

Journal
of the
Society of Clerks-at-the-Table
in
Empire Parliaments

EDITED BY
OWEN CLOUGH, C.M.G.

"Our Parliamentary procedure is nothing but a mass
of conventional law."—DICEY

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THE HOUSE OF COMMONS CHAMBER LOOKING TOWARDS THE
SPEAKER'S CHAIR.

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* *Questionnaire* for Vol. XII.

Note.—Where the text admits, the following abbreviations are used in this Volume:—

- Q.* = Question asked;
1 R., 2 R., 3 R. = First, Second and Third Readings of Bills;
C.W.H. = Committee of the Whole House;
O.P. = Order Paper;
Sel. Com. = Select Committee;
R.A. = Royal Assent; and

Hans. after the abbreviation for a House of Parliament or Chamber of a Legislature is used, in footnotes, in place of " Debates ".

Where the year is not given, that under review in this Volume will be understood.

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VOL. XIII

FOR 1944

I. EDITORIAL

Introduction to Volume XIII.—Although, so far as it comes within the sphere of our Society's investigations, this issue of the JOURNAL reviews 1944, it would be strange indeed if some reference was not made in this present Year of Grace to the cessation of hostilities between the Allies and the Axis powers. Questions of policy in connection with such cessation and problems following the peace are not subjects which come within the purview of this Society and its JOURNAL. It will, however, be of interest to those following the operation of the deliberative assemblies of our Commonwealth and Empire if some observations are made upon the general effect World War II has had upon these representative institutions.

One of the most general has been the prolongation of Parliaments beyond the periods for which they were elected. This was largely due to the people's desire to avoid the national disturbance of general elections at a time when they would not have their attention diverted from their determination to win the War. The outstanding example of this prolongation was undoubtedly that of the Mother of Parliaments, which had even outrun the Septennial Act of 1715. Representation in the Commons was carried on with out-of-date electoral rolls and almost token electorates, both accentuated by the shifting population due to every available man and woman being either engaged on the various battle fronts at home or abroad or employed in the manufacture of War supplies. But what was this surrender of their political rights, even to the freedom-loving Britons, compared with their many hardships and casualties in protection of their hearth and home: the sacrifice of their personal liberty, the reduction of their rations and restriction of their clothing, and, 'midst it all, seeing their homes destroyed? All this was suffered, not only without complaint but with grim resolution under indiscriminate bombing by a ruthless foe, bent on the destruction of our sea-girt bastion of liberty.

Never before have the British people subjugated themselves with such wholehearted purpose in defence of the individual freedom and

Parliamentary liberty of themselves and their fellow-subjects Overseas.

The Battle of Britain, the heroes of which were eulogized in those soul-stirring words by Britain's greatest Prime Minister, will never be forgotten by His Majesty's subjects, both at home and abroad. Who knows to what extent that historic stand did not inspire gallant Malta, as well as Burma, to hold on, no matter what the cost?

During all these dark years of War, the Imperial Parliament unflinchingly stood its ground notwithstanding enemy destruction of its Commons Chamber. How heartened the United Kingdom must have been by the magnificent support in the defence of our democratic realm so promptly and gladly rendered by Canada, Australia, New Zealand, the Union of South Africa, the Empire of India and the Colonies, who gave freely of their sons and money to join issue in the great struggle. Nor must be forgotten those of British stock living in foreign lands who rallied to the Flag in the fight for freedom.

To return from these humble tributes to the further effects the War had upon the operation of our Parliaments and Legislatures, another and significant instance was the appointment, both in the United Kingdom and some of the Dominions, of select committees to supervise and investigate public expenditure in connection with the prosecution of the War, reports upon which have appeared in the JOURNAL from time to time. It has indeed been urged that these bodies (each operating with its satellite sub-committees also composed of Members of Parliament) be continued both during the transitional period when the country is passing from a war to a peace footing and thereafter under normal peace conditions, as being a more practical method of checking public expenditure than relying only on *post-mortem* examination by the Public Accounts Select Committee.

The War has placed much autocratic power in the hands of Ministers, and Members of Parliament have gladly surrendered their rights, privileges and Private Members' time, in order not to hamper their Governments in the general War effort. This was even carried to the length of vesting in Executive authority the power to detain persons for indefinite periods in gaol without trial in the Courts of the land, notwithstanding that great pillar of the Magna Charta, again confirmed in the Habeas Corpus Acts.

The willing surrender of much of their authority by Parliaments to the Executive for the purpose of winning the War naturally extended the powers of Ministers in regard to delegated legislation. Attention was attracted to this subject first by Dr. C. T. Carr's *Delegated Legislation*, published in 1921, and then by Lord Hewart's *The New Despotism*, in 1929, which, followed by the Report of the Ministers' Powers Committee in 1932, aroused great interest among Members of Parliament, both at Westminster and in the larger Parliaments Overseas. Much consideration has been given by the Private Member to the appointment of select committees to supervise this class of legislation with a view to drawing the attention of Parlia-

ment to provisions in regulations submitted to it, which might be an invasion of the liberty of the subject, obscure, or contain matter of a controversial nature, etc. Therefore, now that the War is over, there is a tendency jealously to watch this class of legislation.

Several Parliaments adopted the practice of Secret Session. Their Members submitted to the censorship of their Notices of Question and Motion in so far as they might prejudice the War effort. Members also gave up much of their Private Time in the House, their right to introduce Private Members' Bills, and agreed to censorship of their correspondence, along with the general public, but not without some suspicion that Governments were thereby given the opportunity of becoming aware of political confidences which would otherwise have not been known to them.

On the other hand, Parliaments and Legislatures afforded those of their Members who wished either to fight or serve in a civil capacity in aid of the War every facility by passing measures to counteract trespass upon the disqualifying field of "Offices and Places of Profit under the Crown".

What is still called "the Imperial Parliament" (notwithstanding the common status of those Parliaments included with that of the United Kingdom in the Statute of Westminster, 1931) also appointed Members as Ministers located in various parts of the world in order to reduce to the minimum delay in coming to rapid decisions in matters connected with the War.

Now that hostilities have ceased, the Private Member is expecting a return to the *status quo ante bellum* and the restoration of all his rights and privileges in Parliament.

Lastly—for without reference to the Sovereign Head of our Commonwealth and Empire "Parliament" is incomplete—loyal and devoted tribute is paid, by all his subjects, to the noble example set by our beloved King, who, with the other two and deliberative branches of the Legislature situated at the cradle of Empire liberty, also steadfastly stood his ground throughout those tense years of War. In this respect too has World War II been a revelation of the constitutional soundness of the British Commonwealth and Empire, with its Monarch, beholden for his position to no one, detached from politics, social and financial influence, but the friend and counsellor of Prime Ministers as they come and go, instead of the dictator of his people's destinies.

Surely, the advantages of the British Constitution, not confined entirely within the written word but engraved in the hearts of the people, have never been so well displayed. Its elasticity and adaptation to every changing phase, even in the great trials of World War II, has been a demonstration, beyond the imagination of its most ardent students, of the great power it has been able to wield. With the united strength of the peoples of the Dominions, the Empire of India, and the other overseas territories of the realm, to whose Constitutions West-

minster has given birth, the citadel of democracy has been successfully defended and the freedom of His Majesty's subjects preserved, both collectively and individually, throughout our Ocean Commonwealth and Empire.

To come now to the introduction proper to this Volume, the Rulings of Speakers of the House of Commons, postponed since the issue of Volume VII and covering the years 1939 to 1943 inclusive, are included in this issue. Those in the years 1944 and 1945 will appear in Volume XIV, after which they will again be dealt with year by year.

The main body of this issue contains Articles on: The Bombing of the House of Commons; the investigation by Select Committee on its Rebuilding; the Electoral Reform and Redistribution of seats in the United Kingdom (which follows up an Article on the same subject in the last Volume of the JOURNAL); further operations of the House of Commons Select Committee on National Expenditure (the operation of such Committees in Canada is dealt with under Editorial); a Report from the Select Committee of the House of Commons on Publications and Debates, which deals with a wider distribution of *Hansard*, method of corrections, reprints of Members' speeches and much other matter thereon; a résumé of the debate in the House of Commons upon the Motion appointing a Select Committee to review delegated legislation; a further Article on the working of the House of Commons Members' Pensions Fund; operations of the Commonwealth Joint Committee on War Expenditure; Financial Procedure in the South Australia House of Assembly; a comprehensive Article on the treatment of Subordinate Legislation in the Parliament of that State; a Historical Sketch of the Financial Powers of the two Houses in the State of Tasmania and intercameral action thereon; Precedents and Unusual Points of Procedure in the Union House of Assembly; a description of the new Constitution for Jamaica; a review of the position in regard to Newfoundland, the Constitution of which was suspended some years ago at the instance of the Newfoundlanders themselves; and the Reading of Speeches. Some instances of the application of Privilege are also given, namely: Letter to Member, a House of Commons case; a Reflection on the Conduct of Mr. President in the Tasmania Legislative Council; and Censorship of M.P.s' mail matter in the Commonwealth House of Representatives.

There are also Reviews of 3 publications of particular interest to Clerks-at-the-Table.

Under Editorial many interesting points are noted. A large number, however, relate to the prosecution of the War and how it has affected the working of Parliament, such as: Prolongation; Secret Sessions—both at Westminster and Overseas; the operation of delegated legislation by a Select Committee of the House of Lords as well as discussions in that Chamber in regard to Colonial Constitutions and Private Legislation Procedure; Questions concerning Ministers and their powers; the service of M.P.s in H.M. Forces or in a civilian capacity

as War workers; Offices of Profit; Procedure and Parliamentary Reform in the House of Commons; Private Members' Rights; and Parliamentary Catering at Westminster.

In Canada an interesting subject has been the Report of a Special Committee of the House of Commons on revision of its Standing Orders. There has also been the unique distinction of a non-M.P. Minister being allowed, under a certain form of procedure, to address their House of Commons.

Following the Article on Commonwealth Powers in our last issue, reference is made to Referendums in Australia as well as to the super-vention of delegated legislation. Under the States of the Commonwealth are dealt with: Payment of Members; the operations of certain Standing Committees; the rights of the aborigine; and the provision of State employees as candidates for Parliament.

New Zealand gives information on the practice in regard to the election of Speaker in the two Houses.

The Union of South Africa notes include the question of the taking of the Oath of Allegiance by Members of Provincial Councils and a Ruling by the President of the Senate upon a Motion relating to the exercise of the Royal Prerogative of Mercy.

Discussion took place in the Southern Rhodesian Legislative Assembly on Offices of Profit and further reference was made to the subject of its amalgamation with the neighbouring Territories of Northern Rhodesia and Nyasaland.

In India the extension of the term of office of Members of the Upper Houses of the Provincial Legislatures following the operation of s. 93 of the Constitution in regard to the suspension of certain Provincial Legislatures upon the failure of the Constitutional machinery is dealt with, as is also the subject of the attachment of States. That of Mysore has defined the privileges of its Legislature and Members.

Reference is made to constitutional movements in the Bahamas, British Guiana, Burma, Ceylon, Gambia, the Gold Coast, Malta, U.C., Nigeria, Trinidad and Tobago, and the Protectorate of Zanzibar.

The Editorial includes also much information of a minor nature in regard to subjects of general Parliamentary interest.

In view of a gap in the information received in reply to *Questionnaires* VII and VIII regarding Parliamentary Secretaries (under Ministers), its treatment has been postponed for inclusion in Volume XIV, when items in other *Questionnaires* will also be dealt with.

Acknowledgments to Contributors.—We have pleasure in acknowledging Articles in this Volume from Mr. B. H. Coode, Clerk of Public Bills, House of Commons; Mr. W. I. Emerton, Secretary of the Joint Committee on War, Expenditure, Commonwealth Parliament; Captain F. L. Parker, F.R.G.S.A., Clerk of the House of Assembly and Clerk of the Parliaments, South Australia; Mr. C. H. D. Chepmell, Clerk of the Legislative Council, Tasmania; and Mr. Ralph Kilpin, J.P., Clerk of the Union House of Assembly.

We are also grateful for Editorial paragraphs from Mr. R. H. C. Loof, B.Com., Clerk-Assistant of the Commonwealth Senate; Mr. T. Dickson, J.P., Clerk of the State Parliament of Queensland; Captain F. L. Parker, F.R.G.S.A., Clerk of the House of Assembly and Clerk of the Parliaments, South Australia; Mr. C. H. D. Chepmell, Clerk of the Legislative Council, Tasmania; Mr. Ralph Kilpin, J.P., Clerk of the Union House of Assembly; Mr. J. P. Toerien, Clerk of the Provincial Council, Province of the Cape of Good Hope; Mr. C. M. Ingwersen, Clerk of the Provincial Council, Transvaal Province; Captain C. C. D. Ferris, O.B.E., Clerk of the Legislative Assembly, Southern Rhodesia; Mian Muhammad Rafi, B.A., Secretary of the India Central Legislative Assembly; Dr. S. K. D. Gupta, Secretary of the Bengal Legislative Council; Shaikh A. Zafarali, B.A., Secretary of the Sind Legislative Assembly; and Mr. P. P. de Cesare, I.S.O., Clerk of the Council of Government, Malta, G.C. Indeed, contributed paragraphs by other members of the Society to our Editorial, in form ready for insertion, are gladly welcomed, not only because they lighten the duties of the Hon. Editor, but principally on account of their contributions being direct from "the man on the spot".

Lastly, we are grateful to all other members for the valuable and interesting matter they have sent in and for the co-operation they have so willingly and generously rendered, notwithstanding the difficulties brought about by the War. Particularly, however, should we appreciate being allowed to mention the ready and willing assistance rendered by the Librarian, and his Staff, of the Parliament at Cape Town, where much of our reference work is carried out.

Questionnaire for Volume XIII.—In view of many items in previous *Questionnaires* not yet having been dealt with in the JOURNAL, no new ones were included in the *Questionnaire* for this Volume. Those from the *Questionnaires* for previous Volumes which have not yet been treated will, however, gradually be dealt with in future Volumes until all *Questionnaire* items have been disposed of.

Make-up of Volume XI-XII.—Although, in number of words, the combined Volume XI-XII was almost double that of previous Volumes, owing to its being printed on 60-lb. paper, and to the page-type area being increased, it was a thinner book than most of its predecessors. It has been found, however, that the 60-lb. paper is not really heavy enough for frequent use. Therefore for this Volume we have returned to the 96-lb. paper, but the increased page-type area has been retained.

Honours.—On behalf of our fellow-members, we wish to congratulate the undermentioned members of our Society:

C.I.E.—H. C. Stork, Esq., I.C.S., B.A.(Oxon.), Secretary of the Legislative Council of Assam; and

O.B.E.—Captain Claude C. D. Ferris, Clerk of the Legislative Assembly of Southern Rhodesia.

A. R. Grant, I.S.O., B.A.—We regret to announce the death on September 4, 1945, at Cottesloe, Western Australia, of Alexander Ronald Grant, at the ripe age of 84. Mr. Grant had been a Parliamentary Official of this State for 41 years, first in the Legislative Assembly, of which he became the Clerk in 1911, and later (1931) when appointed Clerk of the Parliaments. Mr. Grant was educated at Aldeburgh 1871-74, Charterhouse 1874-78, and Corpus Christi College, Cambridge, where he graduated B.A. in second-class classical honours. Mr. Grant was a most efficient and highly respected officer of the Houses of Parliament of Western Australia. Upon presenting a gold watch to him on his retirement in 1937, the Hon. Sir John Kirwan, President of the Legislative Council, said that Mr. Grant's extensive knowledge of the running and working of their State Constitution and of Parliamentary procedure had been of inestimable value and that, greatly as they regretted the loss of his aid, what some of the old Parliamentarians regretted even more was the loss of the personal touch with his brilliant intellect, scholarly attainments and shrewd, kindly nature. The Premier and Leaders of the Parties in Opposition also added glowing tributes to Mr. Grant's valuable services to his State.

Mr. Grant was one of the foundation members of this Society, and his wide knowledge of constitutional law and Parliamentary procedure was greatly valued. His *Memories of Parliament*, published in 1937,¹ is an instruction to any Clerk-at-the-Table and full of most interesting information appertaining to the working of the Parliament of Western Australia and to the statesmen who conducted the affairs of Australia's largest State over many years.

The writer will always hold in happy memory his visit to the home of Mr. and Mrs. Grant at Cottesloe in 1926 and the very pleasant and interesting time he spent there. In his later life Mr. Grant had been for some years an invalid, and was tenderly nursed by his wife right up to the end. Now our dear friend is no more, and his great knowledge can no longer be at the service of statesmen. We wish to express, on behalf of all the members of this Society, their deepest sympathy with Mrs. Grant in her great bereavement.

M. M. v. A. Smuts, B.A.—We regret to announce the sudden death at Cape Town on October 28, 1945, of Marius Smuts, Clerk-Assistant, Accountant and Translator of the Senate of the Union of South Africa.

¹ Government Printer, Perth, W. Australia.—[Ed.]

Mr. Smuts received his first appointment on the Senate Staff in 1928, and subsequently served 7 years as Black Rod and Translator before he was appointed Clerk-Assistant in 1941, which post he held at the time of his death.

His unfortunate demise came at the early age of 37, and his charming personality and ever-ready helpfulness will long be remembered by Members of Parliament as well as by his colleagues and all those who came in contact with him.

The writer gave Mr. Smuts his first appointment and worked with him as a colleague until the writer's retirement in 1929.

We wish to express, on behalf of all members, our deepest sympathy with his family.

United Kingdom (Prolongation of Parliament).¹—On October 18,² a fifth Bill was presented still further prolonging Parliament, this time as if 10 years were substituted for 9 years in its application to the present Parliament. The Prime Minister (Rt. Hon. Winston Churchill), in moving 2 *R.* on October 31,³ asked for a further 12 months' prolongation of the life of the present Parliament. The prolongation of the life of the existing (XXXVII) Parliament by another 2 or 3 years would be a very serious constitutional lapse. Even now, continued Mr. Churchill, no one under 30 had ever cast a vote at a General Election, or even at a by-election since the registers fell out of action at the beginning of the War.

Clause 2 of the Bill also amended s. 14 (4) of the Government of Ireland Act, 1920 (10 & 11 Geo. V, c. 67), relating to the House of Commons of Northern Ireland as amended by s. 102 of the Prolongation of Parliament Act, 1943, with the effect that, if the House of Commons of Northern Ireland resolves, 8 years shall be substituted for 7 years.

The Bill was then read 2 *R.* and passed through its remaining stages on November 7,⁴ was agreed to by the Lords and became 7 & 8 Geo. VI, 45.

United Kingdom (Royal Prerogative: Death Sentences).—On May 11,⁵ the Home Secretary (Rt. Hon. H. Morrison) said in reply to a *Q.* that if his hon. friend had in mind statements which had appeared in the Press suggesting that the exercise of the Royal Prerogative in capital cases should be entrusted to a tribunal composed of High Court Judges and others, his (the Minister's) view was that the responsibility for advising His Majesty in this matter ought to remain with a Minister of the Crown and the Home Secretary was the most appropriate Minister for the purpose. It was, of course, open to him

¹ See also JOURNAL, Vols. IX, 13; X, 12; XI-XII, 14.
s. 2403.

² 404 *Ib.* 666.

³ *Ib.* 1295.

⁴ 403 *Com. Hans.* 5.
⁵ 399 *Com. Hans.* 5, s. 2108.

to consult the trial Judge, and it is the usual practice to do so in any case of difficulty.

United Kingdom (Ministerial Salaries).¹—On October 31,² in the House of Commons, a *Q.* was asked the Chancellor of the Exchequer as to the number of new Ministries established since the outbreak of War; the total number of Ministers of all ranks in September, 1939, and at present, respectively; with the total amount of salaries paid at both dates.

The answer being long, it was circulated in *Hansard*. In reply to the first part of the *Q.* there were then 8 Departments which did not exist before the War. That number did not include Departments which existed pre-War but which had since taken on enlarged duties, in some cases with a change of title; nor did it take account of the several newly-appointed Ministers, at home and abroad, who were not at the head of a Department in the ordinary sense.

The answer to the second part of the *Q.* was as follows:³

	<i>Ministers.</i>	<i>Parliamentary Secretaries.</i>	<i>Total salaries payable annually.</i>
	(1)	(2)	(1)+(2)
Pre-War (1939) ..	26	24	£163,000
Present	39	40	£244,000

House of Lords (Secret Sessions).⁴—A Secret Session was held on December 9, 1943,⁵ May 3,⁶ 10,⁷ and June 6,⁸ the form in each instance being:

—: My Lords, I beg to move that the House do sit in Secret Session.

Moved, That the House do now sit in Secret Session.—(*Lord —.*)

On Question, Motion agreed to, and ordered accordingly.

The Official Reporter then withdrew.

House in Secret Session.

Sitting resumed in Open Session.

On June 20,⁹ the entry was:

The Secretary of State for Dominion Affairs (*Viscount Cranborne—Lord Cecil*):

My Lords, before the House proceeds to a discussion of the Education Bill, it is necessary for me to move that the House should, for one moment, go into Secret Session in order to discuss a question relating to the business of the House.

Moved, That the House do now sit in Secret Session.—(*Viscount Cranborne.*)

On Question, Motion agreed to, and ordered accordingly.

The Official Reporter then withdrew.

House in Secret Session.

Sitting resumed in Open Session.

¹ See also JOURNAL, Vols. IV, 12; V, 19; VI, 12; VIII, 11; X, 12; XI-XII, 15.

² 404 *Com. Hans.* 5, s. 635.

³ *Ib.* 636.

⁴ See also JOURNAL, Vols.

VIII, 13; IX, 15; X, 15; XI-XII, 20.

⁵ 130 *Lords Hans.* 5, s. 199.

⁶ *Ib.* 575.

⁷ *Ib.* 671.

⁸ 132 *Ib.* 6.

⁹ *Ib.* 251.

House of Lords (Acceleration of Meeting).—On November 24, 1943,¹ the following was the form of Resolution taken:

“ Moved to resolve ”:

That whenever during the present Session of Parliament the House stands adjourned, and it appears to the satisfaction of the Lord Chancellor (or if the Lord Chancellor is absent, to the satisfaction of the Lord Chairman of Committees after consultation with His Majesty's Government) that the public interest requires that the House should meet at any earlier time during such adjournment, the Lord Chancellor or the Lord Chairman of Committees, as the case may be, may give notice to the Peers that he is so satisfied, and thereupon the House shall meet at the time stated in such Notice, and shall transact its business as if it had been duly adjourned to that time.

On Question, Motion agreed to, and ordered accordingly.

House of Lords (Delegated Legislation).—As an example of the operation of the Special Orders Committee of the House of Lords “appointed to consider all Special Orders of the present Session”, during the 1944 Session, the following are the subjects dealt with and the actions taken. It is not proposed to repeat this information from Session to Session except when some particular action is taken by the Committee or the House.

Special Orders laid before House (pursuant to Act) or otherwise for affirmative Resolution and referred to the Special Orders Committee.

Report from Special Orders Committee.

By the Ministry of Fuel and Power on application of Stourport Gas Coy.²

That no Petition had been presented praying to be heard against Special Order and therefore there was nothing to which to call “attention of House”.³

By the Ministry of Fuel and Power on Application of Urban District Council, Thornton Cleveleys.²

Draft by Minister of Health, etc., Supplementary Pensions (Determination of Need and Assessment of Needs) Regulations, 1943.⁴

Draft by Minister of Labour Unemployment Assistance (Determination of Need and Assessment of Needs) Regulations, 1943.⁵

That the Orders raise questions of policy and principle, that they are founded on precedent, that they cannot be passed by the House without special attention, but that no further inquiry is necessary before the House proceeds to a decision thereon.⁶

By Secretary of State for Home Dept.: Electoral Registration Regulations, 1943, under Parliamentary Electors (War-time Registration) Act, 1943 (6 & 7 Geo. VI, c. 48, Part I).⁷

That the Order raises important questions of policy and principle and is not founded on precedent, that the Order cannot be passed by the House without special attention, but that no further inquiry is necessary before the House proceeds to decision thereon.⁸

¹ 130 *Lords Hans.* 5, s. 49.

⁴ *lb.* 100.

⁵ *lb.* 142.

² 130 *Lords Hans.* 5, s. 50.

⁶ *lb.* 197.

⁷ *lb.* 248.

³ *lb.* 1984.

⁸ *lb.* 377.

