officer can be removed by a specified majority after notice for a specified period, it seems any further restriction on the right to move a resolution is ultra vires. The Constitution gives a right to any

13 Arts. 90, 94, 179 and 183.
member to move a resolution for the removal of the Presiding Officer. The only restriction put upon his right is that he must give fourteen days' notice of his intention to do so; whether he would be able to carry the House by the required majority is to be decided when the vote is taken and not at the time when he intends to move the resolution.

An amendment to the effect 'that this House expresses its full confidence in the Speaker of the House of Assembly etc.' was allowed to be moved to the main motion 'that this House disapproves of the manner in which Mr. Speaker discharges his function as Presiding Officer... etc.' in the House of Assembly (Union of South Africa). A similar amendment was allowed in the West Bengal Legislative Assembly, namely, 'that the House expresses its full confidence in the Speaker of the Assembly ... etc.' to the main motion of no-confidence in the Speaker.

The Presiding Officer whose removal is under consideration cannot preside over the sitting of the House in which the discussion takes place. He is, however, entitled to speak or otherwise take part in the debate. He can also vote in the first instance on the resolution or on any other matter during such proceedings, e.g., on

15 The Table (1954), vol. xxiii, p. 90; See also Votes and Proceedings, pp. 494-7, House of Assembly (Union of South Africa).
16 W.B.L.A.P. dated 3 20.3.59.
an amendment. He cannot vote a second time if there is an equality of votes including his own first vote. The provision in the Constitution is rather ambiguously expressed; but this seems to be the intention of the provision. There is an exception to the rule. The Chairman of the Council of States is not entitled to vote on any resolution for his removal or on any other proceeding arising out of it; he is however entitled to speak.

**Action against Presiding Officer guilty of unparliamentary conduct**

This question has sometimes been raised as to what steps can be taken against the Speaker if he is guilty of unparliamentary conduct or misconduct in the discharge of his duties.

So far as the House of Commons is concerned, there is no specific provision; but the House has the inherent right to take any action it likes against its own members including the Speaker and as it will appear later it has exercised such right.

In India, however, the matter is set at rest by the Constitution which provides for the removal of the Speaker from his office. Such a provision existed under the successive Government of India Acts beginning from that of 1919.

17 Arts. 96, 181, 185.

18 Art. 92.
Apart from a resolution for the removal of the Speaker it seems the House has inherent power to censure the Speaker for his conduct. Such motions have been moved in the House of Commons and the Indian Legislatures which have the same powers and privileges as the House of Commons may have such a right. In 1925, when the Speaker granted a closure, although objected to by the Opposition, a motion was moved in the following terms:

'That, in view of the express provisions of Standing Order No. 26 for the protection of the rights of minorities, this House regrets the action of Mr Speaker on the 25th May, 1925, when, contrary to recent precedents he granted the Closure at 11-45 p.m. on the first day's Debate on the Motion for the Second Reading of the Finance Bill.'

A similar motion was made in 1902 to the effect that the Speaker ought to have held a certain expression to be unparliamentary.

On 16 February 1770, exception was taken to certain expressions used by the Speaker and the words were taken down at the request of some members. There was a heated debate and a motion was moved 'that the words spoken by Mr Speaker, from the Chair, are disorderly,'
importing an improper reflection on a member of this House, and dangerous to the freedom of debate in this House.'

The motion was put to a vote and negatived. 21

There is no recorded instance of the removal of a Speaker in the House of Commons. In 1694 a Committee was appointed by the House to enquire into a charge of corruption against Sir John Trevor, the Speaker. The Committee reported that the Speaker had been guilty of a high crime and misdemeanour in accepting a gratuity of 1,000 guineas after the passing of the Orphans Bill. On the next day the Speaker absented himself saying that he was suffering from colic. On the day after, he was also absent and the King sent a message that the Speaker had written to him that he, the Speaker, could not continue in his office owing to indisposition and asked the House to elect another Speaker. The House elected another Speaker. Two or three days later, the House expelled Sir John Trevor from his membership. 22

Where therefore it is alleged that the Speaker is guilty of unparliamentary conduct or misconduct in the discharge of his duties two courses are open to the House:—

(i) to disapprove of the action of the Speaker if it is not proposed to remove him; or

(ii) to remove him from his office under the Constitution in accordance with the procedure laid down there.