By the Ministry of Fuel, etc., on application by the Cannock District Gas Coy., 1944.¹

Electoral Registration Regulations, 1944.³

By Minister of Fuel and Power on application of Wolverhampton Gas Coy.⁵

By Minister of Fuel, etc., on application of Pontypool Gas and Water Coy.⁷

By Minister of Fuel, etc., on application of Carnarvon Gas Order, 1944.⁸

Special Order proposed to be made under s. 4 of Pensions (Increase) Act, 1944.⁹

On application of Buchanan and Leven Gas Commissioners.¹¹

Gas Order on application of Borough of Chelmsford.¹²

That no Petition has been presented praying to be heard against the Special Order and that there was nothing in the Order to which it was necessary to call the attention of the House.²

That the provisions of the Order raise important questions of policy and principle accepted by the House when passing the Parliamentary Electors (War-time Registration) Act, 1943 and 1944, under which the Order was submitted for approval; that the Order is founded on precedent as similar Regulations have been approved by Parliament; that the Order cannot be passed by the House without special attention, but that no further inquiry is necessary before the House proceeds to a decision.⁴

That no Petition had been presented praying to be heard against the Special Order and that there was nothing therein necessary to call the attention of the House.⁶

That the Order raises questions of policy and principle which have been accepted already by the House when passing the Pensions (Increase) Act, 1944, under which the Order is submitted for approval; that the Order is not founded on precedent as this is the first Order submitted for approval of Parliament under such Act; that the Order cannot be passed by the House without special attention subject to any arguments on the merits which may arise in debate and that no special inquiry is necessary before the House proceeds to decision.¹⁰

That no Petition has been presented praying to be heard against such Special Order; that there is nothing in the Order to which it is necessary to call the attention of the House.¹³

¹ 131 *Ib.* 172.

² 130 *Ib.* 390.

³ 131 *Ib.* 550.

⁴ 133 *Ib.* 74.

⁵ *Ib.* 392.

⁶ 131 *Ib.* 550, 626, 722.

⁷ 132 *Ib.* 1122.

⁸ *Ib.* 310.

⁹ 132 *Ib.* 1082.

¹⁰ *Ib.* 1181.

¹¹ 130 *Ib.* 451.

¹² *Ib.* 1181.

¹³ *Ib.* 632.

House of Lords (Colonial Constitutions).— On October 26,¹ Viscount Elibank had Notice of a Q. on the Paper:

To call attention to the announcement by the Secretary of State for the Colonies on October 5, of the terms of a new Constitution to be granted to the Gold Coast Colony and to the announcement on October 18, of a similar character regarding Northern Rhodesia; and to ask His Majesty's Government whether they propose to consult Parliament regarding any changes before they are made and whether they will ensure that in the future no change in the Constitution of any of our Colonies or Protectorates shall be promised or made without full consultation with Parliament.

In discussing the Question, Lord Elibank said that about 10 days ago, through Question and answer in the Commons, they learnt that certain changes were being made in the Constitution of the Gold Coast Colony and a few days later of a Constitutional change in Northern Rhodesia, and the Secretary of State for the Colonies in another place said that the Constitutional change, so far as the Gold Coast was concerned, had been agreed to by him in principle and that in regard to Northern Rhodesia H.M. Government had agreed to certain changes being made. Only yesterday there was laid before their Lordships' House an Order in Council in connection with the Colony of Aden, where, in a similar fashion, Parliament had been informed that certain changes were going to take place.

These 3 cases raised a very serious issue, said the noble Viscount, who suggested that once the Secretary of State had agreed to a change in a Constitution in principle, and once H.M. Government had approved of certain alterations in the Constitution of a Colony, the people in that Colony looked upon that undertaking as a promise. When, ultimately, these Constitutions were laid before their Lordships' House, and another place, in the form of Orders in Council for discussion by Parliament, Parliament was confronted with what was practically a *fait accompli*. When either House did discuss the matter they did so with their hands tied. The noble Viscount therefore begged the Government, if possible, to give their Lordships' House an undertaking to-day not in future to lay ready-made Constitutions or changes therein before them without hope of their being able to change what had been done.

Viscount Bennett remarked that the position was that all properties acquired by the British Empire by discovery or by cession or otherwise were vested in the Crown and were Crown properties. That imposed upon the Crown the responsibility for their government and administration as such by the Sovereign through his Government responsible to the House of Commons. This House did not make the Constitutional changes, neither did Parliament make them. They were administrative acts done by the Executive. If Parliament was dissatisfied with the method by which government was carried on in such communities, it expressed its objection by a vote of censure against the Government.

¹ 133 *Lords Hans.* 5, s. 714.

The Parliamentary Under-Secretary of State for the Colonies (the Duke of Devonshire) in reply observed that he had had to leave London the day before yesterday, and it was only in the middle of the ceremony he had to attend that he received word that the noble Viscount had removed the star prefixed to his Question and that it was therefore open to debate in the House.¹ His rt. hon. friend the Secretary of State fully realized the great importance of giving Parliament complete information at the earliest possible moment of any important changes proposed to be made in the Constitution of a Colony, and of affording full opportunities for consultation with and consideration by Parliament of such matters. The noble Duke then gave instances where a White Paper had been issued, or announcements had been made, in the House of Commons, which needed time for implementation. The lapse of time between the announcement of the policy and its implementation afforded opportunities for Members of either House to take whatever action they thought right before changes of that character were actually effected. Any noble Lord could put down a Motion on the Paper calling for a reply. While, then, his rt. hon. friend the Secretary could not agree to give the definite undertaking required by the noble Viscount who asked the Question, for there were very considerable difficulties both of a constitutional and practical nature, it was the desire of the Secretary of State for the Colonies that Parliament should have ample and adequate opportunities for discussion of Constitutional changes and he was investigating the possibility of widening the opportunities, should it be established that there was really a case for the widening.²

House of Lords (Private Bill Legislation Procedure).—On April 5,³ Lord Barnby

rose to call attention of His Majesty's Government to the present procedure and length of time necessary for the promotion of legislation intended to give effect to the execution of essential public works and especially those needed in post-war internal development, and to move for Papers,

and said that Private Bill legislation concerned the particular interests and benefits of persons, including local authorities. It was often difficult to distinguish such legislation from public policy. The cumbrous procedure which preceded the passing of a Private Bill meant that there must be a year or two devoted to the preparation of plans, which had to be deposited in the Private Bill Office, and time allowed for the presentation of Petitions, followed by the Committee and the various subsequent stages. Many months were involved and promotion costs were heavy. Public inquiry was essential, and Parliament must remain insistently jealous of the rights of objectors. More General Acts were required containing up-to-date provisions governing the activities of local authorities. The Public Health Act, 1933, was an example of a measure in which all past legislation had

¹ *Ib.* 722-4.

² *Ib.* 717-8, 720, 721.

³ 131 *Lords Hans.* 5, s. 405, 406.

been brought together. It might well serve as a ground on which to base an appeal for more General Acts with up-to-date provisions which, by setting out the complete grounds which should govern local government matters, might lessen the need for Private Bill procedure. Bills might be more fully drafted so that they would complete all the requisite legislation and simplify review. In regard to Consolidation Bills, it might suffice if what was old and merely consolidated were indicated and made quite clear from what was new and only proposed.¹

It appeared that in regard to water there was no power available for co-ordinating conflicting Bills. The only bases for Petitions were either a report by a Government Department that certain passages in a Bill were not in accord with existing laws or regulations, or protests by some private person or corporation to the effect that their interests might be damaged. No one could go before a Committee on a Private Bill and raise objections on grounds of national interest.

In War-time, procedure by Provisional Order had been very much developed. It was rapid and comparatively cheap, but it involved hearings and it was possible that there might not be sufficient safeguards.²

In certain quarters there was objection to the existence of one fixed date in the year—November 27—and the provision that unless a Bill completed all the necessary preparations by that time it might well be held over with no assurance that a delayed Bill would be given a hearing.

The Post-War National Development Committee recommended that, with a view to the absorption as soon as possible after the War of the large amount of labour available, the Government be urged to make arrangements to effect rapid promotion of public works in the national interest. Also that Bills certified by the Chairman of Ways and Means and the Lord Chairman of Committees to contain powers likely to lead to considerable employment be deposited at two-monthly intervals throughout the year and that after such deposits the normal time-table following deposit be followed. Lord Barnby then "moved for Papers".³

Lord Hemingford stated that Private Bill legislation meant the giving of special Parliamentary powers to certain specific persons—the word person, of course, included corporate bodies of all kinds—powers which were calculated to affect the property, interests and rights of certain other specific subjects of the realm. The result was that the most essential duties of Parliament in Private Bill legislation were of a judicial nature. The Committee on a Private Bill had to decide between the claims and rights of the promoters of the Bill and those of the persons who anticipated that they would be injuriously affected by it. The noble Lord was speaking mainly of opposed Bills. The necessity for that judicial hearing and judicial consideration of the rights of the parties was far more than a tradition, it was the strongest and most vital of all their great traditions, that justice should be done

¹ *Ib.* 407.

² *Ib.* 408.

³ *Ib.* 411.

between all the subjects of the realm. Having that task before them, it was impossible to shorten the time very materially. The whole case had to be tried as in a Court of Law, and in the preparation for the actual trial in the case before the Committee there was perhaps more difficult work to be done than in an ordinary case in the Courts, because Parliament had to be assured that all those particular persons who were affected, or likely to be affected, by the proposal had received due and proper notice of what was proposed and were able to take the matter into consideration.

The "late Bill" procedure was not complicated and could be made use of in any proper case without the slightest difficulty whatever.¹

Another matter delaying the passage of Private Bills through the two Houses was the length of time before a Bill was brought before Committee, because the promoters said they were not ready. They said they were negotiating with the opposing parties and hoped that the negotiations would be so successful that opposition would be withdrawn. His suggestion was—action by the Chairman to be more ruthless in treatment of the promoters.²

In regard to unopposed Private Bills, the noble Lord did want to issue a warning against the idea that because a Bill was unopposed it should go through without much consideration. An unopposed Bill might be an extremely dangerous thing. Though it might not directly affect any particularly large body or wealthy individual who was prepared to petition against it, the Bill might have very considerable effect on a very large number of small people who would be quite incapable, for financial and other reasons, of petitioning against the Bill. These people had to be protected by the Unopposed Bill Committees in the two Houses, which also had the duty to see that those Parliamentary powers asked for were not in conflict with the interests of the State or the interests of the public as a whole. An Opposed Private Bill Committee was apt to deal with opposition on the points raised by the petitioners against the Bill, somewhat disregarding the other parts of the Bill. An Unopposed Private Bill Committee took care to examine every part of a Bill and its work was of the greatest importance. Such a Bill should be able to pass within 6 weeks.³

The Lord Chancellor (Viscount Simon) referred to a *locus pœnitentiæ*—namely, the provision in their Private Bill procedure for "late Bills" in connection with which a Petition could be received although the Bill was received after November 27. He understood that the two-monthly proposal which had been referred to had been abandoned, and the suggestion had been made that there should be 2 dates in the 12 months—he supposed November 27 and some date in the spring. But was not the "late Bill" procedure better than that, for, though it did not allow a Private Bill to be presented as a matter of course, still it was allowed in proper cases, without compelling the promoters to wait 2 months. Promoters were able to present a Petition for a late

¹ *Ib.* 413.

² *Ib.* 414.

³ *Ib.* 417, 418.

Bill at any time during the Session and the Standing Orders Committee could deal with the non-compliance on any day when it was sitting, such Committee being in constant session.

In regard to the practice of carrying Private Bills forward to another Session, the Lord Chancellor observed that it was not to be supposed that such was a desirable procedure. It might be found impossible 6 months later to reconstitute the same Committee, for then a start would have to be made all over again. Circumstances might make it very hard on some people to have to continue their opposition over a spread of 2 years. In the case of a Private Bill where a matter of public policy was involved, the matter was usually dealt with by a special report from a Public Department to the Committee, and even witnesses called from the Department. The Lord Chancellor had no doubt that their Private Bill procedure could be improved, but they must secure in the most practical manner possible that justice was done when a claim was made and that the decision reached had due regard to the public interest.¹

Motion for Papers was then, by leave, withdrawn by the Mover.

House of Lords (Printing of Amendments).—On November 30, 1943,² it was ordered that for the remainder of the present Session—

1. Notice of Amendments to be moved to a Bill in Committee may be handed in, printed and circulated before the Bill has been read a second time.
2. Amendments handed in to Bills brought from the Commons and not reprinted for this House be printed.

House of Commons (Duties of Minister without Portfolio).³—On November 30, 1943,⁴ in reply to a Q. to the Prime Minister in the House of Commons, as to in what way the duties of the Minister without Portfolio, to assist the Minister of Reconstruction, differed from those of an Under-Secretary or Parliamentary Secretary, the Deputy Prime Minister (Rt. Hon. C. R. Attlee) said that as a Minister of Cabinet rank the Minister without Portfolio would be in a position to give to the Minister of Reconstruction a greater measure of assistance than that which a Parliamentary Secretary could give to a Departmental Minister. There was nothing new in the arrangement whereby one Minister of Cabinet rank assisted another. At the present time, for example, the Secretary of State for Foreign Affairs has the assistance of the Minister of State.

In debate in *Com.* of Supply on March 1,⁵ the Secretary of State for Foreign Affairs (Rt. Hon. A. Eden) stated that, as regards the actual work of the Minister of State, the arrangement was much the same as they had often had in the Foreign Office in the past, where they had had 3 persons, the Secretary of State and 2 Under-Secretaries, or perhaps the Secretary of State and the Chancellor of the Duchy, or

¹ *Ib.* 418-25.

VI, 12; XI-XII, 15.

² 130 *Lords Hans.* 5, s. 51.

⁴ 395 *Com. Hans.* 5, s. 194.

³ See also *JOURNAL*, Vols.

⁶ 397 *Ib.* 1458.

some other Minister holding an office which did not entail work on its own account, in order to assist their deliberations.

House of Commons (Ministers' Broadcasts).¹—On January 19,² an hon. Member asked the Minister of Information whether he would give an assurance that when Ministers claimed the right of public broadcast on controversial matters, as in the case of agriculture, equal opportunity would always be afforded those directly concerned to reply by the same means of publicity; to which the Parliamentary Secretary, Ministry of Information (Mr. E. Thurtle), replied that individual Ministers could not claim any right to broadcast on the B.B.C. If a Minister did give a broadcast on a matter of substantial controversy the B.B.C. generally tried to arrange an opportunity for reply.

House of Commons (Secret Sessions).³—During the 1943-44 Session this House sat in Secret Session on the 6 dates given below: November 24, 1943; February 24; March 24 and 31; May 4; and July 26, 1944⁴; in the first 5 of such cases the procedure was as given in detail in Volume X of the JOURNAL, p. 22, except that, instead of the entry "The remainder of the Sitting was in Secret Session", the entry "The House subsequently resumed in Public Session" was used on February 24 and March 31.

On July 26, however, an hon. Member raised, on the Adjournment, the question of the urgent necessity of dealing adequately with looting from bombed premises and the hon. Member was proceeding to say—"The flying bomb has now been with us for 6 weeks"—whereupon another hon. Member interrupted him by rising on a point of order, and saying—"In view of the fact that this House has decided on several occasions not to hold its proceedings in public, when question affecting the flying bomb and the consequences of the flying bomb are being discussed, I beg to draw attention to the fact that Strangers are present."

On this occasion the entry in *Hansard* was:

Notice taken that Strangers were present. Whereupon MR. SPEAKER, pursuant to S.O. No. 89, put the Question, "That Strangers be ordered to withdraw."

The House proceeded to a division.

VISCOUNT HINCHINGBROOKE and MR. STOREY were appointed Tellers for the Ayes, but there being no Members willing to act as Tellers for the Nocs, MR. SPEAKER declared that the Ayes had it.

Strangers withdrew accordingly.

The remainder of the Sitting was in Secret Session.⁵

Espying of Strangers.—On March 23,⁶ an hon. Member asked Mr. Speaker whether it was not taking advantage of the Standing Orders for the Executive to propose that the House should go into Secret

¹ See also JOURNAL, Vols. V, 80; VI, 43; VIII, 100; IX, 23; XI-XII, 28.

² 396 *Com. Hans.* 5, s. 203.

³ See also JOURNAL, Vols. VIII, 13, 19, 98; IX, 16; X, 22; XI-XII, 21.

⁴ 395 *Com. Hans.* 5, s. 68; 397 *Ib.* 998; 398

Ib. 1220, 1709; 399 *Ib.* 1484; 402 *Ib.* 863.

⁵ 402 *Ib.* 863.

⁶ 398 *Ib.* 1051.

Session, as when once the Leader of the House had spied Strangers the whole question was prejudiced.

Mr. Speaker replied that anybody could spy Strangers, and when they were spied he had to put the Question, without (amendment or) debate, but the House could always say "No". It was a matter entirely for the House.

House of Commons (Disclosure in Open Session of Matter Discussed in Secret Session).¹—On August 3,² a Ruling was requested of Mr. Speaker as to whether, from a point of view of Privilege and repetition, it would be in order to discuss a subject, and to use arguments in public debate, that had privately in the same Session been used in secret debate; to which Mr. Speaker replied that a matter which had been decided in Secret Session could not be discussed again, whether in Secret or in open Session. It was, in fact, the ordinary Rule which prohibited reopening in the same Session a question which had once been decided. A matter which had been debated but not decided in Secret Session might be debated again in open Session, provided there was no allusion to proceedings in Secret Session and no disclosure of information acquired in Secret Session. Should any such disclosure take place, it was for the Leader of the House and not for himself (Mr. Speaker) to take action upon it as a breach of Privilege. A question which had thus been debated in Secret Session was not thereby, what might be called permanently sterilized, but, obviously, much depended on the nature and scope of the question. It was really for the House to say there had been a breach of Privilege. His (Mr. Speaker's) attention would have to be drawn to the fact that an hon. Member was disclosing something that had been said in Secret Session.

House of Commons (Disqualification (Temporary Provisions) Bill: Offices of Profit).³—This Bill "to continue the House of Commons Disqualification (Temporary Provisions) Act, 1941," (to quote its long title) was presented to the House of Commons on January 27,⁴ 2 R. being moved on February 10,⁵ and the debate resumed the following day, when the Bill passed 2 R. (Ayes, 91; Noes, 10).⁶ The Committee stage was taken on 18th idem,⁶ when, on consideration of Clause 1 (Continuation of 4 & 5 Geo. VI, c. 8), the Deputy Chairman explained that as the 3 *amds.* to this Clause were practically on the same lines he proposed, with the consent of the Committee, to allow the 3 *amds.* to be discussed together. Clause 1, however, was agreed to as printed. Clause 2 (short title and citation) was also agreed to without 'amendment. The following new Clause⁷ (Annual Returns of Certificates under 4 & 5 Geo. VI, c. 8) was then proposed to follow Clause 2:

Before the end of January in any year at the beginning of which the Emergency Powers (Defence) Act, 1939, is in force, the Treasury shall lay

¹ See also JOURNAL, Vol. XI-XII, 237.

² 402 *Com. Hans.* 5, s. 1608.

³ 396 *Com. Hans.* 5, s. 876.

⁴ See also JOURNAL, Vols. X, 98; XI-XII, 16.

⁵ 397 *ib.* 509-73.

⁶ *ib.* 1971-2002, 2086-111.

⁷ *ib.* 562.

before the Commons House of Parliament a return of all certificates issued under the House of Commons Disqualification (Temporary Provisions) Act, 1941, which were in force at any time during the previous year, showing the person and the office or place under the Crown to which such certificates related and the amount of any salary and allowance payable to him in respect of that office or place, and indicating which (if any) of the certificates had ceased to be in force before the beginning of the year in which the return is laid. [Mr. Eden.]

which was brought up and read the First Time, after which the Secretary of State for Foreign Affairs begged to move, "That the Clause be read a Second Time," which, after discussion, was agreed to and the Clause read the Second Time.

Another new Clause¹ (Certificate to expire in 6 months) was then brought up and read the First Time as follows:

Any certificate issued under the principal Act shall, if the person in respect of whom such certificate is issued is occupying a post outside the United Kingdom, expire at the end of 6 months from its issue; provided that in the case of certificates already granted the date of expiry shall be 6 months from the passing of this Act. [Major Petherick.]

after which the hon. member moved: "That the clause be read a Second Time," but after an explanation by the Attorney-General the Motion and Clause were by leave withdrawn.

A further new Clause² (Information to be supplied with Certificate) was then brought up and read a First Time, as follows:

Any certificate issued under this Act shall be accompanied at the time of its issue by a statement showing the office held, and any salary, expenses or other emolument paid, whether the service is at home or abroad and the period of the appointment. [Mr. Mander.]

The hon. Member then moved: "That the Clause be read a Second Time," but after debate the Motion and Clause were by leave withdrawn.

The following *amdt.*³ was made in the long title, by adding the words and to provide for the laying before the Commons House of Parliament of annual returns of certificates issued under that Act. [The Attorney-General.]

The Bill was then reported with an Amendment (title amended) as amended, considered, passed 3 R., agreed to by the House of Lords without amendment, and became 7 & 8 Geo. VI, c. 11.

The debate both on 2 R. and in C.W.H., of which the references are given in the footnotes hereto, proves how jealously the House of Commons guards its rights and privileges.

House of Commons (Disqualification Act Certificates: Offices of Profit).—On February 17,⁴ the Prime Minister was asked in the House of Commons if he would publish a list of the Members of the House of Commons in respect of whom a certificate had been issued under the House of Commons Disqualification Act, 1941,⁵ showing the date of

¹ *Ib.* 568. ² *Ib.* 569.

³ *Ib.* 573.

⁴ See also JOURNAL,

Vols. VI, 20; X, 98; XI-XII, 16. ⁵ 397 *Com. Hans.* 5, s. 340.

the certificate, the office held and any salary, expenses or other emolument paid; whether the service was at home or abroad; and similar information in respect of any Members whose certificate had been withdrawn. The Deputy Prime Minister (Rt. Hon. C. R. Attlee) said he would circulate the information in *Hansard*.

House of Commons (Offices of Profit).¹—On January 18,² a Q. was asked the Prime Minister in the House of Commons as to when it was proposed to bring forward legislation to carry out the recommendation of the *Sel. Com.* on Offices of Profit under the Crown, to which the Prime Minister (Rt. Hon. Winston Churchill) replied that legislation relating to Part II of the *Sel. Committee's Report* dealing with the present emergency had been before the House on 2 occasions, and a further House of Commons (Temporary Provisions) Bill would shortly be introduced.

With regard to Part I of the Committee's Report—namely, that part in which the Committee made recommendations as to the proper principles on which future legislation for normal times of peace should be based—the Government did not at present feel themselves able to make any recommendations to the House.

House of Commons (Procedure Reform).³—Although no decision was come to, the question of a reform in the procedure of the House of Commons was the subject of Q. and answer, as well as of informal debate, in the 1943-44 Session. On April 4,⁴ an hon. Member asked the Prime Minister whether he would move to set up a Select Committee to consider and report on all appropriate methods of Parliamentary reform, to which Mr. Churchill replied: "No, Sir; not at the present time," and in reply to a Supplementary the Prime Minister said he did not wish to commit himself to changes in Parliamentary procedure, of which the House should be the master.

Another hon. Member asked if the Prime Minister was aware that many hon. Members had for a long time advocated the setting up—after the War—of a Standing Committee on Procedure and Rules of the House for the purpose of making recommendations from time to time. Mr. Churchill said he would bear matters of that kind in mind, but the Rules were the result of very long experience; they were very difficult, and it took a long time to learn them. If they were kept continually in a fluid state, through the advice of a Committee, it would add to difficulty of Members in finding their way about their procedure. It had to be remembered that the function of Parliament was not only to pass good laws, but to stop bad laws.

An hon. Member (Earl Winterton) then gave notice that he would raise the subject on the Motion for the Adjournment of the House, in view of the answers of the Prime Minister.

On April 6,⁵ the Prime Minister was again asked in the House of Commons whether he would move to appoint a Select Committee

¹ See also JOURNAL, Vols. X, 98; XI-XII, 16, 18.

² 396 *Com. Hans.* 5, s. 29.

³ See also JOURNAL, Vol. I, 43.

⁴ 398 *Com. Hans.* 5, s. 1802.

⁵ *ib.* 2167.

with authority to send for persons and papers, to inquire into the future of the Parliamentary machinery and consider how it should best be adapted to meet post-War needs and, while preserving the rights of Private Members, function with speed and efficiency. Mr. Churchill replied in the negative.

The questioner then asked as a Supplementary whether he had seen the informative article which appeared in *The Times* of April 5,¹ and, if so, would he give the matter further sympathetic consideration.

On May 26,² Earl Winterton, upon Notice (already given), raised the subject of Parliamentary reform on the Motion for the Adjournment,³ and the following are the points brought forward during the debate: that an inquiry be made into the efficacy and efficiency of their Standing Orders, and whether any of them needed amending or not, in the light of changing conditions; their procedure was governed partly by the Standing Orders and partly on the interpretation placed upon them by successive occupants of the Chair; the House needs to arm itself to-day against the encroachment of the Executive;⁴ that the proposed Committee should not have the right to criticize or comment on the Rulings of the present or past occupants of the Chairs;⁵ that the proposed Committee be modelled on the Committee of Privileges, the Chairman of Committees to be *ex officio* Chairman of the Committee, with 1 representative of the Government, 1 Law Officer—probably the Solicitor-General (in the same way as the Attorney-General is a member of the Committee of Privileges); the purview of the Committee to be limited to existing S.O.s and Rules of Procedure for both Public and Private Business;⁶ that the support of not less than 100 M.P.s be required to submit their desire for the alteration of a S.O. on Rule of Procedure, with an announcement thereof to the House by Mr. Speaker, who would refer the matter to the Committee; when such instructions were received, the Committee to call witnesses, and having considered the matter the Committee to report to the House which proposals it accepted and which it rejected;⁷ that authority be given for the House to have the advice of the Speaker, the Clerks-at-the-Table, Parliamentary Counsel and all people who could advise the Committee on how to make the Parliamentary machine adapt itself to meet the great problems which might arise after the War;⁸ that, with a House of over 600

¹ *The Times* article is most illuminating and should be read at length by every reader of the JOURNAL. Regrettably, it is too long to give here, but in reference to the working of the Parliamentary machine in its concluding passages it states: "The most urgent need of the moment is to introduce improvements in procedure which will permit the House of Commons to handle an abnormal weight of legislative business without bringing the machine to a standstill in the attempt to consider every detail of every important measure on the Floor of the House. . . . Parliamentary time is a scarce and vital commodity, the use of which for one set of purposes entails the refusal of time for others. The right economy of its time may require the House of Commons to make some substantial modifications in its traditional ways."—[Ed.]

² 400 *Com. Hans.* 5, s. 1068.

³ A special article could be devoted to this subject, did space permit, but an impression of the debate will perhaps be served by giving the main points.—[Ed.]

⁴ 400 *Com. Hans.* 5, s. 1070.

⁵ *Ib.* 1071.

⁶ *Ib.* 1074.

⁷ *Ib.* 1075.

⁸ *Ib.* 1077.

Members, many seldom had the opportunity of taking part in debate, with the result that they became heartbroken and began to lose all hope of getting in except on rare occasions;¹ that they would have to consider some policy of devolution, not only so far as the Legislature was concerned, but also in regard to administration;² that the Committee be given wide terms of reference to consider and examine the whole aspect of House of Commons procedure in relation to the modern problems it had to face; that attention be drawn to the danger to the reputation of the House caused by the growing practice of M.P.s receiving subventions by outside bodies and for the sources of income of M.P.s to be made public property and that the funds of political parties be also equally open to inspection;³ the public should know such information and hon. Members should aim at the ideal of M.P.s being independent of that kind of financial support in order to live, and therefore find it easy to exercise their unfettered judgment;⁴ that there was a tendency for the electorate to want more and more, and to feel that their own representatives had minds of their own;⁴ the more independence of action and thought were encouraged in M.P.s the better it would be for the honour and glory of Parliament; there was a growing practice—and a very good one—for the Government to introduce White Papers in which their general policy was outlined as a preface to legislation, the purpose of such Papers being to ascertain the general view of the House about proposals which were to be put into Bills, and in discussing these White Papers the House exercised one of its great historic functions as a Council of State; that there should be an extension of the system of debate upon Motions in connection with White Papers, splitting up the main proposals of a White Paper into a series of Motions on very big Bills, and that after a general debate there would be, on each Motion, a free Vote;⁵ the Party system was absolutely essential for the preservation of a strong Government, because without it there would be a development of pressure groups who would bring their influence to bear upon individual members of the Government;⁶ a Government that enjoys the support of the House is none the worse, sometimes, for being occasionally criticized;⁷ it was hoped that the time would never come when Committees of their House would obtain as much power as in the United States and France, because that resulted in the undermining of the responsibility, the authority and power of Government; the business of Parliament was now so detailed and complex that even the most assiduous Member had to concentrate his attention on certain subjects; that Advisory Committees attached to certain Departments of State or groups of Departments be set up, consisting of M.P.s of all parties; the House must get back to the use of Standing Committees for the scrutiny of legislation;⁸ one of the first tasks of Parliament reconstruction must be to make certain that Parliament has machinery to enable it to deal expeditiously and effectually

¹ *Ib.* 1081.² *Ib.* 1083.³ *Ib.* 1087.⁴ *Ib.* 1088.⁵ *Ib.* 1089.⁶ *Ib.* 1091.⁷ *Ib.* 1092.⁸ *Ib.* 1093.

with the greatly increased volume of work falling upon it, while at the same time retaining that close scrutiny and effective control both of the Government and the Legislature which was, after all, the main principle for which the War was fought;¹ that if they were so unfortunate as to see the rt. hon. gentlemen who had been appointed during the War in anything like their present strength for the new Parliament very few back-benchers would be able to speak;² that the time had come when the business of the House should not be interrupted by ritual (*i.e.*, Messages summoning the Commons to the Lords to hear certain Royal Assents given); the desuetude into which Urgency Adjournment Motions had fallen was a considerable deprivation of the rights of Private Members over the Executive and should be looked into; that in regard to the making of treaties, were they not to be brought under review and the sanction of the House obtained before decisions were made, for this was a very important branch of their activities, outside the legislative sphere, giving the Government almost tyrannical powers because when once the Government had committed themselves to another Power by way of treaty, or an economic concordat, they had to be thrown out before the Commons could assert its authority; that showed to what extent the new social context of the modern world had reduced the House of Commons to a very inferior position in its relations with the Executive; the Commons had not any right even to discuss treaties effectively and the whole matter should be inquired into in order that the House of Commons was able continuously to influence what was now becoming the most important part of Government activity.³ On August 4, 1914, even some Members of the Cabinet were not aware that the late Sir Edward Grey had made a secret treaty with France (an hon. Member interjected at the close of the debate by asking the Chancellor of the Duchy of Lancaster to convey to the Prime Minister the view that the extension of the treaty-making powers of the Government was beginning to give some of the M.P.s concern); they might have to abandon their right to examine certain Bills so meticulously in *C.W.H.* in order to have a better opportunity of deciding the principles upon which the Bills were going to be made; at present the Rules were working to the detriment of the Commons' control over the Government; it was the absence of resiliency in the Government which was the trouble; their machinery did not put sufficient leverage in the hands of the House itself, to be able to force the Executive to act when the House thought they should do so;⁴ one of the most important functions the House discharged was at *Q.* time, which was the only form in which they could be said to govern the country, because they did not actually, constitutionally govern the country at all, but they did by *Q.* and answer bring the administration under review, and in recent years a practice had grown up on the part of Ministers to refuse to give information; Ministers must always give full and exact answers; 100 years ago only 100 *Q.*s

¹ *Ib.* 1094.² *Ib.* 1095.³ *Ib.* 1097, 1103, 1110.⁴ *Ib.* 1099.

were asked in one year, and one had only to look at the *O.P.* to-day to see the important function served by *Q.* time; the adaptation of their constitutional procedure to meet the needs of the new world should be put first among their preoccupations;¹ they would have to make more use in future of Standing Committees, not merely for Private Members' Bills but for the more important Bills introduced by the Government; the standing and prestige of the House of Commons slumped from 1918 to 1922 more than in any period in modern times, largely because there was no real Opposition; the 1918 Parliament was really nominated by the Rt. Hon. Member for Caernarvon Borough (Mr. Lloyd George), and it was an almost unmitigated disaster;² a time limit of speeches of Members would facilitate business; at the Trades Union Congress business was carried on with a time limit of 10 min. for the mover of a motion and 5 min. for every other speaker; something like that could be done in the House;³ there were many unwritten practices of the House which should be revised—for example, when was a Vote of Confidence really a Vote of Confidence; there was also the question of the excessive powers of the Whips which cried out for revision.

The Chancellor of the Duchy of Lancaster (Rt. Hon. E. Brown) observed that he sometimes divided the 612 unofficial Members of the House into 2 kinds, those who were Members of Parliament and those who were House of Commons men. A Member of Parliament was a person who was concerned with his own Questions and his own speeches, while a House of Commons man was a man who was concerned with other people's Questions and speeches as well as his own;⁴ the first edition of Erskine May in 1844 contained 500 pp., the 13th edition had 914 pp., which showed what great development had taken place in Parliamentary procedure and practice; nearly 50 years ago Mr. Birrell, in a lecture to his constituents, said that the real division of the House was between the rt. hon. gentlemen and the rest and that:

If my hearers want to understand why that is, it is for the simple reason that the rt. hon. gentlemen get all the first cuts off the joint.⁵

Mr. Brown continuing said that when one came to deal with Parliamentary procedure one got 2 sharply divided views: those who desired to increase the power of the majority to get its way and those who desired to increase the power of the independent Member and of the minority in the House at any time to stage opposition to the majority of the day.⁶

In winding up the Debate Mr. Brown (who was Chairman of the 1932 Select Committee) said:

In this debate there has been criticism based on the need for relieving Parliament of part of the business which, it is said, clogs its machinery. On the other hand, there has been criticism based on asking for an actual *amdt.* of the procedure so that Parliament may be able to do more legislative

¹ *Ib.* 1102.

² *Ib.* 1102.

³ *Ib.* 1104.

⁴ *Ib.* 1105.

⁵ *Ib.* 1106.

⁶ *Ib.* 1107.

work in the time at its disposal and increase its efficiency as a critical and a controlling assembly. That is where the major division always comes—between those who hold a view that we ought to facilitate Bills and deal with a larger number of Bills, and those who take the view that Bills ought to be few in number; good in quality and well considered. That is common to every discussion that arises on this issue.

There was a Select Committee on Public Business in 1848,¹ continued the speaker, and this is what it said:

But it is not so much on any new rules, especially restrictive rules, that your Committee would desire to rely for the prompt and efficient dispatch of business by the House. The increasing business calls for increasing consideration on the part of Members in the exercise of their individual privileges. Your Committee would desire to rely on the good feeling of the House, on the forbearance of its Members, and on a general acquiescence in the enforcement by the Speaker of that established rule of the House which requires that Members should strictly confine themselves to matters immediately pertinent to the subject of debate.

Mr. Brown concluded his remarks by saying that in drafting the Report of 1932² he had regretfully to add that it had been the record of every Select Committee up to that time that it had ended in the restriction of opportunities for Private Members and the increase of power of the Executive of the day. In reply to an interjection, Mr. Brown said that in regard to the time limit on speeches the general opinion of the Committee was that it really was the good sense of the House that was wanted, not new Rules.³

House of Commons (Parliamentary Reform).—On the Debate upon the Adjournment on May 9,⁴ the question of control of M.P.s by the Party Whips was raised. It was urged by an hon. and gallant Member (who is an Independent) that it should be recognized that the only adverse vote upon which a Government would be expected to resign would be if it did not carry a Vote of Confidence in the Government as a whole, and that in no circumstances should any such Vote of Confidence in the Government as a whole be linked up with the particular detail of Government policy that the majority by their votes did not approve. The hon. Member suggested that the following would be the course of events. When the Government was defeated in the Division Lobby on any issue, that Vote should be followed by a definite Vote of Confidence in the Government as a whole, on the understanding that, if it was defeated on that, there would either be a new Government or a General Election could be called.⁵ If not defeated, the Government would bow to the will of the House on the particular issue in question and carry on, or, if the Government was still anxious to have its way on the issue upon which they were originally defeated, it would reintroduce it, not as a Vote of Confidence, but in the ordinary way, and, if again defeated, it would then be the Government's responsibility whether it accepted such a determined wish of the majority of the

¹ 644 O. 17 of 1861, p. viii.

³ 400 *Com. Hans.* 5, s. 1109-11.

² See *JOURNAL*, Vol. I, 42.

⁴ 399 *Com. Hans.* 5, s. 1865.

⁵ *Ib.* 1866.

House on that particular matter, or whether they preferred to consult the majority outside the House.

The proposed revised procedure meant that staunch supporters of the Government could, by their vote, defeat some particular aspect of the Government's programme without necessarily right away jeopardizing the life of that Government and their attitude would be made clear when, subsequently, they supported a Vote of Confidence in the Government as a whole. Provided that the Government—any Government—was reasonably sound, its followers would undoubtedly support the second Vote of Confidence in the Government as a whole, because no Member enjoyed having to expend hundreds of pounds for election expenses and possibly losing his seat and £600 a year.¹ The simple voting procedure outlined would do away with that constant General Election bogey which the Whips had used for so long and so effectively to justify their despotic control. The people whose job it was to persuade M.P.s to vote in a certain direction were the same people who had the power to make them support the Government. The Government Whips had it in their power to threaten other dire penalties, such as taking away from a Member at a subsequent election the support of a powerful party machine or possibly the letter of endorsement from a popular Prime Minister. It was the Government Whips who made recommendations for Government jobs, and the Chief Whip, alias the Patronage Secretary, who doled out the patronage. Surely the time was long overdue when the Government Party Whips should be divorced from patronage, which should be left entirely to the Lord Chamberlain's Office, where a special permanent commission should be established, charged solely with preferment, and composed of men and women of integrity as far removed from the political arena as possible, such commission to take over the patronage power now possessed by Party Whips, and make recommendations to the Lord Chamberlain.² The ordinary M.P., having no designs upon becoming a Minister, would be less inclined to submit to a tyranny that brooked little advantage to himself and even less to the nation. Parliament to-day was run too much by party caucuses and not enough by representatives of the people, as was originally constitutionally intended.³

The Chancellor of the Duchy of Lancaster (Rt. Hon. E. Brown), in reply to the Debate, said that, ever since 1832, they had had continuous inquiries into Parliamentary procedure, because there was nothing more vital to the working of democratic institutions than to make sure they were flexible and adapted to changing times. The present Joint Parliamentary Secretary to the Treasury at one time divided the House against the Government of the day, of which he was a supporter on the Local Government Bill of 1929. The hon. and gallant Member who raised the Debate seemed to think there were no independent-minded people in the House but himself. The fact was that the normal M.P. regarded the Whips of his Party not as enemies but as

¹ *Ib.* 1867, 1868.

² *Ib.* 1869.

³ *Ib.* 1871, 1872.

friends. Mr. Brown agreed with Disraeli, who once said that without the Party system Parliamentary government would be impossible. The hon. Member raising the Debate had not left him (Mr. Brown) time to say more, but he would be delighted, on another occasion, to go further into the vital question of Parliamentary institutions and procedure, whether relating to public or private business, but he would not join the ranks of the cynics, once described by Oscar Wilde, "who know the price of everything and the value of nothing."¹

Question—"That this House do now adjourn," put and agreed to.

House of Commons (Daily Adjournment Motions: Procedure).—On December 16, 1943,² during consideration of the business of the House, an hon. Member asked the Leader of the House (Rt. Hon. A. Eden) whether consideration had been given to the suggestion that the *O.P.* should contain an intimation of the hon. Member whom the Speaker contemplated calling on the Adjournment Motion each day; to which Mr. Eden replied that they were considering that matter and hoped to make a statement.

Booking of, New Rule.—On January 18,³ Mr. Speaker announced that it might be for the convenience of the House if he made a statement now about the $\frac{1}{2}$ hour Adjournment they had every day. He proposed on the first Sitting Day each week to place at the back of the Speaker's Chair a list of the Adjournments for the following Sitting Days of that week and the subjects which were to be raised.

On February 10,⁴ an hon. Member, in asking for Mr. Speaker's guidance, said Mr. Speaker had been good enough to institute procedure under which there was given, at the back of the Chair, an indication of what subjects would be raised on the Adjournment Motion and by whom. He took it that when hon. Members came to Mr. Speaker—there might be more than one coming—Mr. Speaker's decision as to who was to have the opportunity of raising a *Q.* on the Adjournment was largely influenced by the subject-matter and therefore it was not to be regarded as an allocation of an opportunity to a Member primarily but to a Member in association with his subject. It seemed an extraordinary thing if, when an occasion was allotted to a Member for the purpose of raising a particular issue, he was entitled to change the subject and raise another issue.

Mr. Speaker replied that it was perfectly clear that the Adjournment was given to an hon. Member as an individual. It was for the convenience of the House that a list was put up showing what would be the subjects. It might not be convenient for a Minister to attend on a particular day and the hon. Member who had that day would be entitled to change the subject, but Mr. Speaker did hope that hon. Members, having once stated the subjects which they wished to raise and the list having been put at the back of the Chair, would do their

¹ *Ib.* 1873, 1874.

² 395 *Com. Hans.* 5, s. 1695.

³ 396 *Ib.* 42.

⁴ *Ib.* 1916-8.

best—and Ministers too—to abide by the decision to raise that subject and not to change it.

Another hon. Member said that it was customary for hon. Members who were dissatisfied with answers which they had received to their Q.s at Q. Time to give Notice that they would raise the subject on the Motion for Adjournment, and he submitted that if they had given Notice to that effect it should tie them to raising that matter only and they would not be entitled afterwards to change their minds and substitute another subject; to which Mr. Speaker replied that any hon. Member could raise anything he liked on the Motion for Adjournment and he (Mr. Speaker) had no right to interfere with him so long as he conformed to the Rules.

Another hon. Member then remarked that some subjects which had been raised on Motions for Adjournment had been backed by a number of names. If the hon. Member who headed the list of names asking for that subject to be raised was to change the subject, what would be the position of those hon. Members who had supported the original subject which he was going to raise; to which, following a Q. from another hon. Member, Mr. Speaker said that any hon. Member who caught his (Mr. Speaker's) eye could still raise the original subject on that date.

On June 30,¹ the hon. Member who raised the question of *Hansard* on the Adjournment said that owing to some misunderstanding the Notice behind the Speaker's Chair was not the subject he was going to raise—namely, the question of misprints in *Hansard*.

At the conclusion of the Debate, therefore, an hon. Member asked Mr. Speaker whether it was in order for a Member who had given notice of another Debate on the Adjournment but had dropped that subject, and at notice so short that other Members knew nothing about it, had the right to raise another subject. Which had precedence, the person or the subject?

Mr. Speaker replied that of course the Adjournment belonged to the individual. The subject could not have precedence over the individual, but it was most inconvenient for Members if the subject were changed and not quite playing the game. While he could not rule that Members who had the Adjournment should not regard it merely as booking a seat for a certain date, they should have regard to the subject which they had chosen and endeavour to study the convenience of Members.

On November 28, 1944,² Mr. Speaker announced that he would like to draw the attention of hon. Members to the arrangements now in operation for the $\frac{1}{2}$ hour Adjournment Debate. It had very often been the case that subjects had not been selected for raising on the Adjournment Motion until the date had been secured. He proposed to lay down the Rule in future, to operate from the beginning of the new Session, that the $\frac{1}{2}$ hour Adjournment may not be booked for more

¹ 401 *Ib.* 970, 978.

² 404 *Ib.* 2403, 2405.

than a fortnight in advance and must be booked after 10 o'clock in person at his office. The subject then must be given. Mr. Speaker suggested that these arrangements be followed to see how they worked.

An hon. Member then asked, if there was a last-minute cancellation of the subject that had been booked, either because the Member himself could not be there, or because the Minister had been unexpectedly called away and would not be there to answer, would that $\frac{1}{2}$ hour be then available as usual, for any hon. Member who chose to raise anything at quite short notice.

Mr. Speaker replied in the affirmative and said that if the $\frac{1}{2}$ hour was not taken any hon. Member would be able to catch his eye.

Another hon. Member asked Mr. Speaker if he would make it perfectly clear that the right of hon. Members to raise subjects in such $\frac{1}{2}$ hour Debate still remained. The new procedure of stating the subject some time in advance, he suggested, should not preclude the ancient right of ventilating grievances on the Adjournment; to which Mr. Speaker said that this was purely a War-time arrangement because they had no ballot at the moment and Private Members did not get that chance to raise matters. If the *Govt.* gave back Private Members' time he would have to reconsider the procedure.

Another hon. Member understood from what Mr. Speaker said that at any time the Adjournment might be booked up probably for a fortnight ahead. There would nevertheless be other Members rising from day to day, giving notice that they wanted to raise matters at a late time. Would note be taken of those and at the end of 14 days would Mr. Speaker allot the Adjournment, in the order in which Members had given notice in the House? Mr. Speaker replied that he hardly thought that would be right. The Adjournment was there for Members to raise matters of definite importance, which it was not possible to discuss on other occasions. In reply to another question, Mr. Speaker said he did not think it would be right for an hon. Member to have the prescriptive right, when having the Adjournment and naming the subject, to raise another subject. It caused inconvenience to other Members and to Ministers who had to be there.

Count.—Another hon. Member asked Mr. Speaker whether he had given consideration to the question of abolishing the right to call a Count during that $\frac{1}{2}$ hour, as most Members then left the House. Usually, it was only the Members concerned and the Minister responsible for the subject who were interested; to which Mr. Speaker said that that was not a question for him but for the House. He had extended the time for taking a Count to 3 minutes, which would be more convenient to Members. They would have to see how the new arrangement would work.

Another hon. Member said if the extension of the 14 days' list was not to be made according to the order in which Members gave notice at *Q.* time, who would determine how Adjournment days would be allocated as between various subjects and Members; to which Mr.

Speaker replied that it would be a matter of first come, first served. He would himself hesitate to choose subjects for hon. Members to raise.

An hon. Member then asked if the new arrangement would apply equally on days when business ended earlier than expected and there was an Adjournment debate of longer than $\frac{1}{2}$ hour; to which Mr. Speaker said that it applied when the Adjournment Debate was on for longer than $\frac{1}{2}$ hour.

The Question was then asked Mr. Speaker, if a Minister was unable to attend through illness, would the right of the Member who had the Adjournment be carried over to another date; to which Mr. Speaker said he would want notice of that *Q.* at the time.

In Com. of Supply.—On June 15,¹ an hon. and noble Member asked the Prime Minister whether he would move an *amdt.* of the Standing Orders to enable the suspension of the Rule governing the hour of Adjournment to be moved during the course of business in *Com. of Supply.*

The Secretary of State for Foreign Affairs (Rt. Hon. A. Eden) replied in the negative and said that the power to suspend the Rule without notice on certain occasions was granted to the Government for the purpose of obtaining essential and urgent business. Business in *Com. of Supply* was regulated by S.O. 14, and he did not think the Government would be justified in asking for this extended power. The difficulty would mean that Mr. Speaker would have to come back into the Chair and then would have to leave the Chair in order that they might get back into Committee, which would be contrary to S.O. 12.

House of Commons (Adjournment "at its Rising").—On June 16,² Motion was made and Question proposed—"That this House at its rising this day do adjourn till Tuesday next," whereupon an hon. Member rose to oppose the Motion so that the House might meet on the Monday to discuss a Motion standing in his name on the Paper. Mr. Speaker, however, said that the hon. Member could only give reasons very briefly for not accepting the Adjournment Motion. He could not discuss the merits of his Motion nor could he go into the reasons at length. The hon. Member was certainly out of order when he said he would give reasons why his Motion should be discussed before the end of next week. The hon. Member could not argue why it should be taken now, because he would be going into the merits of the case. In effect he may only say—"I object to adjourning now, on account of my belief that the matter of a certain Motion ought to be discussed."

In reply to another hon. Member, Mr. Speaker said that the Motion "That this House do now Adjourn" was a general Motion, but that the Motion "That this House at its rising this day do adjourn till Tuesday next" was a very limited Motion to adjourn to a particular day. The Rule of the House had always been that one could not discuss the merits of the subjects that one is arguing ought to be discussed.

¹ 400 *lb.* 2145.

² *Ib.* 2308.

The objecting Member still speaking on the merits of his Motion on the *O.P.*, Mr. Speaker ordered him to discontinue his speech.

The House divided: Ayes, 177; Noes, 6; and the House at its rising that day adjourned until Tuesday next.