22 C.J. (1693-97) 274
Motion for Discussion of any Matter

As has already been stated, in order to enable the House to discuss a matter, there must be a motion before the House. In the British House of Commons, if any debate is to take place on any matter for which no specific motion is provided, a motion is made that 'the House do now adjourn' and on that motion, a debate takes place.

Such a motion is not made in the Indian Legislatures. Instead, if it is desired to have a debate, a direct form of motion is adopted that the matter be discussed or taken into consideration. When, for example, a Report of the Public Service Commission or Public Accounts Committee is laid before the House, a motion that the Report be discussed is moved if the House desires to take such Report into consideration.

The Constitution provides that the Reports of the Auditor-General and the Report of the Public Service Commission should be laid before the Legislature. The obvious intention is that the Legislature should have an opportunity to discuss them. If, therefore, when they are so laid, a member gives notice that he would move a motion for the discussion of the Reports or moves a motion forthwith,

24 Art. 151.
the Government would be bound to provide time for the
discussion and such time would not be counted as non-
official time although the notice may be given or
motion moved by a non-official member.

When statements of policy are made by Ministers,
they are also debated by a motion either that the policy
be approved or disapproved or such other similar motion.

Discussion of matter of urgent public importance for short
duration

A matter of urgent public importance may be
discussed without a motion by a notice for a discussion
on matters of urgent public importance of short duration.

A member who desires to raise a discussion on a
matter of urgent public importance may give notice to
the Secretary specifying clearly and precisely the matter
to be raised. The notice must be accompanied by an
explanatory note stating reasons for raising discussion
on the matter in question and must also be supported
by the signatures of at least two other members. If
the Speaker is satisfied, after calling for such
information from the member who has given notice
and from the Minister as he may consider necessary,
that the matter is urgent and is of sufficient importance

to be raised in the House at an early date, he may admit the notice and in consultation with the Leader of the House fix the date on which such matter may be taken up for discussion and may allow such time not exceeding two and a half hours as he may consider appropriate in the circumstances. He may refuse to admit the notice, if an early opportunity is otherwise available for the discussion of the matter. No formal motion is moved before the House and no voting takes place. The member who has given notice may make a short statement and the Minister is bound to reply shortly; Any member who has previously intimated to the Speaker may be permitted to take part in the discussion.

Calling Attention to Matter of urgent Public Importance

A member may, with the previous permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date. The proposed matter must be raised after the questions and before the list of business is entered upon and cannot be raised at any other time during the sitting of the House. There can be no debate on the statement of the Minister at the time it is made. Not more than one matter may be raised at the same sitting.
If more than one notice is received priority is given to the matter which is considered more urgent and important by the Speaker.

**Special Motions**

No matter of general public interest can be discussed except on a motion made with the consent of the Speaker. Such motions are known as special motions.

The motion for the discussion of a statement of policy by a Minister discussed above would seem to fall within the category of special motions. Special motions are sometimes moved for other purposes also, e.g., congratulatory messages on the termination of the war.

**Motion for Papers**

In the Rajya Sabha (Council of States), there is no adjournment motion but in its stead there is a kind of motion known as the motion for papers. A motion for papers is moved in the following form:

'That there be laid before the House, papers in regard to ..............' and thereafter the subject which is sought to be raised by the motion is specified. The subject matter must be a matter of urgent public importance and must be clearly and precisely specified.

If the Chairman is satisfied that the matter is urgent and of sufficient importance to be raised at an

early date, he may admit the motion and fix the date on which such motion may be taken up and allot such time for its discussion not exceeding three hours as he may consider appropriate. If an early opportunity is otherwise available for the discussion of the proposed matter, the Chairman may refuse to admit the motion. If at the end of the discussion the motion is not withdrawn or the Minister states that there are no papers to be laid on the Table or that papers cannot be laid on the Table on the ground of being against the public interest, any member may move an amendment in such form as may be considered appropriate by the Chairman. Such an amendment if moved, is, however, put to the vote of the House without discussion unless the Chairman thinks fit to allot further time for the elucidation of any matter arising out of the amendment.

It appears that on two occasions notices of motion for papers were given in the Rajya Sabha but discussion was allowed on the subject matters sought to be raised not on the motions as such but otherwise.