House of Commons (Public Petitions).¹—On May 23,² Mr. Speaker made the following announcement:

I wish to inform the House of a change which, if it commends itself to the general sense of the House, I propose to make in the Rules of Order governing Public Petitions. I propose to reinterpret S.O. 63—which requires proposals for expenditure to be recommended by the Crown—so as to permit the reception of Public Petitions which pray for legislation involving expenditure, without requiring them to have been recommended by the Crown. I think there are good reasons for this change, but as they are somewhat technical I do not propose to state them now but to circulate a statement in *Hansard*. If any hon. Member has any observations, I will be glad if he will send them to me before the House reassembles after Whitsuntide, and I will take them into consideration before giving a final Ruling.

Following is the statement referred to :

Standing Order No. 63 has hitherto been interpreted so as to rule out of order, unless it has received the King's recommendation, any Petition which involves a charge on public funds, whether that charge is prayed for directly or whether legislation would be required to authorize it. This was one of the grounds on which a recent Petition praying for legislation to increase Old Age Pensions was rejected. The relevant words of this Standing Order are:

This House will receive no petition for any sum relating to public service . . . unless recommended from the Crown.

This Standing Order dates from 1713, and, first adopted, applied only to Petitions. Later it was extended to Motions. Since then the procedure on Bills involving expenditure has become much more strictly defined, and it would not be possible now for a Bill implementing a Petition to become law without a Financial Resolution recommended by the Crown, if the Petition asked for money. As this is the case, it seems unnecessary to require the King's recommendation twice for the same charge—once for the Petition and once for the Bill. Accordingly, if the House agrees, I propose to reinterpret the Standing Order in its application to Petitions so as to exempt Petitions praying for the grant of money by Bill from the need to secure the King's recommendation. If, however, a Petition prays for money directly, it will still require to obtain the King's recommendation on presentation, since it might conceivably be implemented without a Bill.

It seems to me that this is a commonsense arrangement. The Constitutional rule is that the King alone can initiate expenditure. But the recommendation, by which His Majesty exercises this right, should be reserved for the effective stage, and not be required unnecessarily at a preliminary stage—which, as in the case of a Petition praying for legislation, is not only not in itself effective, but cannot lead directly to effective action. It is a further advantage that this arrangement will save the Crown from being faced with the dilemma of either refusing to recommend a Petition which may, however ineffective, have wide support, or else of granting the King's recommendation to a Petition and thus appearing to incur some moral responsibility for implementing it by legislation.

¹ See also JOURNAL, Vols. VI, 97; XI-XII, 83.

² 400 *Com. Hans.* 5, s. 583.

House of Commons (Public Business Appropriation Bill).—On October 25,¹ it was Ordered—“That notwithstanding the practice of the House, the Consolidated Fund (Appropriation) (No. 2) Bill may be considered in Committee immediately after the Bill has been read a Second Time.” [*The Prime Minister.*]²

House of Commons (Amendments on going into Com. of Supply: Ballot).—On December 7, 1943,³ on Motion being made and Q. proposed—

That no Notices of Amendments on going into Committee of Supply be given until the second sitting day in February.

the Deputy Prime Minister (Rt. Hon. C. R. Attlee), in reply to an hon. Member as to what was the purpose of what was a rather unusual Motion, said that the Ballot for Notices of Motion was usually taken as soon as the Address in Reply to the King's Speech had been passed. In recent years, however, when a new Session had been opened before Christmas, it had been the practice to postpone this Ballot to the New Year. That arrangement had previously met the general convenience of hon. Members. There was less likelihood of subjects being chosen which would be out of date were the Ballot taken too early.

Question put and agreed to.

House of Commons (Standing Committees).—The following Resolution was, on December 16, 1943,³ reported from the Committee of Selection:

That, after a Bill has been under consideration in Standing Committee, no application for changes in the composition of that Committee in respect of that Bill shall be entertained by the Committee of Selection.

House of Commons (Count of House).—On November 15, 1944,⁴ Mr. Speaker announced that it had been represented to him that, when a Count of the House was called in the *present* Chamber,⁵ the customary period of 2 minutes might be inadequate to enable all Members to reach the Chamber, if they happened to be in remote parts of the building when the bells were rung. When they moved into this Chamber an extension was permitted, with the concurrence of the House, of the time allowed for Divisions; and he therefore proposed while they occupied the *present* Chamber to allow 3 minutes—namely, an extra minute before counting the House and notifying the result. He made this amendment *now* in case any hon. Member might wish to make representation before the change was made.

An hon. Member remarked that in the old Chamber, when a Count was called, Mr. Speaker was able to count the Members in the Lobby as well as in the House, but there was no Lobby of the same kind in the *present* Chamber.

House of Commons (Count Out).—On September 26,⁶ during the

¹ 404 *Ib.* 189.

² 404 *Com. Hans.* 5, s. 1971.

⁴ 403 *Com. Hans.* 5, s. 210.

³ 395 *Ib.* 800.

⁵ *Ib.* 1699.

⁶ *I.e.*, House of Lords Chamber.—[ED.]

consideration of the Housing (Scotland) Bill, the following entry appears in *Hansard* :

Notice taken that 40 Members were not present ; Committee counted, and, 40 Members not being present, Mr. Deputy Speaker resumed the Chair ; House counted, and, 40 Members not being present, the House was adjourned.

House of Commons (Government Business v. Private Members' Time).¹—An interesting debate took place on November 25, 1943,² arising out of a Motion, printed here also *verbatim*, as indicating the respective attitudes of the Government and Private Members, in regard to the business of the House:

That during the present Session—

- (1) Government business shall have precedence at every sitting;
- (2) The following provisions shall have effect as respects Public Bills:
 - (a) no Bills other than Government Bills shall be introduced;
 - (b) whenever the House is adjourned for more than one day, notices of amendments, new clauses or new schedules (whether they are to be moved in Committee or on Report) received by the Clerks-at-the-Table at any time not later than 4.30 p.m. on the last day of adjournment may be accepted by them as if the House was sitting;
 - (c) notices of amendments, new clauses or new schedules to be moved in Committee may be accepted by the Clerks-at-the-Table before a Bill has been read a second time;
 - (d) a new clause may be moved on Report without notice, notwithstanding anything in S.O. 37.
- (3) Whenever the House is adjourned for more than one day, notices of questions received by the Clerks-at-the-Table at any time not later than 4.30 p.m. on the last day of adjournment may be accepted—
 - (a) if received before 4.30 p.m. on the penultimate day of adjournment as if they had been given on that day at a time when the House was sitting, and
 - (b) if received thereafter, as if they had been given on the last day of adjournment at a time when the House was sitting.
- (4) For the purposes of this Order the expression "day of adjournment" means a day on which the House is not sitting, not being a Saturday or Sunday.
- (5) Para. (2) of S.O. 1 shall have effect as if all the words after "clock" were omitted and the following words were substituted therefor:—"or, if proceedings exempted as hereinafter provided from the operation of this Order are under discussion at or after the hour appointed under paragraph (3) of this Order for the interruption of business, half-an-hour after the conclusion of such proceedings, shall adjourn the House without question put."
- (6) The following paragraphs shall have effect in substitution for paras. (8) and (9) of S.O. 1:—
 - (8) A Motion may be made by a Minister of the Crown, either with or without notice and either at the commencement of public business or at any time thereafter, to be decided without amendment or debate, to the effect either—
 - (a) That the proceedings on any specified business be exempted at this day's sitting from the provisions of the Standing Order "Sittings of the House"; or
 - (b) That the proceedings on any specified business be exempted at

¹ See also JOURNAL, Vols. II, 30; VII, 38.

² 395 *Com. Hans.* 5, s. 74-94.

this day's sitting from the provisions of the Standing Order "Sittings of the House" for a special period after the hour appointed for the interruption of business.

(9) If a Motion made under the preceding paragraph be agreed to, the business so specified shall not be interrupted if it is under discussion at the hour appointed for the interruption of business, may be entered upon at any hour although opposed and, if under discussion when the business is postponed under the provisions of any Standing Order, may be resumed and proceeded with, though opposed, after the interruption of business.

Provided that business exempted for a specified period shall not be entered upon, or be resumed after the expiration of that period, and, if not concluded earlier, shall be interrupted at the end of that period, and the relevant provisions of paragraphs (3) and (4) of this Standing Order shall then apply.

(10) Provided always that not more than one Motion under para. (8) may be made at any one sitting, and that after any business exempted from the operation of the order is disposed of, the remaining business of the sitting shall be dealt with according to the provisions applicable to business taken after the hour appointed for the interruption of business.

In moving the Motion, the Deputy Prime Minister (Rt. Hon. C. R. Attlee) said that in accordance with his statement in the House yesterday¹ he was asking Private Members to forgo their rights during the present Session following the precedent of the last 4 years, but the Motion now before the House contained a new proposal to enable Private Members to have the right of that half-hour at the end of business for raising matters on the Adjournment.

Captain Cunningham-Reid observed that the Motion asked Private Members to forgo their privilege of having one day a week for Private Members' Motions as well as to forgo their right under the 10-minutes Rule. This had been an unusual War-time procedure, to which, the Government agreed, Private Members had submitted with good grace. During the War practically the only time left to Private Members had been the daily Adjournment period. Recently, out of 16 consecutive Sitting Days, 13 Members, who had been waiting, sometimes for many weeks, for a chance of introducing a matter that concerned them, had been deprived of that opportunity, because Government business invariably overran the allotted Adjournment period. Looking at this Adjournment concession from another angle, it meant that there would be possibly 50 more opportunities per year for Private Members to initiate their own debates.²

Petty Officer Alan Herbert said that the time had come at this stage of the War when more of the rights of Private Members should be restored. It was a sad and shocking thought that there were, he supposed, 100 Members of the House who were perhaps delighted by this little half-hour the Government had thrown them, as men throw buns to a bear, because they did not know what the rights of Members were in the good old days, when they had, first of all, Wednesdays—perhaps he should say Second Sitting Days³—reserved for Private

¹ *Ib.* 35-7.

² *Ib.* 76, 77.

³ *I.e.*, Fridays.—[Ed.]

Members. On those days, after a complicated series of Ballots, they were permitted to discuss their own Motions. He warned those Members who came there eager to make a better world in Debates on the Adjournment that when they came to the meat of the matter it was no concession to anyone in the creative, constructive line. Those Debates on Wednesdays were great ventilators and sometimes led to very important results. His practical suggestion was that, if they were going to sit for x days, when the Government did not require $x+1$ day that day should be given over to Private Members' Motions. He left it to the experts to work out the machinery. With regard to para. 2, he would again tell "the new boys" that on Fridays Private Members for the first two-thirds of the Session were able to introduce Private Bills, which always had a great educative value, whether they came to anything or not. It was easy to criticize the drafting of a Government Bill, but it was a very different thing, when they had to do the thing themselves, to express clearly what was in their mind, to satisfy the Rules of the Public Bill Office and so on. All kinds of matters were discussed, which would never be discussed while the Government had control of the whole time. There were lively debates and manœuvres, and it all gave the Private Member something to exercise his wits upon. If all the junior Ministers had had that drill perhaps there would be fewer scenes of ineptitude "at that Box." And sometimes, of course, there were some real results. He did not suggest that there was time at that stage of the War to restore all the rights of Private Members, but he suggested they should be entitled to introduce Bills up to 1 R.—*i.e.*, they should be ordered to be printed, which would have two effects: to make it necessary for Private Members to put their ideas into concrete legislative form, and there would be a reservoir of Bills ready both for public discussion and for the day when Private Members' time was restored.¹

Mr. McEntee asked the Government to consider the restoration of Standing Committees and the reintroduction of the 10-minutes Rule.²

Mr. William Brown observed that the Adjournment might be a suitable occasion for raising a personal case of injustice, but it was not an opportunity for raising matters of far-reaching importance. There was no finality in raising matters on the Adjournment. At best the Private Member had only some 12 or 15 minutes in which to state his case, because he must leave the Minister a corresponding time to reply and, whether satisfactory or not, that exhausted the opportunity, so there was no finality about it. The third difficulty was that there was no vote. When a Member introduced a Motion he could divide the House upon it, but he could not do that on the Adjournment. The Government ought to come to them again with further proposals based upon the idea of giving the Private Member more Parliamentary time and making a definite allocation of more time to Private Members.³

Mr. Mander remarked that the main value of Private Members' Bills

¹ *Ib.* 77-9.

² *Ib.* 84.

³ *Ib.* 85, 86.

being introduced was that they would be a contribution by Private Members to reconstruction after the War.¹

Question on the Motion was then put and agreed to.

House of Commons (Non-introduction of Private Members' Bills).—On January 18,² in reply to a Q., the Prime Minister (Rt. Hon. Winston Churchill) said that the House had decided by Resolution on November 25, 1943,³ that no Bills other than Government Bills be introduced during the present Session.

House of Commons (Private Members' Motions).—On January 27,⁴ an hon. Member asked the Prime Minister whether he was aware of the concern felt by almost all hon. Members at the continued refusal of the Government to provide time this Session for any Motion standing in the name of any hon. Member; and whether, in view of the undertaking given on behalf of his Administration, he would give consideration to those Motions to which more than 100 Members had subscribed. The Secretary of State for Foreign Affairs (Rt. Hon. A. Eden) said that the reason for asking hon. Members to forgo their right of proposing Motions was given during debate on the Motion to take the time of the House for Government business. As in previous Sessions, the Government proposed to allow every opportunity for debates on matters of general interest during the present Session, but, as at present advised, he saw no reason to alter the arrangements which had been accepted by the House for these difficult times. The hon. Member further inquired if the rt. hon. Member would bear in mind the importance of holding an even balance in the matter, in view of the undertaking the Government gave to find time in the present Session for any matter in which there was a substantial demand for a debate. Mr. Eden replied that he had had that very much in mind. They found time yesterday for debate on a matter which originally arose on a Prime Minister's motion. The Government was always ready to find time, but he wanted to find it within Government time and not outside it.

House of Commons (S.O. "Sittings of the House").—On May 24,⁵ under the daily Adjournment Motion, an hon. and noble Member called attention to a piece of the House of Commons machinery which needed a little improvement. At the beginning of business they moved, sometimes, the suspension of the Standing Order for a limited period of 1 or 2 hours as the case might be. Once that Motion was on the O.P. it had to be taken, and the effect of it that day was that 2 hours were added to their normal time of debate.⁶ The hon. Member, continuing, suggested that the suspension of the Rule should not be moved

¹ *Ib.* 90.

² 396 *Com. Hans.* 5, s. 31.

³ 395 *Ib.* 74, § 2 (a).

⁴ 396 *Com. Hans.* 5, s. 854; see also JOURNAL, Vols. II, 30; VII, 38; XI-XII, 33.

⁵ 400 *Com. Hans.* 5, s. 896.

⁶ *Ordered*: That this Day, notwithstanding anything in S.O. 14, Business in *Com.* of Supply may be taken after the hour appointed for the interruption of Business, and that the proceedings of the *Com.* of Supply be exempted, at this day's Sitting, from the provisions of the Standing Order (Sittings of the House) for 2 hours after the hour appointed for the interruption of business.—(*The Prime Minister.*) *Ib.* 762.

at the commencement of public business, but the Government be invited to watch the progress of the debate to see how many Members wished to speak, and then, in consultation with Mr. Speaker, move a limited extension of time, for a definite period, say up to 3 hours, to cater for Members who wished to take part in debate. The Motion to suspend the Rule could be moved, perhaps, in the middle of the day's business.

The Minister of State (Rt. Hon. R. Law) said he would faithfully report what had been said.

House of Commons (M.P.s serving in H.M. Forces).¹—On January 19,² in the House of Commons, the Prime Minister was asked by what Regulation, applicable to all the Forces of the Crown, the War Office forbade the hon. and gallant Member for Skipton from addressing a public meeting outside his own constituency; to which Mr. Winston Churchill replied that para. 541(a) of the King's Regulations was the one involved, but he considered that the question should be dealt with on broader grounds. It was the right of an M.P. to decide that his Parliamentary duties must claim priority over any military obligations he had accepted or incurred. If he wished to combine the dual function he must observe a certain measure of restraint and discretion in his conduct. Should he fail to do so, the First Lord of the Admiralty, the Secretary of State for War or Air, must be the judge of when to invite him to concentrate his attention exclusively upon his Parliamentary duties.

House of Commons (Soldiers and M.P.s).³—In reply to a Q. in the House of Commons on January 19,⁴ the Secretary of State for Air (Rt. Hon. Sir A. Sinclair) said that the King's Regulations required officers and airmen who wished to make recommendations on Service matters to do so through the ordinary Service channels, and as the practice was well understood he did not propose to issue a special order to the R.A.F.

Another hon. Member asked if it was not a fact that no one had the power to prevent any constituent from communicating with his own M.P. on any subject; to which Sir A. Sinclair replied that his hon. and gallant friend was right, whereupon another hon. Member asked, if that was so, why could not all ranks be so informed.

The Minister said because it was very much better, in their interests and in the interest of the Service generally, that they should make their representations first through the ordinary Service channels. It was the quickest way to deal with their grievances and he would like to say how grateful he was to his hon. friends in the House who realized that and who did co-operate in impressing on their constituents that the best way of getting their grievances settled was to go to their Commanding Officer.

In reply to a further Supplementary, the Minister repeated that of course members of the R.A.F. and of the other Forces have the citizen's right to write to their M.P.

¹ See also JOURNAL, Vols. VII, 122; X, 36.

² See also JOURNAL, Vols. IX, 21; X, 30.

³ 396 Com. Hans. 5, s. 169.

⁴ 396 Com. Hans. 5, s. 158.

On October 10,¹ an hon. Member asked the Secretary of State for War if a soldier could communicate with his M.P. without being punished, provided no military secrets were disclosed; to which the Minister (Rt. Hon. Sir J. Grigg) replied that it was laid down in the King's Regulations, para. 530, and in s. 43 of the Army Act, and he would refer the hon. Member to the reply to a Q. on the subject on December 10, 1940.²

House of Commons (M.P.s' Salaries—Expenses).³—On April 27,⁴ the Chancellor of the Exchequer was asked if he had any statement to make in regard to the treatment of hon. Members under the "Pay-as-you-Earn" scheme, and if so was he aware that the arrangement proposed by the Board of Inland Revenue would inflict great hardship upon some hon. Members.

Sir John Anderson replied that the allowances for expenses to be allowed under the "Pay-as-you-Earn" scheme for 1944-45 would be the actual expenses incurred in the year. In fixing the code numbers for 1944-45, provisional allowances had been based upon the expenses allowed in the assessments for 1943-44. Those allowances would be adjusted when the actual expenses for the year were known.

Should any hon. Member feel that the provisional allowance was inadequate, the Inland Revenue authorities would be prepared to consider the case in the light of his current expenditure. The record of expenses in the year 1943-44 would not be called for.

House of Commons (Fee-paid Articles by M.P.s for Ministry of Information).⁵—On June 7,⁶ an hon. Member asked the Minister of Information (Rt. Hon. B. Bracken) how many M.P.s were drawing money payments from his Ministry for services rendered for work done and whether such Members had been granted immunity under any Act of Parliament.

Mr. Bracken said that since the establishment of the Ministry, fees had been paid to 13 M.P.s who had supplied feature articles, scripts and such like, for publication. He had been advised that in such cases the question of disqualification under the House of Commons Disqualification Act did not arise.

In a Supplementary, the hon. Member asked whether the articles in Service papers were arranged for by his Ministry, and, if so, who selected the writers. Were any M.P.s among them, were they paid, and if so how much? The Minister said that Members had been paid for such Articles and that he was quite willing to publish the names in *Hansard*.

On June 21,⁷ in the House of Commons, an hon. Member asked the Minister of Information whether he had further considered the undesirability of M.P.s drawing money payments from his Ministry for

¹ 403 *Ib.* 1587.

² See also *JOURNAL*, Vol. VI, 25.

³ See also *JOURNAL*, Vols. V, 18; VI, 18.

⁴ 400 *Com. Hans.* 5, s. 1355.

⁵ See *JOURNAL*, Vol. IX, 21.

⁶ 399 *Com. Hans.* 5, s. 928.

⁷ 401 *Ib.* 171.

services rendered and whether he was prepared to discontinue such payments; also, would he publish in *Hansard* the names of such M.P.s as had, in fact, been so paid?

Mr. Bracken replied that the remuneration thus made to M.P.s was austere, but he had decided that no further invitations would be issued to M.P.s to write for the Ministry. The House was rightly jealous of its independence of the Executive, and, although it was perfectly legal for hon. Members to provide the Ministry with articles, he felt he should embarrass them were he to continue calling on their aid. A search of the records right back to the beginning of the War showed that payments for such services had been made to 29 M.P.s in all, whose names were given and reported in *Hansard*.¹

The hon. Member then asked whether the Minister could say whether any of the M.P.s who received payment from the Ministry of Information took part in debates, or voted on questions concerning the Ministry of Information, and if so did they disclose their interest² in the Department; to which the Minister said he could not answer the *Q.* without notice.

House of Commons (Parliamentary Candidates).—On February 8,³ the Secretary of State for War (Rt. Hon. Sir J. Grigg) was asked on what grounds a certain military officer was recently granted special leave to attend an emergency meeting of the Council of the West Derbyshire Unionist League, before the resignation of the former hon. and gallant Member for West Derbyshire had been announced to the public; to which Sir J. Grigg replied that an officer's leave was a matter between himself and his C.O. so long as the regulations governing leave generally were observed, and, as no application had been made to the War Office, he could only assume that the leave was normal and not special. The Minister, in reply to a Supplementary, said he would certainly take very great care, and the military authorities would take very great care, before refusing an application for an officer to appear before a selection committee.

On February 28,⁴ an hon. Member asked the Secretary of State for War whether he would consider the issue of an Army Council Instruction or War Office Letter embodying the circumstances in which a serving soldier, or officer, may be granted leave of absence from duty to appear before a committee for the selection of a candidate or prospective candidate for a Parliamentary election.

Sir J. Grigg replied that C.O.s had sufficiently wide powers, in the matter of granting leave for private reasons, to cover leave for such attendance, and he saw no reason for issuing special instructions. The question whether, in a given case, an individual could be granted leave for the purpose depended on where he was stationed and the exigencies of the service at the time.

On June 6,⁵ Mr. Groves asked the Secretary of State for War what

¹ *Ib.* 172.

² 396 *Com. Hans.* 5, s. 1610.

³ See *JOURNAL*, Vol. XI-XII, 90.

⁴ 397 *Ib.* 642.

⁵ 400 *Ib.* 1212.

arrangements were made for serving officers or soldiers who desired to be candidates at future Parliamentary general elections, and whether they should, if then serving overseas, give intimation to their C.O. of their desire and so enable arrangements to be made for their arrival and appearance before the electorate a reasonable time before any election day.

Sir J. Grigg replied that on that year's Army and Air Force (Annual Bill, every reasonable facility was already given to serving officers and men to be adopted as prospective candidates and candidates for constituencies, either at by- or general elections. An officer or soldier who wished to stand for Parliament and take steps necessary to that end should inform his C.O., in order that any application he may make for special facilities might be recognized. Subject to the exigencies of the service, he could be granted leave for the purpose of getting adopted as a prospective candidate or candidate, and was set free from his military duties for the whole period of the election. If an individual was serving overseas, he naturally could not be given short periods of leave to this country in order to attend selection committees, nor could any guarantee be given that he would be able to return to the United Kingdom in time for an election at short notice. The local military situation, distance, and restricted transport facilities might make such impossible.

On October 18,¹ another Q. was asked the Prime Minister on the subject, the Deputy Prime Minister referring the questioner to the reply (given above) to Mr. Groves on June 6 last.

House of Commons (M.P.'s Description on Affidavits).—On May 9,² in reply to a Q., the Chancellor of the Exchequer (Rt. Hon. Sir J. Anderson) said that he understood that "Member of Parliament" was accepted in the Principal Probate Registry as a sufficient description of a deponent in affidavits, etc., without further particulars of occupation.

House of Commons (Censorship of Letters to Members).³—On October 4,⁴ a Supplementary was asked the Minister of Information (Rt. Hon. B. Bracken) under what circumstances officers of his Department had instructions to open correspondence addressed to Members of the House of Commons, and to examine their contents; to which the Minister replied that letters addressed to Members of the House of Commons were subject to the ordinary rules of censorship, and that if his hon. friend would give him details of any case he had in mind he would have inquiries made to see whether the letter was properly opened.

House of Commons ("The Ramsay Case").⁵—It was on May 23, 1940, that the Home Secretary (Rt. Hon. Sir J. Anderson) informed Mr. Speaker FitzRoy, by even-dated letter, of the detention (under

¹ 403 *Ib.* 2369.

² 399 *Com. Hans.* 5, s. 1741.

³ See also *JOURNAL*, Vol. XI-XII, 31, 36.

⁴ 403 *Com. Hans.* 5, s. 962.

⁵ See also *JOURNAL*, Vols. IX, 64; X, 25.

Reg. 18B of the Defence (General) Regulations, 1939) of Captain A. H. M. Ramsay, M.P.

On September 26, 1944, Captain Ramsay was released from Brixton Prison after having been kept in preventive detention for 4 years and 4 months under such Regulation, and took his seat again in the House of Commons the following day. During his detention he had followed the proceedings of the House in *Hansard* and had often, during the 1941-42, '42-43 and '43-44 Sessions, sent written *Q.s* to be answered by Ministers.¹ The late Mr. Speaker FitzRoy decided that, as Notices of Questions could be sent to the Table by post, and as a Member did not have to be present in his place to ask a non-oral Question, Captain Ramsay might put down non-oral Questions² while he was detained.

House of Commons (Acoustics).³—In reply to a *Q.* in the House of Commons on May 3,⁴ the Parliamentary Secretary to the Minister of Works (Mr. Hicks) said that, following upon a series of tests carried out with the assistance of the B.B.C., arrangements had been made for the temporary installation of loudspeakers under the benches between the centre cross gangway and the Bar of the House. These loudspeakers were used on Budget Day—he thought with beneficial results—and the apparatus, with Mr. Speaker's permission, was being tried out until Whitsun. Mr. Hicks was told that below the gangway Members could now be heard quite distinctly. In reply to a further *Q.* on June 21,⁵ Mr. Hicks said that the experiment appeared to be considered satisfactory, but before the installation was made permanent he would be glad if hon. Members would let him have any further comments.

House of Commons (Wireless Receiving Set).—On June 13,⁶ in reply to a *Q.*, the Parliamentary Secretary to the Minister of Works (Mr. Hicks) said that a wireless receiving set supplied by the Government had been installed in the Committee Room corridor, in the first floor outside Room No. 13. Should Members consider that the set might be more conveniently placed, he suggested that they approach the authorities of the House.

House of Commons (Parliamentary Catering).⁷—It is some years since the last Editorial note on this subject appeared in the *JOURNAL*,⁸ and although the intervening period has been War-time it may be useful to maintain a record of certain features in connection with this necessary branch of Parliamentary administration.

The number of meals served (including teas and meals at bars in the House of Commons Refreshment Rooms) during the intervening period has been:

¹ *The Times*, Sept. 28, 1944.
for those Sessions.—[Ed.]

² For instances, see Index to *Hansard*

³ See also *JOURNAL*, Vols. I, 50; V, 32; VII, 29.

⁴ 399 *Com. Hans.* 5, s. 1308.

⁵ 401 *Ib.* 174.

⁶ 400 *Ib.* 1789.

⁷ H.C. Papers 91 of 1941; 68 of 1942; 71 of 1943; 61 of 1944; 68 of 1945.

⁸ Vol. VIII, 29.

	1940	1941	1942	1943	1944
Breakfasts	—	1,490	3,164	3,540	3,085
Luncheons	19,770	25,403	47,084	56,864	63,040
Dinners	18,577	—	—	—	56
Teas	63,537	52,745	38,036	48,706	60,147
Suppers	—	2,370	4,275	3,658	3,567
Bar Meals	6,472	6,370	20,272	13,082	18,829
	<u>108,356</u>	<u>88,378</u>	<u>112,831</u>	<u>125,850</u>	<u>148,724</u>

Financially the position during these calendar years was as follows:

	1940	1941	1942	1943	1944
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Income	17,293 1 11	12,627 13 3	18,054 5 10	23,239 2 4	29,992 12 3
Expenditure	21,251 12 2	15,925 2 10	18,676 13 4	21,810 4 5	27,852 12 6
+ or -	-3,958 10 3	-3,297 9 7	- 622 7 6	+1,428 17 11	+2,139 19 9
Wages, etc.	8,771 7 3	6,037 18 2	7,423 1 6	8,233 19 11	9,815 17 1
Grant-in-aid from Treasury	4,000 0 0	3,000 0 0	nil	nil	nil

Thus, after 12 years of losses, the Kitchen and Refreshment Rooms (House of Commons) Select Committee was able, without the aid of Treasury subsidy, not only to show a profit in 1943, but almost to double it in 1944. And after providing for all liabilities the amount standing to the credit of Capital Account in the Balance Sheet represented by stock in hand, cash in hand and at Bank, and sundry debtors as at December 31, 1944, was £9,446 19s. 7d.

Questions.—On April 5,¹ Colonel Arthur Evans asked the Chairman of the Kitchen Committee (Mr. Bracewell Smith) whether he would give an assurance that, during whatever hours the House was required to sit, suitable arrangements would be made to provide adequate catering facilities for Members and others whose business brought them to the House of Commons and, if necessary, application would be made to the Ministry of Labour for extra staff and to the Ministry of Food for additional supplies of food.

Mr. Smith replied to the first part of the Question in the affirmative, subject to the existing rationing orders being observed, and to satisfactory arrangements in regard to staff hours. In reply to the last part of the Question, the Chairman said that they already received their full allocation of rationed foods in accordance with the Ministry of Food Regulations, and they (the Kitchen Committee) were not prepared to ask for any preferential treatment for M.P.s unless the House decided otherwise.

In a Supplementary, Colonel Evans said there was no intention in the Question to ask for facilities denied to others, but if alterations were made in the sitting hours of the House they should be put in the same position as any other assembly which had to carry on in the national interest; to which Mr. Smith said he was sorry he misunderstood the last part of the Question, whereupon Colonel Evans gave notice that

¹ 398 *Com. Hans.* 5, s. 2,000; see also *Q.* 402, *Ib.* 1642.—[Ed.]

he would raise the whole question of the catering and refreshment arrangements within the Department of the Serjeant-at-Arms on the Motion for Adjournment on the next Sitting day.

Debate on Adjournment.—On April 6,¹ Colonel Evans submitted a point of order and asked, in view of the fact that the Report of the Select Committee had been tabled,² but had not been received back from the printers and made available to Members, would it therefore be in order for the Chairman of the Select Committee to disclose details of the Report, in reply to Questions raised in debate.

The Deputy Speaker (Major Milner) replied that it would be in order for the Chairman of the Select Committee to disclose details of the Report because theoretically a document laid on the Table of the House was at the disposal of Members. That also applied to other Members who had knowledge of the contents of the Report, though it would hardly be convenient to make extensive use of extracts from it, because presumably the House was not aware of the contents.

Colonel Evans then observed that a number of roneoed copies of the Report had been made available in the Committee office of the House, for the use of the printers and any hon. Members who desired to see it, and asked if hon. Members in accordance with the Deputy Speaker's Ruling were at liberty to make use of it; to which the Deputy Speaker replied in the affirmative.

Colonel Evans stated³ that he was not asking for any special privileges for Members of the House or for those whose business brought them there. His submission was that the refreshment arrangements of the House were neither adequate nor good and compared ill with other establishments which had to face the same difficulties. If the duties of the officials kept them beyond a certain hour, which often happened, they had one restaurant to go to. Beyond a certain hour there were no facilities available even outside the House, for the public restaurants which most of them could afford were closed or full. The purpose of his Question was to ask whether, in such circumstances, extra food would be supplied to provide 2 meals a day.

At this point, it being the hour appointed for the interruption of business, the Motion for the Adjournment of the House lapsed, without Question put.

Motion was then made and Question proposed "That the House do now adjourn" (Mr. Pym).

Colonel Evans, continuing, remarked that in other places in this War, where the food provided came from the common source, it was much better cooked and better served than in the Mother of Parliaments. Restaurants provided much better meals at the same prices while having to face charges for dividends, rent, rates, taxes, lighting, heating and overheads. The Kitchen Committee had made a profit of 47½ p.c., which Members had to pay—and it was rough on some Members who could not afford those high prices; he found that the Committee had

¹ 398 *Ib.* 2303.

² *Ib.* 1445.

³ *Ib.* 2305.

not applied for a Treasury grant-in-aid. When such was received he submitted the actual amount should be shown. It was common gossip in the House that the wages were totally inadequate. If there was equality in the sight of the "Corps of Politicians" let the catering staff be paid on an adequate and generous basis and banish the evil of tipping, particularly from the smoking-room. The practice was extremely bad; rather pay them an adequate and fair wage, said the hon. and gallant Member, and enhance their dignity and the dignity of Members at the same time.¹

Mr. Bevan observed that theirs was a very old building, and by preserving its characteristics they denied the Kitchen Committee the modern conveniences which made for efficiency, which was a reason why the House should be ready to give the Kitchen Committee assistance. It was not fair that Members should have to put up with bad and dear food in order to maintain the historical and physical conditions of the House, and it was a reason why the Exchequer should come to the assistance of the Kitchen Committee and why the House should support them.²

Mr. Bracewell Smith in reply said that they did not want additional food. They had their ordinary allocation of food in accordance with the meals served, but additional supplies meant food over and above their allocation under the rationing order. The Kitchen Committee was not prepared to ask the Ministry for any extra supplies. "We shall not ask," said Mr. Bracewell Smith, "for any preferential treatment for this House of Commons." Many complaints had been made, a lot of them not justified at all. He did, however, say that they would provide adequate dining-room arrangements when those (sitting) hours were fixed. So far as staffing arrangements were concerned, almost 75 p.c. of them had been with them over 20 years. Mr. Bracewell Smith remarked that:

This House of Commons is not an easy establishment to cater for. Sometimes we get 400 or 500 hon. Members, just as we did the other day, when the House was packed and everybody wanted a meal at the same time and the congestion of the arrangements was very severe. Well, we had to cater for them. That is what you get in the House of Commons. If you only have 140 seats, it is obvious that all Members cannot sit down at the same time.³

Continuing, Mr. Bracewell Smith said that he had been a member of the Kitchen Committee for 10 years and Chairman since 1937, and they did not receive any subsidy from the Government until 1939. In reply to an interjection, Mr. Smith said that the Committee had asked for it, but the Chancellor had always disagreed. He, Mr. Smith, considered the Kitchen Committee should pay its own way. "We should pay for our food and have done with it." That was his personal opinion and the opinion of his Committee.

In regard to a grant-in-aid, further continued Mr. Smith, in 1939-40

¹ *Ib.* 2303-10.

² *Ib.* 2311.

³ *Ib.* 2313.

they received £4,000; in 1940-41, £3,000; and the year after the Treasury refused to give any grant-in-aid. As to the Question by the hon. and gallant Member in regard to the staff and what the Committee had done with the surplus, Mr. Smith replied that they decided to increase the wages of the staff by the expenditure of the £1,400 surplus; in pre-War days the House worked 5 days a week, now they were working 4; and that the members of the permanent staff¹—there were 65 members in all—got full pay throughout the year. For 52 weeks they got pay and they worked 119 days.²

It being the hour appointed for the Adjournment of the House, Mr. DEPUTY SPEAKER adjourned the House, without Question put, pursuant to the Standing Order, till Tuesday, 18th April, pursuant to the Resolution of the House this day.

H.C. Paper 68 of 1945 also reports that the Select Committee regret to record the fact that Mr. R. J. Bradley, General Manager of the Refreshment Department, is retiring after having been in the service of the Committee for over 40 years. Major S. E. Sidwell of the Army Catering Corps, formerly Catering Manager to the Bournemouth Corporation, was appointed to fill this position.

On June 7,³ the Chairman of the Kitchen Committee was asked when he intended to reduce the prices of food in the catering establishments of the House; to which the Chairman replied that such prices were based on the prevailing cost of food, renewal of equipment and present rate of wages. Those factors prevented any immediate reduction in the present charges, which were practically the same as in 1938.

Canada: Senate (Procedure upon a Commons Bill).—The War Service Electors and Prisoners of War Voting Bill was received from the Commons by the Senate for concurrence on June 20,⁴ and after 2 R. was referred to the Standing Committee on Banking and Commerce, which reported the Bill June 29⁵ with certain *amds.* Such Committee's report was adopted June 30⁶ on the understanding that the discussion took place on 3 R., with the opportunity of moving *amdt.* to the Bill at that stage.

In the course of this debate it was resolved that the debate be adjourned during pleasure in order that Royal Assent might be given to certain Bills, the following being the report thereof in *Hansard*:

The Honourable Thibaudeau Rinfret, Chief Justice of Canada, the Deputy of the Governor-General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned and being come with their Speaker, the Honourable the Deputy of the Governor-General was pleased to give the Royal Assent to the following Bills.

The House of Commons withdrew.

The Honourable the Deputy of the Governor-General was pleased to retire.

¹ For details of wages, see Q. 306, *Ib.* 706.

³ *Ib.* 2314-15.

⁴ 1944-45 *Sen. Hans.* 191.

² 400 *Com. Hans.* 5, s. 1358.

⁵ *Ib.* 255. ⁶ *Ib.* 267.

The sitting was resumed.

At six o'clock the Senate took recess.

The debate was resumed at 8 o'clock, when an *amdt.* was moved to the Bill by an hon. Senator, whereupon the Speaker of the Senate referred to the difference between the procedure of the Commons and that of the Senate, which had a Rule (65) stating that:

65. A Senator may, at any time before a Bill is passed, move for reconsideration of any clause thereof, already passed.

and that Bourinot (p. 531) said:

In the Senate, Bills are constantly amended on the third reading without going back to Committee, which practice was based on House of Lords practice, and May (13th. ed., p. 422) was quoted. Therefore, in the Senate, as in the Lords, continued Mr. Speaker, amendments may be proposed on the Motion for 3 R.

The Commons considered these *amdt.*s. on July 17,¹ when it was moved by the Secretary of State (Mr. McLarty) that the *amdt.* made by the Senate to Clause 5 be agreed to with a consequential *amdt.*

An amendment was then moved to the Secretary of State's *amdt.*, but was ruled out of order by Mr. Speaker on the ground that its adoption would leave nothing but introductory words in the proposed *amdt.*

Two other *amdt.*s. were also ruled out of order, one as not being consequential to the Senate *amdt.*, and the other as changing the nature of the Bill.²

The Secretary of State's *amdt.* was then put and agreed to, the Bill as amended sent to the Senate and concurred in by it on July 19,³ duly becoming 8 & 9 Geo. VI, c. 26.

Canada: Senate (Emergency Sitings: Overseas Reinforcements).—The Senate, having adjourned until January 31, 1945, was summoned by Mr. Speaker, in accordance with the Resolution adopted by the Senate on January 27, 1944,⁴ to meet on November 22, 1944,⁵ when Mr. Speaker, after reading the Resolution, announced that pursuant to this Order, on November 17, 1944, after consultation with the Government and the Leader of the Government in the Senate, he had issued the following notice:

In pursuance of the Order of the Senate of January 27, 1944, it is my opinion that the Senate, which was adjourned on August 14, 1944, to January 31, 1945, should meet prior to the time set forth in the Motion for such adjournment, and you are hereby notified that the Senate will meet on Wednesday, November 22, 1944, at 2 o'clock in the afternoon to transact its business as if it had been duly adjourned to that day and hour.

THOMAS VIEN,
Speaker of the Senate.

Mr. Speaker further announced that—"In conformity with this Order of the Senate and with the notification sent out to all honourable Senators, the Senate is now convened and can properly discharge its functions."

¹ LXXXIV. C.] 521. ² *Ib.* 554. ³ *Ib.* 302-10. ⁴ 1944-45 *Sen. Hans.* 461. ⁵ For formal Resolution, see JOURNAL, Vol. XI-XII, 35.—[Ed.]

Canada: House of Commons (Emergency Sitting: Overseas Reinforcements).—In the Journals of November 22, 1944, it is recorded that:

The House, which had been adjourned until January 31, 1945, met this day pursuant to Special Resolution passed on August 12, 1944, and to Notice given by Mr. Speaker in the *Canada Gazette* dated November 18, 1944, declaring that he was satisfied that public interest required that the House of Commons, which was adjourned on August 14, 1944, until Wednesday, January 31, 1945, should meet at an earlier time, and decided that it shall meet on Wednesday, November 22, 1944, at 3 o'clock p.m., and transact its business as if it had been duly adjourned to that day.¹

Canada: House of Commons (Secret Session).²—On November 28,³ the House met in Secret Session at 3 o'clock p.m. Prayers were said and 2 Petitions were laid on the Table. The House adjourned at 11 o'clock p.m.

Canada: House of Commons (Non-M.P. Minister addresses House).—On November 22,⁴ the Prime Minister (Rt. Hon. Mackenzie King) laid before the House, Order in Council 8431, approved November 2, 1944, approving the appointment of General the Honourable Andrew George Lata McNaughton, C.B., C.M.G., D.S.O., as Minister of National Defence, *vice* the Honourable J. L. Ralston, resigned.

On November 23,⁵ the House agreed by leave and without Motion that General McNaughton, Minister of National Defence, who was not yet an elected Member, be permitted to address the House during the present Sitting.

It was also agreed that S.O. 43 would not be applied to Members who desired to put questions to General McNaughton.

Mr. Speaker then instructed the Clerk to inform General McNaughton of this permission.

The General accordingly came into the House and was given a place next to Mr. Speaker's Chair.

General McNaughton then addressed the House.

On November 24,⁶ the same procedure was followed.

Canada: House of Commons (Suspension of a Member).—During debate on July 4,⁷ Mr. Lacombe (Laval—Two Mountains) was called to order by Mr. Speaker for persistence in interrupting Mr. Maxime Raymond (Beauharnois—Laprairie), who was addressing the House. Mr. Speaker, after warning Mr. Lacombe several times, finally named him as follows:

Mr. Liguori Lacombe, I have to name you for disregarding the authority of the Chair.

Mr. Mackenzie (Vancouver Centre), acting Leader of the House, then moved, seconded by Mr. Mudock:

¹ LXXXIV. C.J. 921.

² LXXXIV. C.J. 931.

³ *Ib.* 928.

⁴ See also JOURNAL, Vol. XI-XII, 38.

⁵ *Ib.* 922.

⁶ *Ib.* 926.

⁷ *Ib.* 526.

That Mr. Liguori Lacombe, Member for Laval—Two Mountains, be suspended from the service of the House for the next seven days.

And the *Q.* being put on the said Motion, it was agreed to.

Mr. Lacombe was then conducted out of the Chamber by Deputy Serjeant-at-Arms.

On July 31,¹ when the Family Allowances Bill (No. 161) was in *C.W.H.*, objection was taken to the decision of the Chairman on a point of order, and upon appeal being made to the House Mr. Speaker resumed the Chair. The Chairman then reported that Mr. Bruce (Parkdale) during an address directed to the Prime Minister and the Committee stated that such Bill, introduced by the Government, was a bribe to the people of Canada. When asked by the Chairman to withdraw the word "bribe", Mr. Bruce refused and appealed to the House against the Chairman's Ruling.

Mr. Speaker assumed the Chair, received the report and put the *Q.*: "Shall the Ruling of the Chairman be confirmed?" (Yeas, 81; Nays, 22.)

Thereupon Mr. Speaker asked Mr. Bruce to abide by the decision of the House and withdraw the word "bribe" as applied to the Bill, but Mr. Bruce "respectfully refused to retract". Mr. Speaker then directed him to withdraw from the Chamber whilst the House considered his case. Mr. Bruce having left the Chamber, the Prime Minister (Rt. Hon. Mackenzie King) moved:

That Mr. Bruce, Member for Parkdale, be suspended from the service of this House for the remainder of to-day's sitting. (Yeas, 84; Nays, 20.)

The Committee then resumed consideration of the Bill.

Canada: House of Commons (Adjournment (Urgency) Motions).—
S.O. 31² (Adjournment of the House for the purpose of discussing a definite matter of urgent public importance) reads: •

31. (1) Leave to make a Motion for the adjournment of the House (when made for the purpose of discussing a definite matter of urgent public importance) must be asked after the ordinary daily routine of business (S.O. 15) has been concluded and before notices of Motions or Orders of the Day are entered upon.

(2) The Member desiring to make such a Motion rises in his place, asks leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, and states the matter.

(3) He then hands a written statement of the matter proposed to be discussed to Mr. Speaker, who, if he thinks it in order, and of urgent public importance, reads it out and asks whether the Member has the leave of the House. If objection is taken, Mr. Speaker requests those Members who support the Motion to rise in their places and, if more than 20 Members rise accordingly, Mr. Speaker calls upon the Member who has asked for leave.

(4) If less than 20, but not less than 5, Members rise in their places, the question whether the Member has leave to move the adjournment of the House shall be put forthwith, without debate, and determined, if necessary, by a division.

(5) Except with the requisite leave or support, the Motion cannot be made.

¹ LXXXIV. C.J. 761.

² See also Index hereto.—[E.D.]

(6) The right to move the adjournment of the House for the above purposes is subject to the following restrictions:

- (a) Not more than one such Motion can be made at the same sitting;
- (b) Not more than one matter can be discussed on the same Motion;
- (c) The Motion must not revive discussion on a matter which has been discussed in the same session;
- (d) The Motion must not anticipate a matter which has been previously appointed for consideration by the House, or with reference to which a notice of Motion has been previously given and not withdrawn;
- (e) The Motion must not raise a question of privilege;
- (f) The discussion under the Motion must not raise any question which, according to the Standing Orders of the House, can only be debated on a distinct Motion under notice.

In regard to these Motions, Beauchesne¹ says that Mr. Speaker's responsibility is limited to deciding whether or not the Member's statement comes within the scope of the S.O., and it is for the House, if 20 Members do not rise in support, to decide as to the desirability of discussing the matter. There is no appeal from Mr. Speaker's decision that such a Motion cannot be made unless the Member's statement shows that there is actual urgency for debate. In doubtful cases, the questions of urgency and importance are left for the House to decide, by giving or withholding its support.

In addition to those enumerated in (6) (a) to (f) of the S.O., certain subjects are excluded such as those under adjudication by a Court of Law, upon an *amdt.*, or upon an Order of the Day. Such a Motion to debate grave charges against a Department does not come within the S.O., whereunder not more than one matter can be discussed the same day. "Urgency" does not apply to the subject-matter but to the "urgency for debate" when the ordinary opportunities provided by the Rules of the House do not permit the subject to be brought on early enough and public interest demands that discussion takes place immediately. The matter must involve the administrative responsibility of the Government. The matter must also be so pressing that public interest will suffer if it is not given immediate attention. There must be a *prima facie* case of urgency. Such a Motion may be brought to an end by the adoption of a Motion that the House now pass to the Orders of the Day. The debate upon such a Motion cannot be adjourned. Once the Motion is certain the House rises. If the debate is over at an early hour it is the custom for the Mover of such a Motion to withdraw it, whereupon the House proceeds to its appointed business. Neither may such a Motion be moved for matter arising out of debate of the same Session or the terms of a Bill before the Senate.

During the 1944 Session, Adjournment (Urgency) Motions were ruled out of order by Mr. Speaker on the following grounds that: (1) there was not sufficient urgency and the statement was not in accordance with facts as the Order² had been in effect, except one Clause, since

¹ Beauchesne's *Rules and Forms of the House of Commons of Canada*, 3rd ed., 76-9:

² I.e., War-time Wage Control Order, 1943 (P.C. 9384).

December;¹ (2) that there was no urgency;² (3) that there was no urgency and the matter had already been discussed and would be taken up later in the Session.³ Three such Motions were withdrawn after debate.⁴

Canada: House of Commons (Standing Orders Revision).—On February 1,⁵ a Special Committee of 11 Members was appointed “to assist Mr. Speaker in reviewing the Standing Orders of the House with a view to simplify, accelerate and expedite its business and to report to the House during the present Session.”

On March 3,⁶ Mr. Speaker, from the Special Committee appointed to assist him in reviewing the Standing Orders of the House of Commons, presented the First and Final Report as follows:

Your Committee, in the performance of the important duty assigned to it by the House, has taken into account the existence of general criticism of Parliament both by Members and representative citizens. It has fully realized that much is expected of the House of Commons where the views of the people are finding expression and where industrial and economic conditions are demanding Parliamentary attention and solution. The main question before the Committee was whether procedure should be amended so that the House may be able to do more legislative work in the time at its disposal and increase its efficiency as a critical and controlling assembly. Criticisms of Parliament seem to have been inadequately considered in relation to the whole structure of Parliament, the necessary party system and the complex situation created by a War which is now in its fifth year.