The procedure for motions for papers has also been adopted by the Upper Houses in many State Legislatures. In the House of Lords when a member wishes to discuss any matter without asking the House to express any opinion thereon, he either gives notice of his

27 R.S.D., vol. 6(1954), cc. 208, 440; ibid. vol. 22(1958), cc. 110, 314.
intention to call 'attention to the subject 'and to move for papers' or gives notice of a question adding at the end of the question the words 'and to move for papers'. He makes a speech on the day on which the motion or the question is taken up and concludes by moving 'that there be laid before the House papers relating to the subject'. A debate then follows and the mover has a right of reply. Normally, papers are not laid but they are merely a pretext for the debate. If a member wants a decision he puts down a resolution which the House approves or disapproves.

A motion for papers is also made use of in the House of Lords for the purpose of challenging delegated legislation and dividing the House upon the motion.

Obituary Reference

Although there are no rules providing for obituary references, such references are in practice made to the deaths of persons whether members or not, whether eminent or otherwise. No definite policy can be ascertained as to whose deaths should be mentioned. There is also no definite rule as to who should make the reference. Sometimes the Presiding Officer does so, sometimes the Leader of the House, sometimes even the Leader of the Opposition.
In the House of Commons reference to the deaths of sitting members began to be made from 1937.

If any death occurs, the Speaker announces the death at the beginning of the sitting of the House and expresses sympathy on behalf of the House to the members of the bereaved family.

No mention is made of the death of any person other than members except to the deaths of members of the Royal Family and Heads of Foreign States in alliance with the British Government.

In Lok Sabha obituary references are made on the passing away of the following:

(1) Sitting Members.

(2) Ex-Members (Including those who were members of the Old Central Assembly, Constituent Assembly of India (Legislative) and Provisional Parliament.)

(3) Outstanding personages. In this category come Mahatma Gandhi, Shri Aurobindo Ghosh.

(4) Heads of certain friendly foreign States. Obituary references were made on the death of His Majesty King George the Sixth of the United Kingdom, Marshal Stalin and His Majesty Bir Bikram Shah Tribhuvan, King of Nepal.

As a special case obituary references were also made in Lok Sabha on the following occasions:

(i) On the 15th February, 1954, reference was made to those who died at Allahabad in Kumbha Mela. Tragedy.

(ii) On the 16th August, 1955, reference was made to those Satyagrahis who laid down their lives on the 15th August, 1955, for the liberation of Goa.

(iii) On the 26th November, 1956, reference was made to those who died on the 23rd November, 1956, in the Madras Tuticorin Train Disaster.

(iv) On the 9th May, 1958, reference was made to the two airmen who died in the Airaccidents at Hoshiarpur and Safdarjang airport on the same day.

As regards foreigners it may be noted that the State Legislature can have no direct relation or communication with any foreign Government. It is the External Affairs Ministry of the Union Government which is connected with communications with foreign States. The State Legislature cannot send any message of condolence or sympathy directly. Besides, there may be questions of protocol and diplomatic practice. It is desirable to leave such reference to the Union Government.

References are also made to deaths by accidents.

Two instances of reference to accidents will be of interest - one in the House of Commons and the other in the Lok Sabha. When the steamship "Titanic" foundered on its maiden voyage, messages of condolence and sympathy were sent to the House of Commons from various Legislatures in Europe and America. In the House of Commons, however, no formal reference to the deaths was made. In answer to a question the Prime Minister made a statement as to the facts and in course of his statement he paid a tribute

to the persons for their "willing sacrifices which were offered to give the best chance of safety to those who were the least able to help themselves" and expressed "the warm and heartfelt sympathy of the whole nation to those who found themselves bereft of the nearest and dearest in their desolated homes." 

A note appears in the Hansard that "Members in all parts of the House removed their hats during the Prime Minister's statement".

In the Lok Sabha on 9 May 1958, the Minister concerned informed the House, in reply to a question, that an Enquiry Committee had been appointed to investigate into the air crash in which several Indian Air Force personnel lost their lives. In course of the statement he paid a tribute to the gallantry of the Air Force personnel who could have saved themselves by parachuting, but risked their lives in an attempt to avoid the plane crashing into the city of Delhi. After the statement the members stood up in silence - a rare tribute paid by the House which does not usually do so except in the case of members.