These criticisms arise from opinions concerning the functions of Parliament which are often based upon such misconceptions as the view that Parliament is primarily a Board of Directors with the members of the Cabinet as its executive staff, and that Members, instead of endeavouring to reconcile as much as possible all the elements of public opinion, which is difficult in our diversified country, should rigidly consider every question on its own exclusive merits. Such however is not the true function of a legislative body composed of 245 members elected to discuss the management of public affairs. Debates may sometimes be lengthy but they bring home to the Administration the advisability or unpopularity of a particular line of policy and they must be heard because democratic government rests upon public opinion. Parliament is the assembly of representatives elected by the people where great issues are debated; it is not primarily a body of auditors charged with the inspection of departmental accounts. Freedom of speech is one of the inalienable privileges of Members of the House of Commons. It is in truth the privilege of their constituents and it is secured to Members not for their personal benefit but to enable them to discharge the functions of their office. Without it, the essence of the country's liberty does not exist.

The present procedure was devised to reflect the freedom of all the Members of the House, but we must realize that in wartime Parliament is bound to divest itself of some of its prerogatives in order to strengthen the Government's power. The principle of majority rule is a Constitutional convention upon which all British Parliamentary government is built, but this must collapse in proportion as the principle of the protection of minorities begins to decay.

Rules are not sufficient to preserve freedom of speech and to uphold the dignity of the House of Commons. Standing Orders depend for their

¹ LXXXIV. C.J. 85.

⁴ *Ib.* 402, 790, 793.

² *Ib.* 99, 332.

⁵ *Ib.* 53.

³ *Ib.* 385.

⁶ *Ib.* 146.

success upon the prevalence of good will amongst all Members who have to work under them. The House must rely on the forbearance of its Members and on the general acquiescence in the enforcement by the Speaker of the rule which requires that Members should strictly confine themselves to matters immediately pertinent to the subject of debate. In a report presented to the United Kingdom House of Commons in 1931, the following statement appears:

Your Committee would urge that unless understanding and a common loyalty prevail there will be a danger of the collapse of the system of representative government. . . . If the principles of equality among Members, publicity of the House's proceedings, freedom of speech, majority rule, or the right of the minority to an adequate expression of opinion are consciously challenged, there is an indication of some serious defect in the life of the nation. These larger considerations cannot be regulated by rules and orders: they are the responsibility of each Member of the House.

Your Committee, in all its deliberations, has kept in mind the importance of not impairing the rights of minorities. Two fundamental principles govern the procedure of the House. They are, that the Government shall, so long as it can maintain a majority, be able to secure such legal powers as it considers necessary for administration, and that minorities, however small, shall be able to criticize that administration. Standing Orders must protect them, and it is all the more important that they be founded on right and justice because they are merely resolutions of the House which can be swept away by a majority vote. Your Committee is of the firm opinion that these rights cannot be alienated even if the House, in maintaining them may protract sessions and lay itself open to severe criticism.

The suggestion that Estimates should be referred to Standing or Select Committees has been given earnest consideration and carefully reviewed. It strikes at the root of ministerial responsibility and it divests Members of the privilege of criticizing from the Floor of the House, without advice, suggestion or influence of any kind, all departmental expenditures submitted by the Government. No proposals subversive of this settled rule of action can be safely embodied in any scheme for securing closer Parliamentary control. One of the objections to this proposal is that if all the Estimates are referred to a Standing or Select Committee the motion for the Speaker to leave the Chair shall be abolished, which means fewer opportunities for Private Members to move amendments setting forth grievances or expressing want of confidence in the Government. The procedure required to keep this privilege unimpaired would reduce the efficiency of the Committee's functions and it would be so involved as to be misunderstood and hard to enforce. Certain Estimates may be occasionally referred to a Select Committee in order to ascertain facts which the House desires to know, but this practice should be adopted guardedly and only in very special circumstances. Your Committee does not think it would be advisable to change the present system and it believes that the elasticity of the present rules makes it possible to apply them in new situations from time to time. We, however, desire to submit that considerable time could be saved if the Committee of Supply sat oftener in the early part of the Session. We therefore recommend that, when the yearly Estimates have been brought down, one day a week be set aside for consideration of Supply. If this be done, the House is not likely to find itself under the necessity of passing a great part of the Estimates in the dying days of the Session.

The allotment of a certain number of days for the Debates which appear to become protracted was considered. Your Committee was adverse to multiplying rules of this character. There are already several restrictions which have been found necessary for Parliamentary work and which are accepted in almost every elected assembly. We have recommended a few amendments, but we feel that this House cannot go further in regulating its

discussions. In spite of limitations now existing, every Resolution and Bill is given ample opportunities for debate in Committee of the Whole, Standing and Select Committees and on the second and third readings; but as the allotment of days, under a special rule, might prevent Members from speaking, it should not be ordered under the authority of a Standing Order. Your Committee is not prepared to recommend such an innovation in our procedure, which must be adapted to our own conditions and be thoroughly Canadian. Our recommendation is that, when there is reason to believe that debate will be protracted, parties and groups recognized in the House shall confer and make arrangements either for allotting days or laying any plan for saving time whilst protecting freedom of speech for every representative of the people who sits in this House.

Your Committee did not think it advisable to take up at this time the question of the alleged suppression of initiative on the part of the Private Member. As the nation has been at War for over four years and Government business has been given precedence over Private Members' Motions and Bills, this is not the proper Session to consider that part of our procedure. Conditions prevailing in wartime are such that Private Members' Notice of Motions and Private Bills must give way to War measures. The order of business followed since 1940 has been based on resolutions which practically abolished Private Members' days. It is an exceptional situation and perhaps the House had better wait until normal conditions return before the Private Member's place in the House can be fully considered.

Rules of practice are necessary in the House of Commons as well as in any Court of Justice and other public institutions, but the multiplicity of Standing Orders dealing with the basic principles of Parliamentary procedure ought not to be encouraged. There were no Standing Orders relating to public business in the United Kingdom House of Commons until 1707, and there were only 3 from 1715 to 1821—over a century. There are 95 to-day. We have 81, besides 10 dealing with the staff and 29 governing the Library of Parliament. Your Committee is aware that Members of this House are reluctant to impose restrictions on their freedom and independence, and that any attempt to translate procedure into precise rules will deprive them of the very quality which renders them adaptable to new and varying conditions, or unusual combinations of circumstances, and might have the effect of restricting rather than safeguarding their privileges.

The following *amds.* to the S.O.s, shown in small type, were recommended by the Special Committee, and the paragraphs given in ordinary type after each suggested S.O. *amdt.* are the comments by the Special Committee upon each proposed *amdt.*:

S.O. 9 reads:¹

Upon a division, the yeas and nays shall not be entered upon the Minutes, unless demanded by five Members.

Proposed *Amdt.*: That the following be added:

And every Member present in the Chamber when the question is finally put by Mr. Speaker shall be obliged to vote, and if he does not vote Mr. Speaker shall call upon him to vote and his name shall be recorded accordingly. If he persists in not voting he may be named by Mr. Speaker for having violated a Standing Order of the House.

Yeas and Nays.—There never was any S.O. governing this matter in the Canadian House of Commons. The practice for many years was that a Member who remained seated during a division was often

¹ LXXXIV. C.J. 149.

required by the Speaker to declare on what side he voted. If he persisted in not voting, neither the House nor the Speaker had authority to penalize him. In 1906 the United Kingdom House of Commons passed its S.O. 29, which relieves Members of the obligation to vote; and our House seemed to be so influenced by this new practice that our Speakers have hesitated to demand that all Members present when the question is put are bound to vote. The procedure was not uniform, which was not fair to Members, who are entitled to know what are their rights in a matter of this kind. Under the new S.O. a Member who may have objections to voting one way or the other shall not be forced to do so against his will as he will be free to stay out of the Chamber when division takes place.¹

S.O. 12 (1) reads:

Mr. Speaker shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the House without debate. In explaining a point of order or practice, he shall state the Standing Order or authority applicable to the case.

Proposed *Amdt.*: That the following be added after the word "debate" in the fourth line:

provided no division shall take place thereon unless demanded by 20 Members.

Appeal from Speaker's Decision.—Under the present procedure, when Mr. Speaker has given a decision, any Member may rise and say: "I appeal from your decision." The Question is then put on that appeal, and, if 5 Members rise, a division has to take place. This *amdt.* provides that in future the House will divide on the appeal only if a decision is demanded by 20 Members.²

S.O. 31 (3), relating to the Motion to adjourn the House for the purpose of discussing a definite matter of urgent importance, reads:

He (the Member) then hands a written statement of the matter proposed to be discussed by Mr. Speaker, who, if he thinks it in order, and of urgent public importance, reads it out and asks whether the Member has the leave of the House. If objection is taken, Mr. Speaker requests those Members who support the Motion to rise in their places and, if more than 20 Members rise accordingly, Mr. Speaker calls upon the Member who has asked for leave.

Proposed *Amdt.* to be added as sub-section (g) of s. (6):

There shall be no appeal from Mr. Speaker's decision as to the urgency of discussing the matter mentioned in the written statement submitted to him by the Member who proposes to move the adjournment of the House.

Amendment Motion for Special Purpose.—The object of this *amdt.* is to bring the Rule in conformity with the present practice of the House and several Speakers' decisions which have been invariably sustained. The theory is now accepted that the Speaker in declaring that there is no urgency to debate the matter brought to the attention of the House does not rule on a point of order. He takes the responsibility of deciding whether or not the question proposed to be discussed is of such national importance that it should be given precedence over the appointed proceedings of the House.³

¹ *Ib.* 189.

² *Ib.* 149.

³ *Ib.* 150.

S.O. 37 reads:

No Member except the Prime Minister and the Leader of the Opposition, or a Minister moving a Government Order and the Member speaking in reply immediately after such Minister, or a Member making a Motion of "No Confidence" in the Government and a Minister replying thereto, shall speak for more than 40 minutes at a time in any Debate.

Proposed *Amdt.*: That the following be added as s. (2):

Provided always that in the Committees of the Whole, Supply or Ways and Means, no Member shall speak more than once on a particular Motion, clause or item under consideration, and not more than 20 minutes continuously, but his right to ask questions relating to the subject-matter of the said Motion, clause or item under consideration shall not be thereby restricted.

*Speeches limited to 20 minutes.*¹—When Mr. Speaker is in the Chair, a Member can speak only once, but there is no limit to the times of speaking when the House is in Committee. Under the present rule, a Member may make 2 or 3 40-minute speeches during a sitting of the Committee which does not last longer than 3 hours at a time. This amendment provides for a more equitable apportionment of time and allows more Members to take part in the discussions.

S.O. 40 (2) reads:

Mr. Speaker or the Chairman, after having called the attention of the House, or of the Committee, to the conduct of a Member who persists in irrelevance, may direct him to discontinue his speech, and if the Member still continues to speak, Mr. Speaker shall name him, or, if in Committee, the Chairman shall report him to the House.

Proposed *Amdt.*: That the following words be inserted after the word "irrelevance": "or tedious repetition".

*Question of Order in Debate.*¹—Your Committee hopes that this addition will meet with the general approval of the House.

S.O. 43 (2) reads:

A reply shall be allowed to a Member who has moved a substantive Motion, but not to the mover of an amendment, the previous question or an instruction to a Committee.

Proposed *Amdt.*: That the following be inserted after the word "Motion," "or the second reading of a Bill, and to a Minister of the Crown who has introduced a Government measure". The amended section will read:

A reply shall be allowed to a Member who has moved a substantive Motion, or the second reading of a Bill, and to a Minister of the Crown who has introduced a Government measure, but not to the mover of an amendment, the previous question or an instruction to a Committee.

*Members not to speak twice in Reply.*²—In recent years, the Ministers have had to obtain leave or unanimous consent in order to answer criticism, and, as no objection was ever taken to this course, the House may now regulate the practice by adopting this new rule.

S.O. 44 regulates questions placed on the Order Paper, but does not deal with questions addressed to Ministers on the orders of the day being called.

The Committee proposes that the following be added as s. (5) of this Standing Order:

¹ *Ib.* 150.

² *Ib.* 151.

A question of urgent character may be addressed orally to a Minister on the orders of the day being called, provided a copy thereof has been delivered to the Minister and to the Clerk of the House at least one hour before the meeting of the House. Such a question shall not be prefaced by the reading of telegrams, newspaper extracts, letters or preambles of any kind. The answer shall be oral and may be immediately followed by supplementary questions limited to 3 in number, without debate or comment, for the elucidation of the information given by the Minister.

*Questions of an urgent character answered orally.*¹—The custom of asking questions before the orders of the day are proceeded with has taken such a development that it is now part of our Parliamentary practice. It is neither possible nor advisable to do away with it. As it seems to meet the wishes of the majority of Members, the House may adopt this amendment so that the Speaker will in future be guided by a Standing Order when Members' rights in this connection are challenged.

S.O. 49 reads:

Only one amendment and one sub-amendment may be made to a Motion for Mr. Speaker to leave the Chair for the House to go into Committee of Supply or Ways and Means.

Proposed *Amdt.*: That the following words be inserted after the word "Motion": "for the Address in Reply to the Speech from the Throne" so that the Standing Order will read:

Only one amendment and one sub-amendment may be made to the Motion for the Address in Reply to the Speech from the Throne and to the Motion for the Speaker to leave the Chair for the House to go into Committee of Supply or Ways and Means.

*Amendments to Address in Reply to Speech from the Throne.*¹—The debate on the Address in Reply to the Speech from the Throne covers the whole ground of administration and is repeated when the Budget is brought down. This debate has been abolished in the House of Assembly of South Africa, where the following Standing Order is now in force: "Mr. Speaker shall report to this House the Governor-General's Speech, and there shall be no debate on such report."

Your Committee felt that the House could not abolish this debate, but it realized that the scope of discussion was so wide and the question of relevancy almost non-existent on this particular occasion, that the freedom of speech of every Member, party or group would be fully preserved by limiting the number of amendments in the same way as on the Motion for Committee of Supply. These 2 Motions are in the same category—namely, they furnish occasions for airing grievances and making suggestions to the Government.¹

S.O. 60 reads:

If any Motion be made in the House for any public aid or charge upon the people, the consideration and debate thereof may not be presently entered upon, but shall be adjourned till such further day as the House thinks fit to appoint; and then it shall be referred to a Committee of the Whole House, before any resolution or vote of the House do pass thereupon.

Proposed *Amdt.*: That the following be added at the end after the word "thereupon":

¹ *Ib.* 151.

provided that if the aid or charge is to be a subsidiary provision of a Bill to be later introduced, the Motion creating it shall be considered without the House resolving itself into Committee.

*Motion imposing Public Aid or Charge.*¹—Your Committee has reached the conclusion that there is an immense advantage in informing the Members of Parliament as to the nature of a money Bill upon the Committee stage of the discussion. The obligation to refer a Resolution to the Committee of the Whole is one of the traditional rules of British Parliaments, and, though it may sometimes seem superfluous, there may be occasions when it will prevent obnoxious legislation. There can be no question of abolishing this part of our procedure, but there is no doubt in our minds that the Committee stage can be avoided when the charge created by a Bill is a subsidiary feature such as the payment of a staff or travelling expenses; the Bill should be introduced without the formality of a resolution and the Committee stage.

S.O. 75 reads:

Every public bill shall be read twice in the House before committal or amendment.

Proposed *Amdt.*: That the following be added at the end of this Standing Order:

with the exception of Divorce Bills passed by the Senate, which shall be referred to the Standing Committee on Private Bills as soon as received from that House.

*Divorce Bills.*¹—Under this new rule, divorce Bills will come before the House only once. They will be thoroughly considered in the Committee on Private Bills prior to being submitted to the House. They are now mentioned 3 times before their second reading: first, when the message is read from the Senate; secondly, on first reading; and, thirdly, on second reading. The object of the new rule is to avoid this unnecessary procedure.

Your Committee is of the opinion that divorce by legislation should not take place to such an extent that Bills seeking it sometimes fill many pages of the Order Paper. The matter is not one that can be settled by Standing Orders. The whole question should be given full consideration with a view to eliminating divorce Bills from Parliament, and your Committee strongly recommends that this be done as soon as conveniently possible.

Mr. Speaker said that on Friday, February 25, last, speaking on behalf of the Committee, he asked Members who desired to place their views on procedure before the Committee to write to him or the Clerk of the House, and Mr. Speaker stated that their letters would be given every consideration. No suggestions had been received. The Committee did not recommend radical changes in the Rules of the House, but it believed that a practice which had been followed for years by unanimous consent ought to be permitted by Standing Orders. It was only by a process of evolution that the rules could be materially altered.

Mr. Mackenzie (Vancouver Centre) moved—"That the Report of

¹ *Ib.* 152.

Mr. Speaker for the Special Committee on the Revision of Standing Orders be referred to the Committee of the Whole on Tuesday next."

Question put and agreed to.¹

On March 7,² the House went into *C.W.H.* on the Report, and reported progress with leave to sit again, and on April 25³ the same procedure occurred.

Canada: House of Commons (War Expenditure Committee, 1943-44).⁴
—The information on this subject for the 1942-43 Session, stated in the last issue of this JOURNAL as not having, owing to War delays, been received at the time of going to press with Volume XI-XII, is now available and will be outlined below, together with the Reports from this Special Committee for the Session 1943-44.

Session 1942-43.—The Order of Reference for this Special Committee was the same as that in the 1942 Session.⁵ The Question was put and agreed to on non-recorded division.

This Committee made 5 Reports. The First Report,⁶ which was concurred in by the House,⁷ made recommendations as to quorum of 6 (in place of the half laid down by S.O. 65 (3)); Sittings; printing sub-committees; their quorum; powers; Sittings; evidence (on oath) and staff. It also recommended that, in cases where consideration of national security precluded the publishing of certain recommendations and of the arguments on which they were based, the Committee be empowered to address a memorandum to the Prime Minister for the consideration of the War Cabinet, provided that the Committee, in such cases, reports the fact as soon as possible to the House. It was also recommended that, during any adjournment of the House, the Committee reports are deemed to be "tabled" there when filed with the Clerk of the House, provided 7 days have elapsed after the date of such filing.

The second Report⁸ incorporated the Report of Sub-Committee No. 4 on present conditions relating to agricultural implements and repairs supply.

The Third Report⁹ incorporated the Reports of Joint Sub-Committees Nos. 2 and 3 on the Shipshaw Power Development and aluminium production by the Aluminium Company of Canada, Ltd. (This Report covers 39 pp. of the Commons Journals.)

The Fourth Report,¹⁰ covering 14 pp. of the Commons Journals, incorporated the Report of Sub-Committee No. 1 on Merchant and Naval Shipbuilding.

The Fifth Report¹¹ presented a copy of the Minutes of Proceedings Session, and in submitting this Report the Special Committee was of opinion that its work should be continued and recommended that a Committee on War Expenditure be appointed promptly at the next Session.

¹ *Ib.* 152. ² *Ib.* 165. ³ *Ib.* 294. ⁴ See also JOURNAL, Vol. XI-XII, 39.
⁵ See JOURNAL, Vol. XI-XII, 39; LXXXIII. C.J. 625.
⁶ LXXXIII. C.J. 627. ⁷ *Ib.* 644. ⁸ *Ib.* 726. ⁹ *Ib.* 730.
¹⁰ *Ib.* 769. ¹¹ *Ib.* 782.

The Second, Third, Fourth and Fifth Reports were all tabled on January 26, 1944, but were not considered by the House until the 1943-44 Session (*which see later*).

Session 1943-44.—Motion was made on February 21, 1944¹—That the Second, Third, Fourth and Fifth Reports of the Special Committee on War Expenditure of the 1942-43 Session be concurred in; but during debate an *amdt.* was moved: That all words in the said Motion after the word "Reports" be struck out and the following substituted therefor—"be not now concurred in, but that the House instructs that the evidence upon which the said Reports are founded be tabled, and that consideration of the Reports be postponed until the House has had sufficient opportunity to study the said evidence."

After further debate the following *amdt.* was moved: "That after the word 'evidence', in the *amdt.*, the following words be inserted, 'respecting aluminium contracts and relative subjects thereto'."

Mr. Speaker, however, ruled the second *amdt.* out of order on the ground that its adoption would make the main Motion unintelligible. Debate was adjourned and resumed on February 22,² when another *amdt.* was proposed, namely—"That all the words after 'founded' in the *amdt.* be struck out and the following substituted therefor: 'be referred to the Public Accounts Committee for examination, and the consideration of the Reports by the House be postponed until the Public Accounts Committee reports back'."

Mr. Speaker ruled this *amdt.* out of order on the ground that the evidence in question was not in possession of the House and therefore could not be referred to the Public Accounts Committee.

After further debate the *amdt.* first proposed was put and negatived (Yeas: 50; Nays: 118); and

After further debate, the Motion was, by leave, withdrawn.

In the 1943-44 Session the Special Committee on War Expenditure was, on February 22, 1944, again appointed³ on the same Order of Reference as before. The Committee presented 6 Reports. The First Report,⁴ which was presented on February 24, was on the same lines as the First Report from this Special Committee in the 1942-43 Session, and was adopted. The Second Report⁵ incorporated the Report of Sub-Committee No. 1 on aircraft production, etc. The Third Report⁶ incorporated the Report of Sub-Committee No. 2 on materials and supplies for the armed services, including boots, etc. The Fourth Report⁷ incorporated the Report of its Sub-Committee No. 4 on the manufacture of ammonium nitrate in Calgary. The Fifth Report⁸ incorporated the Report of Sub-Committee No. 3 on the rubber situation in Canada, including the activities of Polymer Corporation Ltd.

The Second, Third, Fourth and Fifth Reports were all tabled on August 12.

¹ LXXXIV. C.J. 109.

² *Ib.* 112.

³ *Ib.* 113.

⁴ *Ib.* 116, 137.

⁵ *Ib.* 817.

⁶ *Ib.* 819.

⁷ *Ib.* 825.

⁸ *Ib.* 826.

The Sixth Report,¹ with the copy of the Minutes of Proceedings and evidence, was tabled on the same day. In this Report the Special Committee stated that during the current Session the Special Committee and its various Sub-Committees had held over 90 meetings:

but on account of the large legislative programme, the Government found it extremely difficult to carry on the Committee's work with any reasonable degree of continuity on account of the fact that its Members were also Members of other House Committees. As a consequence Your Committee recommends that as to all future work of this Committee, while the House is in Session, its Members should be relieved of service on other House Committees as far as possible.

The Committee recommended that it should sit during the coming Recess and that the investigation of War Expenditure by a special Committee should be continued until the conclusion of the War.

Canada: Saskatchewan (Active Service Voters).²—On October 26,³ leave was given to introduce a Bill to provide representation in the Legislative Assembly for members of the Forces serving outside the Province of Saskatchewan. The Bill passed 2 R. on the 30th *idem*⁴ and C.W.H. and 3 R. on the following day,⁵ duly becoming Chapter 5 of 1944.

This Act provides that, notwithstanding the Legislative Assembly Act, 3 Members shall be elected to sit in the new Legislative Assembly by the extra-Provincial service voters within the meaning of the Active Service Voters Act, 1942. Out of such 3 M.L.A.s one shall be elected by voters who at the time of such election are in Great Britain or such extended area as may be defined by the Lieutenant-Governor in Council in the event of a movement from Great Britain of members of the forces; another shall be elected by voters who, at the time of the said election, are in countries bordering on the Mediterranean Sea; and the other by voters who are at such time in Canada (outside Saskatchewan) or in Newfoundland.

The vote at the said election shall be taken in accordance with Regulations made by the Lieutenant-Governor in Council providing for all the proper and necessary facilities for taking the vote. The date of the election is fixed by the Lieutenant-Governor in Council and a candidate's qualification is that he or she must be an extra-Provincial active-service voter and have served in an area aforesaid for a period, or an aggregate period, of at least 6 months at any time previous to the taking of this vote. Each M.L.A. elected under the Act has all the rights, powers, privileges and immunities enjoyed by Members of the Legislative Assembly, and the Act does not affect the commencement of the Assembly on the date of the return of the writs for elections under the Legislative Assembly Act, or prevent the Assembly from sitting and acting or affect in any manner the legality of its proceedings.

Compensation of returning officers, etc., employed in respect of

¹ *Ib.* 867.

² See also JOURNAL, Vols. X, 44; XI-XII, 42.

³ 1944 L.A. Journals, 34.

⁴ *Ib.* 41.

⁵ *Ib.* 42.

elections under the Act and all expenses thereupon are paid by the Provincial Treasurer out of the Consolidated Fund at the determination of the Lieutenant-Governor in Council.

Australia (Referendums).—With reference to the Article on "Commonwealth Powers" in our previous issue,¹ an official publication issued under the authority of the Minister of State for the Interior, dated September 21, 1944, has been received showing the statistical returns in relation to the submission to the electors of all proposed laws for the alteration of the Constitution since Federation, together with summaries of Referendums, 1906-44. This Return (24pp. foolscap) has been issued by the Chief Electoral Officer for the Commonwealth and contains an exhaustive analysis of the voting, showing, in respect of every one of the 6 States, the number of electorally enrolled males, females (and totals), the number of enrolled electors to whom ballot papers were issued; and the percentage of electors to whom ballot papers were issued, to electors enrolled.

A comparative statement is also given showing, in respect of each State, at every Federal Referendum (including the 2 Referendums of 1916-17 on the 2 Prescribed Questions in connection with Military Service)²; the number of votes given *in favour* and *not in favour* of the proposed law (and the 2 Prescribed Questions); and the percentage of votes recorded *in favour* and *not in favour* of the proposed law or Prescribed Question, to formal votes.

In regard to the Referendum of 1944, however, the return is more exhaustive and shows in respect of males, females (+totals) in every House of Representatives' electoral division, the number in the Commonwealth of enrolled electors; the number of enrolled electors: (1) to whom ordinary ballot papers were issued; (2) who recorded postal votes; (3) who recorded absent votes; (4) who recorded votes pursuant to s. 121,91A or 121 of the Act,³ and who recorded votes as members of the Forces under the Electoral (War-time) Act, with the total votes for all headings. These statistics also record in respect of males, females and totals in every House of Representatives' electoral division, the percentage of electors (including members of Forces enrolled) to whom ballot papers were issued (totals of all headings, to electors enrolled); the total number of votes in each State given *in favour* and *not in favour* of the proposed law; the number of informal ballot papers, with combined totals; and the percentage of votes recorded both *in favour* and *not in favour* of the Proposed Law, to formal votes and electors enrolled respectively.

Australia: Senate (Delegated Legislation: Disallowance of Regulations).⁴—The question as to whether the tabling of Regulations is a condition essential to the validity or operation of a Resolution of Dis-

¹ See JOURNAL, Vol. XI-XII, 186 (Constitution Alteration (Post-War Reconstruction and Democratic Rights), 1944). See also Vol. V, 117.

² See JOURNAL, Vol. XI-XII, 142-200. ³ The Constitution Alteration (Post-War Reconstruction and Democratic Rights), 1944.

⁴ Contributed by the Clerk-Assistant of the Commonwealth Senate.—[Ed.]

allowance was referred to in our last issue,¹ and with further reference thereto it may be noted that on March 6, 1942, during the 2 R. debate on the Loan Bill, 1942, a document—namely, Statutory Rules, 1942, No. 92: Regulations under the National Security Act, 1939-1940 (Employment of Women)—was quoted from by the Leader of the Opposition (Senator McLeay), and, on the Motion of the Deputy Leader of the Opposition (Senator McBride), ordered to be laid on the Table of the Senate (under the provisions of S.O. 364).

At the conclusion of the sitting on that day, the Leader of the Government in the Senate (Senator Collings) referred to the above incident, for which, he contended, there was not the slightest occasion, as Senators could move a Motion for the disallowance of a Regulation without the Regulation having first been laid on the Table of the Senate. In support of his contention, Senator Collings quoted an extract from the Commonwealth Law Reports No. 45 of 1930-31, p. 189, namely:

Held, by Rich, Starke and Dixon, JJ. (Gavan Duffy, C.J., and Evatt, J., dissenting), that it was not a condition essential to the validity or operation of a Resolution of Disallowance that the regulations should first be laid before the House and notice of such Resolution given.

The case to which this extract refers is *Dignan v. Australian Steamships Pty. Ltd.* (1931). In this case the Transport Workers (Water-side Workers) Regulations (S.R. 1931, No. 34) had been laid on the Table by order of the Senate on March 26, 1931, after they had been quoted by the Leader of the Opposition. A Motion for disallowance had then been moved and agreed to, and the question for decision by the High Court was whether the Regulations had been properly disallowed. The decision of the High Court was that the Regulations had been properly disallowed and that they had, therefore, no operation after the aforesaid date—namely, March 26, 1931.

There was, however, some difference of opinion amongst the Judges as to whether tabling was a condition essential to the validity of a Resolution of Disallowance, and it is suggested that the head-note from which the quotation has been taken may not be an accurate statement of their decision in this connection.

In support of this view it is pointed out that only 2 of the 3 Judges comprising the majority expressed the opinion that tabling was not a condition essential to the validity of a Resolution of Disallowance, while the remaining Judge does not appear to have dealt at all with this question; he merely stated that the Regulations had been effectually laid before the Senate within the meaning of s. 10 (c) of the Acts Interpretation Act, 1904-30, and, for the rest of his judgment, dealt solely with the question as to whether notice of a Motion for disallowance was mandatory or directory.

The 2 dissenting Judges considered that tabling was an essential condition, and, moreover, that such a function should be performed by a member of the Executive Council.

¹ See JOURNAL, Vol. XI-XII, 45.

The question as to whether a Regulation may be disallowed without having first been tabled would therefore appear to remain an open one and, as the majority of the Judges decided that the Regulations in question had been effectually laid before the Senate, it would appear to be unwise for any Senator to rely upon the relevant part of the head-note to the Law Report above quoted, and attempt to move a Motion for disallowance without the particular Regulation having first been laid on the Table either by an order of the Senate or by a member of the Executive Council.

Australia (Electoral: War-Time).—On March 28,¹ leave was granted by the Senate to introduce a Bill to amend the Commonwealth Electoral War-Time Act, 1940-1943, and 1 R. of the Bill was automatically taken. In moving 2 R. the following day,² the Minister of Interior (Senator Collings) said that, apart from the machinery clause providing for a referendum, the Bill had 2 purposes only. First, by an *amdt.* of the principal Act, it provided definitely that only members of the Forces who were British subjects were entitled to vote under the special provisions of the Act, and, secondly, it extended the privilege of voting under those special provisions to members of the Merchant Navy engaged in sea-going service and to accredited Press correspondents and others employed or associated with the Forces outside Australia or in Australia north of 26 parallel. The reason for the first provision was that as the statute stood an alien member of the Forces might lawfully claim a vote, although this was never intended by Parliament. In 1940, when the original war-time Bill was prepared, British subjects alone were accepted for War service. Latterly, however, aliens had been admitted to the Forces, and it was deemed proper to restrict the franchise to British subjects. The Government considered that, so far as the electoral law was concerned, the Merchant Navy in War-time ought to be regarded as part of the nation's forces at war, and for that reason also accredited Press correspondents and others closely associated with the Forces in the War zones, who had no other means of recording their votes under the special arrangements provided for members of the Forces. The Bill passed through the Senate without further debate and was sent to the House of Representatives, which returned it to the Senate without *amdt.*, the Bill duly becoming Act No. 14 of 1944.

Australia: Queensland (Remuneration of M.P.s).—With reference to Volume I, p. 101, of the JOURNAL, "The Constitution Act Amendment Act" was passed in 1944, under which the following alterations were made in regard to the payments of salaries to Ministers, Members etc.: "to apply as well to Members of this present Legislative Assembly as to the Members of every Legislative Assembly hereafter to be summoned and chosen."

The salary of Private Members is increased from £650 to £850 p.a. Salary of Leader of the Opposition increased from £850 to £1,250 p.a.

¹ *C'li Hans.* 2031.

² *Ib.* 2134.

"The two Members of the Legislative Assembly who for the time being are respectively recognized as the Government Whip and the Opposition Whip" to be paid at the rate of £950 p.a. (This is a new provision. Heretofore, the Whips were paid as ordinary Members—and additional payment to them, if any, was made up from the private purse of Members and Ministers.)

The salary of the Speaker is increased from £1,150 to £1,500 p.a., and that of Chairman of Committees from £850 to £1,100 p.a. Ministers' salaries are increased from £1,150 to £1,500 p.a. The Premier's salary is increased from £1,450 to £2,000 p.a.—with a proviso that one of such officers to be designated by the Governor in that behalf (usually the Premier) "may receive a further salary of £300 per annum."¹

Australia: South Australia (Payment of Members).²—An Act³ was passed increasing the salary of Private Members of Parliament from £400 to £600 p.a., and this increase applies also to the Speaker and Chairman of Committees, but not to Ministers, "and the increase applies, in addition to any salary, annual sum or other payment to which he is entitled out of the General Revenue."⁴

Australia: South Australia (Parliamentary Standing Committee for Public Works).⁵—An Act⁶ was passed enabling the declaration required of a newly appointed member of the Parliamentary Standing Committee on Public Works to be made before a Commissioner for taking affidavits, should the offices of President of the Legislative Council or Speaker of the House of Assembly or their Deputies both be vacant. The Act also clarifies the provisions relating to extraordinary vacancies at the end of a Parliament.⁴

Australia: South Australia (Parliamentary Committee on Land Settlements).—An Act⁷ has been passed to establish the above-mentioned Committee. Although it is not so stated therein, the principal purpose of this Act is to secure and prepare land for the settlement of ex-Servicemen. It includes provisions, not contained in previous closer settlement legislation, designed to facilitate the acquisition of under-improved land at a reasonable price, and, in order to ensure that in their application no injustice will be done, it provides for the establishment, for 5 years, of a Parliamentary Committee on Land Settlement. The Committee, which was appointed in January, 1945, consists of 2 M.L.C.s and 5 M.H.A.s, the Chairman receiving £400 and other members £250 p.a. The Committee will recommend what land should be acquired and also advise the Government generally on land settlement projects and problems. A Bill authorizing a land settlement proposal involving the expenditure of more than £30,000 may not be

¹ Contributed by the Clerk of the Parliament.—[ED.]

² See also JOURNAL, Vols. II, 17; IV, 39.

³ No. 19 of 1944.

⁴ As contributed by the Clerk of the House of Assembly.—[ED.]

⁵ See also JOURNAL, Vol. IX, 33.

⁶ No. 9 of 1944.

⁷ No. 37 of 1944.

introduced into Parliament without the matter first having been inquired into by the Committee.¹

Australia: Western Australia (Natives' Rights of Citizenship).—During 1944 the Natives (Citizenship Rights) Act² was passed, which provides for the acquisition of full rights of citizenship by aborigine natives, and is subject to the construction of the Commonwealth of Australia Constitution Act.³

Under Act 23 of 1944, any adult person who is a native within the meaning of the Native Administration Act, 1905-41, may apply for a Certificate of Citizenship to the appropriate official in the magisterial district in which such native resides. The prescribed application must be supported by a statutory declaration signed by the applicant, stating that for the 2 years preceding he has dissolved tribal and native association except with respect to lineal descendants or native relations of the first degree; has served in the Naval, Military or Air Forces of the Commonwealth and has received or is entitled to an honourable discharge; and is otherwise a fit and proper person to obtain such citizenship. The application must be accompanied by 2 recent written references from reputable citizens certifying as to the good character and industrious habits of the applicant.

Evidence is also required that: (1) for the 2 years immediately prior to the application, the applicant has adopted the manners and habits of civilized life; (2) that full rights of citizenship are desirable to his welfare; (3) that he is able to speak and understand English and is not suffering from active leprosy, syphilis, granuloma or yaws; is of good behaviour and reputation and is capable of managing his own affairs.

The magistrate, if satisfied after hearing the application, then issues the prescribed Certificate, which must have affixed thereto a photograph of the applicant in the manner of a passport.

The holder of the Certificate is no longer looked upon as a native or aborigine, but has all the rights, privileges and immunities and is subject to the duties and liabilities of a British subject, neither may he be deprived of any property or benefit accrued to him prior to the application.

The Certificate may be suspended for a term (fixed or indefinite), or cancelled, should the applicant not have adopted the manner and habits of civilized life, or have been twice convicted of habitual drunkenness or of any offence under the Native Administration Act, or have contracted any of the diseases above-named.

Regulations are issued under the Act and penalties thereunder may not exceed £25.

Australia: Tasmania (Constitutional—Offices of Profit: State Employees as M.L.A.s).—Section 32 (1) of the Constitution Act, 1934,⁴ provides that, unless otherwise expressly provided, if any Member of

¹ Contributed by the Clerk of the House of Assembly and Clerk of the Parliaments.—[Ed.]

² No. 23 of 1944.

³ 63 & 64 Vict., c. 12.

⁴ 18 Vict., No. 17, s. 27; and 25 Geo. V, No. 94.

either House accepts any pension payable during the pleasure of the Crown, or accepts any office of profit or emolument by the appointment of—(1) the Governor or Governor-in-Council; or (2) any person, body or authority constituted by any Act, or appointed by the Governor under the authority of any Act, to administer or control any department, business or undertaking on behalf of the State, his seat becomes vacant and under s. 32 (3) of such Act no Judge of the Supreme Court and no person holding any office of profit or emolument to which s. 32 (1) applies is capable of being elected to, or of holding a seat in, either House.

Section 32 (2) of the Constitution Act, 1934, however, provides that the following offices do not come under s. 32 (1) thereof: (1) Ministers of the Crown for the State of Tasmania; (2) the returning or presiding officer under any Act, regulating the election of Members of Parliament; (3) Coroner; and (4) a Member of any statutory board, committee or commission in respect of which he receives only such reasonable sum as may be prescribed under any Act or determined by the Governor as reimbursement of expenses incurred by him in the performance of such office and not by way of emolument.

In 1944 the Constitution (State Employees) Act¹ was passed, s. 2 (1) of which provides that nothing contained in s. 32 (3) of the Constitution Act, 1934, shall extend to any person, otherwise qualified, who holds any office of profit or emolument in the public service of the State, or in any business or undertaking carried on by any person, body or authority on behalf of the State; and that any person to whom s. 2 (1) of the Act of 1944 applies shall—

- (a) forthwith on being elected to a seat in either House of Parliament cease to hold such office; and
- (b) be entitled to leave of absence for a period not exceeding two months for the purpose of contesting a Parliamentary election, but shall not be entitled to any salary during his absence from duty for that purpose; provided that this paragraph shall not affect any right of any such person to leave of absence under any Act or any regulations or by-laws thereunder.

Australia: Tasmania (House of Assembly Standing Orders).—Certain amendments have been made to these Standing Orders, including those in 235, by which Appropriation Bills are exempted from being required to be set down for 2 R. on a future day, or from being read 2 R. until 2 days after printed copies have been distributed to Members.

New Zealand: House of Representatives (Secret Session).—The procedure in regard to both Houses of Parliament in connection with Secret Sessions in New Zealand has been given in earlier issues of the JOURNAL.²

A Secret Session was held in the House of Representatives Chamber

¹ 7 & 8 Geo. VI, No. 74.

² Vols. IX, 33; XI-XII, 50.

on February 24, when the following report¹ of the proceedings was issued under the authority of the Speaker of that House:

After a brief review of the general War situation the Prime Minister gave particulars of the adjustments already made in the fighting services following the more favourable position in the Pacific. While this had made men available for necessary production the rapidly changing situation in the various War zones had raised further problems which made it imperative to examine the whole question of the best contribution to be made by New Zealand to the united War effort. Cabled communications received from the United States and the United Kingdom were laid before the House, which decided that adequate time was needed for Members to study reports and statistics placed in their possession. An adjournment was therefore taken until Wednesday, March 1.

In connection with the Secret Session held in the House of Representatives on March 30,² the Council met at half-past two o'clock and, immediately after Prayers and 1 R. of a Bill, the Speaker of the Legislative Council announced on that day that he had received the following letter from the Speaker of the House of Representatives:

DEAR MR. SPEAKER,

As you are no doubt aware, it is proposed to hold this afternoon a secret session of the House. Following the precedent that has been established,³ it is proposed to admit Members of the Legislative Council to their gallery in accordance with the arrangements with which you are now familiar. I am sending you this notification in case you wish to notify Councillors of the position.

Yours faithfully,

F. W. SCHRAMM,

Speaker of the House of Representatives.

The Honourable the Speaker of
The Legislative Council.

The Leader of the Council (Hon. W. Wilson) then moved the adjournment until half-past seven o'clock p.m., at which time it was proposed that the Council deal with the business awaiting its attention, and that if the Secret Session had not concluded by that time it was proposed that the Council adjourn until half-past ten the next morning.

The Council accordingly adjourned at half-past seven o'clock p.m. On resuming Mr. Wilson said that as the Secret Session was being continued that evening he would move:

That the Council at its rising this day adjourn until half-past two o'clock on Friday morning,

—which was agreed to.

On the same day,⁴ in the House of Representatives, the Prime Minister (Rt. Hon. P. Fraser) moved: That strangers be ordered to withdraw; which was agreed to.

The following was the report of the proceedings issued under the authority of Mr. Speaker:

¹ 264 N.Z. Hans. 22.

² See JOURNAL, Vols. IX, 33, n.; XI-XII, 51.

³ *Ib.* 824.

⁴ 264 N.Z. Hans. 828.

The Prime Minister gave to the House the relevant facts and figures in regard to the disposal of men throughout the Military Forces and the number needed for the expansion of production of the foodstuffs essential to the Allied War effort. A plan for the co-ordinated release of further men able to be at once absorbed where required was outlined, this having been drawn up after negotiations and consultations with United Nations' leaders. The following M.P.s took part in the discussion. (*Here follow 12 names.*)

The Speaker left the Chair at two minutes to twelve o'clock p.m.

New Zealand: Legislative Council (Election of Speaker).—On July 26,¹ the term for which the Speaker of the Legislative Council is elected having expired, on the Motion of the Hon. W. Wilson it was:

Ordered, That, in pursuance of Standing Order 53, the Council do appoint Wednesday, the 2nd day of August, 1944, to be the day whereon a Call of the Council shall be made and the election of the Speaker of the Council be proceeded with.

On August 2,² the Order of the Day being read for the Council to be called over, the Council was called over accordingly, when the names of the hon. Members present were taken down. It was then *Ordered*—“That the names of Honourable Members absent be called a second time.” The names of the 5 absent Members were then called over and taken down, after which Motions were made and Questions put that such hon. Members be excused from attendance, 3 on account of illness, 1 absent from New Zealand on military service and the fifth on account of family bereavement.

The Order of the Day for the election of Speaker was then read, the division bells rung, strangers having withdrawn and the doors being locked, the acting Speaker left the Chair. The Clerk of the Parliaments (Mr. C. M. Bothamley), acting as Chairman, then announced “that the Council would now proceed to the election of a Speaker,” and, the ballot having been taken in accordance with the Standing Order, the Clerk declared the Hon. Mr. Fagan to be elected Speaker.

Then, the doors being unlocked, the Hon. Speaker-elect, “standing on the first step of the Chair,” expressed his acknowledgments to the Honourable Members of the Council for the honour they had done him and received the congratulations of Honourable Members upon his election, after which the Hon. the Speaker took the Chair.

On August 8,³ Mr. Speaker announced that, accompanied by several Honourable Members, he waited upon H.E. the Governor-General, when he addressed His Excellency as follows:

Your Excellency,—In obedience to Your Excellency's commands, the Legislative Council, in the exercise of their undoubted rights and privileges, have proceeded to the election of a Speaker, and, as the subject of their choice, I now present myself to you, and submit myself for Your Excellency's approbation.

To which His Excellency replied:

¹ 1945 L.C.J. 43.

² *Ib.* 44.

³ *Ib.* 45.

It is with much pleasure that, on behalf of the King, I approve and confirm the choice which the Legislative Council have made in your person to be their Speaker. I congratulate you on your re-election to this distinguished position, marking as it does the continued appreciation of the Council of your impartiality and ability.

Mr. Speaker further reported to the Council that he had also addressed His Excellency as follows:

I thank Your Excellency for your congratulations on the choice made by the Legislative Council of me to be their Speaker.

I have now, in the name and on behalf of the Legislative Council, to claim the right of free access to, and communication with, the Governor-General, and that the most favourable construction may be put upon all the proceedings of the Legislative Council.

To which his Excellency replied:

I assure you that the Legislative Council will always have ready access to me, and that I will at all times place the most favourable construction upon the proceedings of the Council.

Standing Orders 34-36 of the Legislative Council lay down the procedure in regard to a Call of the Council, which is Ordered upon Motion after notice for not less than 7 days thereafter, whereupon Mr. Speaker has a copy of the Order delivered personally or by post or telegraph to every Member who is not absent with leave of the Governor-General. A Calling-Over takes precedence of other Orders of the Day, and when the Order is read the names of hon. Members are called by the Clerk in alphabetical order and the names of those failing to answer are taken down by the Clerk and again called. The names of those failing to answer when the Call is read for the second time, who are absent without leave of the Governor-General, are then recorded in the Journals.

Standing Order 36 provides that the Council may, at any subsequent meeting on Motion after notice, order that any Member absent without such leave, failing to answer on his name being called for the second time, may be adjudged by the Council guilty of contempt and dealt with accordingly.

The election is by ballot, the procedure in connection with which has already been given in the JOURNAL.¹

Written notice of the election is then given forthwith to the Governor-General by the Speaker, and at a time and place appointed by the Governor-General the Speaker, accompanied by Members of the Council, presents himself to His Excellency and, in the name and on behalf of the Council, claims the right of free access, etc. (as above set forth), and reports to the Council at its next meeting.

New Zealand: House of Representatives (Election of Speaker).— Upon the opening of the First Session of XXVII Parliament on February 22,² a Commission consisting of the Speaker as Chief Commissioner and 5 other Members of the Legislative Council caused a

¹ Vol. II, 119.

² 1944 H.R.J. 3-6.

message to be sent by the Gentleman Usher of the Black Rod, who delivered it in the House of Representatives as follows:

The Legislative Councillors, authorized by virtue of His Excellency the Governor-General's Commission, desire the attendance of the Honourable House in the Legislative Council Chamber forthwith.

The House accordingly, with the Clerk, went up to the Legislative Council Chamber to hear the Commission read, "where being the Honourable Mark Fagan," one of the Commissioners appointed by His Excellency the Governor-General addressed the Honourable Legislative Councillors and Gentlemen of the House of Representatives as follows:

His Excellency the Governor-General, not thinking fit to be present here this day in person, has been pleased, in order to the opening and holding of this First Session of the XXVII Parliament of New Zealand, to cause Letters Patent to be passed under the Seal of the Dominion, constituting us, the several Honourable Members of the Legislative Council named therein, his Commissioners, to do all things in His Excellency's name on his part necessary to be performed in this Session of Parliament. This will more fully appear by the Letters Patent themselves, which must now be read. (*These were read by the Clerk of the Parliaments.*)¹

The Honourable the Chief Commissioner then said:

Honourable Legislative Councillors and Gentlemen of the House of Representatives:

We have it in command from His Excellency the Governor-General to inform you that on Wednesday, the twenty-third of February, at half after two of the clock in the afternoon, His Excellency the Governor-General will declare to you in person the cause of his calling this meeting of Parliament together. But since it is necessary that a Speaker of the House of Representatives be first chosen, His Excellency requests that you Gentlemen of the House of Representatives repair to the place where you usually sit, and there make choice of a fit and proper person to fill that high and important office, and that, having chosen him, you present him at eleven of the clock in the forenoon on the twenty-third of February at the Government House at Wellington for His Excellency's approval.

And the Members being returned, a Commission was read authorizing the Clerk of the House of Representatives to administer the Oath or Affirmation to the Members of the House, which being done the House, according to His Excellency's request, proceeded to the election² of its Speaker. An hon. Member then addressed himself to the Clerk (who, standing up, pointed to him and then sat down), proposed Mr. Frederick William Schramm for their Speaker and moved—"That Mr. Frederick William Schramm do take the Chair of this House as Speaker," which being seconded, the House then calling on Mr. Frederick William Schramm, he stood up in his place and expressed his high sense of the honour proposed to be conferred on him.

The House then again calling Mr. Frederick William Schramm to the Chair, he was taken out of his place by his proposer and seconder, Mr.

¹ See 1944 L.C.J. 4.

² See also JOURNAL, Vol. II, 119-20.

A. S. Richards and Mr. W. J. Broadfoot, and conducted to the Chair; when, standing upon the upper step, he returned his humble acknowledgments to the House for the high honour they had been pleased to confer upon him by unanimously electing him to be their Speaker, and thereupon he sat down in the Chair and the Mace (which before lay under the Table) was laid upon the Table.

The Prime Minister (Rt. Hon. P. Fraser) and the Leader of the Opposition (Mr. Holland) having congratulated Mr. Speaker-elect, the House was adjourned.

Accordingly, Mr. Speaker, attended by his proposer and seconder and other M.P.s, presented himself to His Excellency at Government House.

On February 23,¹ Mr. Speaker, with the House, in obedience to the following summons of His Excellency the Governor-General by the Gentleman Usher of the Black Rod:

Mr. Speaker: His Excellency the Governor-General desires the immediate attendance of this Honourable House in the Legislative Council Chamber.

When Mr. Speaker and the Members of the House of Representatives had returned from the Legislative Council Chamber, Mr. Speaker reported that he had, accompanied by his proposer and seconder, waited upon His Excellency, when he addressed His Excellency as follows:

May it please Your Excellency,—In obedience to Your Excellency's commands, the House of Representatives, in the exercise of their undoubted rights and privileges, have proceeded to the election of a Speaker, and, as the subject of their choice, I now present myself to you, and submit myself for Your Excellency's approbation.

To which His Excellency replied:

It is with much pleasure that, on behalf of the King, I approve and confirm the choice which the House of Representatives has made in your person.

I congratulate you on your election to this distinguished position, marking as it does the appreciation on the part of the House of Representatives of your impartiality and ability.

Mr. Speaker further reported that he had addressed His Excellency as follows:

Thanking Your Excellency for your approbation of the choice made by the House of Representatives of me to be their Speaker, I have now, on behalf of the House of Representatives of New Zealand, to lay claim to all their privileges, and especially to freedom of speech in debate and to free access to Your Excellency whenever occasion may require it, and that the most favourable construction may be put on all their proceedings.

To which His Excellency replied:

I, on behalf of the King, confirm all the rights and privileges of the House of Representatives to the same extent as they have been granted hitherto.

¹ 1944 *ib.* 7.

I also assure you that the House of Representatives will always have ready access to me and that I will at all times place the most favourable construction upon their proceedings.

Mr. Speaker then said:

I desire to repeat my respectful acknowledgments to the House of the high honour they have done me in electing me to the Speaker's Chair.

His Excellency's Commission was then read empowering Mr. Speaker to administer the Oath to Members. Further Members took the Oath, Petitions were presented, Leave of Absence given and the Expiring Laws Continuance Bill was read *in R. pro forma*, after which Mr. Speaker reported His Excellency's speech to both Houses of Parliament.

Union of South Africa (Interpretation Act Amendment: Ministers' Powers).—An Act¹ was passed in 1944 to amend the Interpretation Act, 1910,² by providing that when any law confers a power, or imposes a duty, upon, or entrusts a function to, any Minister of State, such power, etc., may be exercised by any other Minister to whom the administration of that provision may be assigned by the Governor-General.

Union of South Africa: The Senate (Royal Prerogative of Mercy).—On May 1,³ Motion was made and Question proposed:

That this House has learnt with concern that in a recent case the death sentence, passed on a condemned person after the jury who had found him guilty could find no extenuating circumstances, was commuted to imprisonment for life; this House, while fully realizing that each case should be treated and considered according to its particular circumstances, requests an assurance from the Government that, in order to avoid that the public should gain the impression that the course of justice is being frustrated, there will be no commutation of sentence in future in cases where the death sentence is imposed without any extenuating circumstances being found except only for well-founded reasons which will be officially made known to the public. (Senator the Hon. C. A. van Niekerk, D.T.D., *Orange Free State Province*.)

Mr. President, in reply to request for his Ruling as to whether it was competent for an hon. Senator to raise the matter of the Royal Prerogative of Mercy before the House, said he had found no precedent in how far the "prerogative of mercy" could be dealt with by Question and answer, by Motion or in debate in the House, and he had come to the conclusion that, as the result of the Royal Instructions of 1937, the Governor-General merely confirms the carrying out or the commutation of the death sentence on the advice and decision of his Ministers. When, therefore, the responsibility was one for the Executive Council, he saw no reason why any such commutation could not be raised in that House in the proper manner or why Ministers should in this respect be held to be absolved from responsibility to Parliament. Such a standpoint would be in conflict with their conception of Parliamentary government. This, however, continued Mr.

¹ No. 5 of 1944.

² No. 5 of 1910.

³ 1944 *Sen. Deb.* 1811-51.

President, did not mean that he could allow the House to become a forum for discussing cases of death sentences pending confirmation by the Executive Council. Similarly, it would be contrary to practice and undesirable to have death sentences already confirmed or commuted dealt with by Question and answer or by interpellation. Such cases in his opinion would fall among those matters which should be dealt with by substantive Motion.

While, therefore, he would not allow a Question on the Order Paper dealing with this case, nor allow it to be raised in debate, for instance, on the Budget, he had allowed the Notice of Motion in its present form to stand on the Order Paper, and the hon. Senator could proceed. He would, however, not allow any reference to the Governor-General nor any reference to communications which passed between him and his Ministers.

In the Royal Instructions of December 29, 1909, issued to the Governor-General at the time of Union (1910), it is provided that, after receiving the usual reports, "he is to decide, either to extend or to withhold a pardon or reprieve according to his own deliberate judgment, whether the members of the Executive Council concur therein or otherwise."

The Royal Instructions of February 15, 1937, however, in revoking those of 1909, provide that, in death sentences, no pardon, remission or reprieve shall be granted by the Governor-General, "unless the advice of the Executive Council shall have been obtained by the Governor-General."

The debate on the Motion covers 20 pp. of *Hansard* and contains many interesting points and arguments.

Under S.O. 27, at 4.45 p.m., the Question having been under discussion for 2 hours, Orders of the Day are proceeded with, unless the House otherwise orders. The House ordered that the debate be continued, at the close of which Senator van Niekerk, by leave of the House, withdrew his Motion.

Union of South Africa: Senate (Temporary Chairman of Committees).—On May 12,¹ the House adopted the Report² from the Sessional Committee on Standing Orders recommending the amendment of S.O. 200 by making provision (in view of there being only one Chairman of Committees who can be called upon at any time to act as Deputy President) for the Chairman of Committees to call upon any Senator to take the Chair in *C.W.H.* during the short temporary absence of the Chairman.

Union of South Africa: House of Assembly (Oath taken by Natal Members at a By-Election for the Senate held in a Provincial Capital).—After the House of Assembly General Election of 1943 and before the House of Assembly met in 1944, a by-election to fill a vacancy in the Senate took place in Pietermaritzburg under s. 25 (ii) of the South Africa Act and the regulations framed under it. Section 25

¹ 1944 *Sen. Hans.* 2418.

² *Sen. S.C.* 3-'44.

provides that when such a vacancy arises "the Members of the Provincial Council of the Province together with the Members of the House of Assembly elected for such Province" shall choose a person to fill the vacancy; the regulations define a Member as "a Member of the House of Assembly elected for the Province in respect of which a Senate election takes place or a Member of the Provincial Council of such Province". Neither contains any provision requiring Members taking part in these elections to take the Oath of Allegiance such as is required of Members of the House of Assembly under s. 51 before they take their seats in the House of Assembly. The Administrator of Natal and the Department of the Interior, however, considered that it was advisable for all Members taking part in the by-election to take the Oath prescribed by s. 51 of the South Africa Act before voting. Mr. Speaker Jansen, on being informed of the proposal, at once pointed out that an elected Member is entitled to all the rights and privileges of a Member before he takes the Oath with the exception of the right to sit in the House.¹ Mr. Speaker added that while Members of the House of Assembly were at liberty to take the Oath in Pietermaritzburg he hoped they would be informed by the Administrator that it was not necessary for them to do so. All the Members of the House of Assembly who took part in the election decided to take the Oath before voting, and the signed forms were sent to the Clerk of the House by the returning officer for insertion in the Oath Book.² To meet the contingency of those Members wishing to take the Oath again in the House of Assembly, a verbal alteration was made in the wording of the usual commission authorizing a Judge to administer the Oath to Members on the opening day of the 1944 Session, but none of them presented themselves for that purpose.³

Union of South Africa: House of Assembly (Guillotine).⁴—In the 1944 Session resort was had to a Guillotine Motion on the Land Settlement Amendment Bill after 10 hours had been occupied on 2 R. and 21 hours on the *C.W.H.* stage. The Motion limited the time to 3 hours, in addition to the time already occupied for the *C.W.H.* stage, 1 hour for the *Rep.* stage, and 2 hours for 3 R. The time allotted was fully occupied on the Report stage and 3 R., but not on the *C.W.H.* stage.³

Union of South Africa (Extended Provincial Powers).—The legislative power of the Provinces is effected by Ordinance, subject to the assent of the Governor-General in Council of the Union. These powers, which are laid down in the South Africa Act, 1909,⁵ have been amended from time to time, principally in respect of taxation. An Ordinance may not be repugnant to any Act of Parliament. Provincial Councils may, under s. 87 of the South Africa Act, recommend

¹ See May, 11th ed., p. 169, and Union Speaker's Ruling, 1933 (2) VOTES 61.

² 1944 VOTES, I. Assembly.—[ED.]

³ Contributed by the Clerk of the House of

⁴ See also JOURNAL, Vols. IX, 39; X, 56.

⁵ 9 Edw. VII, c. 7, s. 85

to the Union Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make Ordinances.

On January 24,¹ a Provincial Powers Extension Bill was introduced and passed 1 R. in the Union House of Assembly, but upon objection by an hon. Member to the Minister taking 2 R. immediately such stage was deferred until February 25,² when the Minister of Lands (Senator the Hon. A. M. Conroy) said that the Bill aimed at giving the Provincial Councils power to prohibit and regulate division of land into small agricultural holdings—semi-rural settlements—for which there was considerable demand contiguous to the towns and cities. Many people—mostly on small pensions—liked to have a little plot where they could keep a cow or grow their own vegetables. This legislation had been asked for by the Provincial Administration. The establishment of townships had already been delegated to Provincial Councils by the Financial Relations Act of 1933 in connection with which such Councils had passed Ordinances.

In establishing these small rural holdings, streets had to be laid out and amenities provided. The small agricultural holding of today was the potential township of tomorrow. In 1938-39 the Union Government appointed a Commission to consider the administration of areas which were becoming urbanized but were not under local government control, and in their report the Commission recommended that the administration of agricultural holdings in the Transvaal Province—governed by Union Act No. 22 of 1919—should be transferred to the Provincial Administration with power to make Ordinances. The Bill then, after a short debate, passed 2 R. The remaining stages were taken on February 29 without debate, the Bill sent to the Senate, where it passed without amendment, duly becoming Union Act No. 10 of 1944.

Union of South Africa: Cape of Good Hope Province (New Provincial Building).—When Union of the 4 South African Colonies—the Cape of Good Hope, Natal, Transvaal and Orange River—came about in 1910 as a result of the National Convention, the newly established Provincial Administration of the Cape of Good Hope had to relinquish the Colonial Parliamentary Buildings at Cape Town to the Union Government to serve as the Union's Houses of Parliament, unlike Natal, the Transvaal and Orange Free State Provinces, which were able to retain their Colonial Parliamentary buildings for the purpose of their Provincial Councils. These Provincial Councils represent, but in a lesser degree (the basis of the Union Constitution being almost unitary), what the State Legislatures in Australia, the Provinces of Canada, and the United States mean to those countries.

Temporary expediency buildings, which were entirely unsuitable for the purpose, had therefore to be obtained in different parts of the city of Cape Town to accommodate not only the Provincial Council but the staffs of the various Departments of the Provincial Administra-

¹ 47 *Assem. Hans.* 16.

² *Ib.* 2062.

tion. For 33 years these unsatisfactory conditions as regards accommodation obtained, until now, in 1944, the Cape Provincial Administration can boast of having one of the finest Government buildings in Cape Town, consisting of 7 storeys, and erected and equipped at a cost of approximately £750,000. The whole of the sixth and part of the seventh floors have been set aside for the purposes of the Provincial Council. The accommodation consists *inter alia* of an air-conditioned Council Chamber, oblong shaped, with desks for 63 Members as compared with 58 Members comprising the present House, public and Press galleries, the usual Caucus and Committee Rooms, offices for the Chairman, Deputy Chairman, Party Whips, Clerks, etc., together with a Library, Bar Lounge, Refreshment Room, Gymnasium, etc. The walls of the different rooms are panelled with indigenous woods, and most of the furniture is made of South African stinkwood, the most beautiful and expensive local wood obtainable. There is also a magnificent lobby, the walls of which are lined with South African marble. A long-felt need has thus at last been met.¹

Union of South Africa: Cape of Good Hope Province (Use of Legislative Chamber, etc., for Other Purposes).—With reference to Volume VIII of the JOURNAL, p. 110, the question as to who should be in control of the Council Chamber and other accommodation during the Recess was considered by the Sessional Committee on Standing Rules and Internal Arrangements at the Session in February, 1944, when the Committee recommended in its Report to the Provincial Council that the rights and prerogatives of Mr. Chairman as regards his being in control throughout the year, as hitherto, should remain undisturbed and that his permission should be obtained in the event of any of the accommodation set aside for the purposes of the Provincial Council being required for any other purpose during the Recess. This recommendation was unanimously adopted by the Provincial Council and referred to the Executive Committee for consideration. At the resumed Session in September, 1944, the Executive Committee in its reply, which was laid upon the Table, intimated that it was unable to accept this recommendation, and it suggested that Mr. Chairman should be in control during Sessions only, and the Administrator during the Recess. The Sessional Committee subsequently concurred, and recommended accordingly to the Provincial Council, which adopted the Report.¹

Union of South Africa: Province of the Transvaal (Oath of Allegiance).¹—The same problem arose in this Province in regard to this subject as occurred in that of the Orange Free State² and the Cape:³

The following is an extract from the VOTES of the Provincial Council:

NEW MEMBER.

April 25, 1944.

The Clerk read Administrator's Notice No. 105 of March 15, 1944.

¹ Contributed by the Clerk of the Provincial Council.—[Ed.]

² See JOURNAL, Vol. X, 60.

³ *Ib.* XI-XII, 58.

notifying that Mr. Marthinus Gerhardus du Plessis had been declared a duly elected Member of the Council representing the constituency of Zoutpansberg.

Point of Order.

Before Mr. du Plessis was introduced, Mr. Bekker, on a point of order, asked Mr. Chairman's ruling whether it was incumbent on the Honourable Member for Zoutpansberg to take the Oath or Affirmation as laid down in the Standing Rules before he is entitled to take his seat in the Council, in view of decisions of the Supreme Court in the Cape and Orange Free State Provinces on a similar point.

Mr. Chairman's Ruling.

Mr. Chairman stated:

"The Honourable Member was good enough to inform me that he would raise this point.

"It is the duty of Mr. Chairman to see that the provisions contained in the Standing Rules of this Council are observed. The Standing Rules lay down (Nos. 1 and 11) that every Member elected to a seat in the Council shall, before taking his seat therein, make and subscribe to the Oath or Affirmation of Allegiance.

"What may have taken place in other Provinces of the Union in similar circumstances cannot be accepted as decisive in this Council—it would require a definite pronouncement of the Court to set aside the Standing Rules of this Council.

"I therefore cannot allow a newly elected Member to take his seat unless he complies with the Standing Rules as indicated above."

Mr. du Plessis, introduced by Mr. Joynt and Mr. Kock, on being called upon to take the Oath or Affirmation, declined to do so.

Mr. Chairman thereupon stated that in view of his ruling he could not permit Mr. du Plessis to take his seat in the Council.

SUPREME COURT JUDGMENT in re OATH.

June 6, 1944.

Mr. Chairman stated:

"On May 23, 1944, the Transvaal Provincial Division of the Supreme Court issued the following order:

'(1) That Rules 1 and 11 of the Standing Rules of the Transvaal Provincial Council are *ultra vires*;

'(2) That the applicant, the said Marthinus Gerhardus du Plessis, be permitted by the Respondent to take his seat in the Provincial Council without taking the Oath or Affirmation of Allegiance as laid down in the said Standing Rules.'

In terms of this Order of the Supreme Court the Honourable Member for Zoutpansberg is permitted to take his seat in the Council."

NEW MEMBER.

The Clerk read a notification received from the Returning Officer for the Electoral Division of Parktown to the effect that Alan Stewart Holland has been elected a Member of the Provincial Council representing the constituency of Parktown.

Mr. Holland, introduced by Mr. Hicks and Mr. Bekker, then took and subscribed to the Oath of Allegiance and took his seat.

The following is the Law Report in the case of the Supreme Court judgment above-mentioned:

vincial Council subject to the disqualifications laid down by s. 53 of the South Africa Act. It follows that, if a Member is duly qualified, and has been duly elected and does not fall within any of the disqualifications mentioned in s. 53 of the Act, he is entitled *ipso jure* and *ipso facto* to sit and vote, and to take part in the proceedings of the Provincial Council; and that any condition precedent which may be imposed upon him by the rules is *ultra vires*, as in effect introducing a further necessary qualification before a Member shall be entitled to sit. This regulation seems to me to be as much *ultra vires* as would be, for instance, a regulation which required that before a Member should be entitled to sit or vote, he should prove that he was bilingual, or that he could read and write.

I entirely agree with the learned Judge President and adopt his reasons for holding that the rules in effect introduce a further qualification before a Member is entitled to sit.

A further consideration which possibly supports this view is that there is express provision in the South Africa Act for Senators and Members of the House of Assembly to take the Oath of Allegiance (s. 51) whereas no such Oath is required of Members of the Provincial Council. And while s. 51 is not made applicable to Provincial Councils ss. 53 and 55, dealing with disqualification, vacation of seats, and the penalty for sitting when disqualified, apply *mutatis mutandis* to Provincial Councils.

The second point taken by *Mr. de Villiers* was that the powers of the Council were of a limited nature and that the Chairman had no inherent authority to prevent the applicant from sitting until he had complied with the further qualification of taking the Oath of Allegiance. Under the South Africa Act the powers and privileges of the Senate and House of Assembly are such as are declared by Parliament (see s. 57). These privileges are set out in Act 19 of 1911 and include freedom of speech, and from liability of Members to civil or criminal proceedings and the right to punish for contempt. By s. 77 freedom of speech, and freedom from liability to any action by reason of a Member's speech or vote, is conferred on Provincial Councils but not the right to punish for contempt.

The case of *Barton vs. Taylor* 11 A.C. 197 in the Privy Council deals with the powers incidental to or inherent in an assembly similar to the Provincial Council. Such a body has inherent power to protect itself against obstruction, interruption or disturbance of its proceedings by the misconduct of any of its Members. Summarizing the nature and limits of such powers from cases considered by the Board of the Privy Council the Lord Chancellor says as follows on p. 203: "It results from those authorities that no powers of that kind are incident to or inherent in a Colonial Legislative Assembly (without express grant), except such as are necessary to the existence of such a body, and the proper exercise of the functions which it is intended to execute". Whatever, in a reasonable sense, is necessary for those purposes, is impliedly granted whenever any such legislative body is established by competent authority. For those purposes, protective and self-defensive powers only, and not punitive, are necessary."

The Board then proceeded to consider the nature and period of suspension of a Member, reasonably necessary for the protection of the Assembly and for the proper exercise of its functions.

These inherent powers are reflected in the Standing Rules of the Council under Rules 62 to 64, which deal with disorderly conduct of a Member and limited suspension. This decision shows that the provisions of Rules 1 and 11 are foreign to the powers normally inherent in the Council and confirm the view that these two Rules are *ultra vires*.

It was contended by *Mr. Nesor* for the respondent that the Court in *Conradie's case* took too narrow a view of the meaning of "conduct of proceedings" in s. 75 of the South Africa Act and that the taking of an Oath could be regarded as falling under the conduct of proceedings. He relied on the decision of

van Veyeren vs. Administrator & Ors. 1917 T.P.D. 74. Under s. 82 of the South Africa Act the Executive Committee is empowered to make Rules for the conduct of its proceedings and it was there held that a rule requiring every member of such Committee to take a threefold Oath, namely, an Oath of Allegiance, an Oath of Office and an Oath of Secrecy as to the proceedings of the Committee, was *intra vires*. The learned Judge considered that the Court had "merely to determine whether the Rule is so foreign to the purposes of ss. 82 that it cannot fall upon a fair view under the contemplated power entrusted to the Committee" and held that "it is impossible to say that it is not a proper exercise of the power to require the Oath of Secrecy to be taken by members of the Committee as a preliminary to the discharge of the important and confidential duties and functions entrusted to them." Although the Oath was threefold the learned Judge directed his consideration to the Oath of Secrecy and did not consider whether an Oath of Allegiance bore any relation to the conduct of the proceedings.

It is, no doubt, true that the taking of an oath is a form of procedure. But it seems to be that an Oath of Allegiance taken by a person appointed to an office or elected as a member of a public body such as a House of Assembly or Senate is required because the person occupies an important position and bears no necessary relation to his conduct in that office or to the proceedings of a public body. An oath of office or of secrecy is, to my mind, different and bears a direct relation to the functions of the office or the proceedings of the public body. It may well be that an oath of office or secrecy might be considered as falling under the meaning of "conduct of proceedings". The case referred to in the judgment in *Van Veyeren's* case is instructive as showing the functions of the Court. In *Harnett vs. Crick* 1908 A.C. 470, the Legislative Assembly of New South Wales was empowered to make Standing Rules regulating the orderly conduct of such Assembly. The Rule when approved by the Governor became binding and of force. A Standing Order empowered the House to suspend from service a Member charged with misconduct for a definite period.

Lord MacNaghten said on p. 475: "Two things seem to be clear: (1) that the House itself is the sole judge whether an 'occasion' has arisen for the preparation and adoption of a standing order regulating the orderly conduct of the Assembly, and (2) that no Court of law can question the validity of a Standing Order duly passed and approved, which, in the opinion of the House, was required by the exigency of the occasion, unless, upon a fair view of all the circumstances, it is apparent that it does not relate to the orderly conduct of the Assembly." The function of the Court in this case is whether or not the taking of an Oath of Allegiance relates to the conduct of proceedings in the Council. And in my opinion it does not.

In the case of *Ex parte Beyers* 1904 T.S. 567, although the legislature had provided for an interval of six months to elapse in the case of an advocate wishing to be admitted as an attorney, no provision was made for the converse case of an attorney wishing to be admitted as an advocate. The applicant possessed the necessary qualifications for admission. The Court considered that it had a discretion, which it was desirable to exercise because it was not advisable that practitioners should be permitted to abandon one branch of the profession and join another branch without some interval of time elapsing. In my opinion the case has no direct relevance to the present case. The Court did not require a further qualification as a condition of admission, but only suspended the date of admission.

In the result the Court has come to the conclusion that Rules I and II are *ultra vires* and declares that the applicant is entitled to take his seat without subscribing to the Oath of Allegiance. The respondent must pay the costs.

CHARLES BARRY,

Judge President of the Supreme Court.

I agree.

JOHN M. MURRAY,
Judge of the Supreme Court.

I agree.

C. D. SCHREINER,
Judge of the Supreme Court.

Standing Rules.—In consequence of this judgment, para. 2 of Rule No. 1 of the Transvaal Provincial Council which read:

The Members elected to constitute a new Council or Members elected to fill vacancies, as the case may be, shall then take and subscribe to the following oath:

"I,....., do swear that I will be faithful and bear true allegiance to His Majesty King Edward VIII, his heirs and successors according to law.

"SO HELP ME GOD."

Or make the following affirmation:

"I,....., do solemnly, sincerely, and truly declare and affirm that I will be faithful and bear true allegiance to His Majesty King Edward VIII, his heirs and successors according to law."

was, on September 26, 1944, deleted and the following para. 2 substituted:

The Members elected to constitute a new Council or Members elected to fill vacancies, as the case may be, may then, if they so desire, take and subscribe to the following oath:

Standing Rule 12, which read:

A Member returned to fill a vacancy occurring between two general elections shall be introduced and brought to the Table by two Members, and shall then make and subscribe to the Oath or Affirmation of Allegiance.

was, on the same date, deleted and the following new Rule 12 substituted:

12. A Member returned to fill a vacancy occurring between two general elections shall be introduced and brought to the Table by two Members and may, if he so desires, make and subscribe to the Oath or Affirmation of Allegiance.

Union of South Africa: Transvaal (Limitation of Speech).—On September 26, 1944, the following new Rule was adopted:

49*bis*. Notwithstanding anything to the contrary contained in any Standing Rule of the Council—

(1) when Mr. Chairman is in the Chair Members shall not exceed 40 minutes in speaking to any question before the Council, provided that this Standing Rule shall not apply in the case of the Honourable the Administrator, a member of the Executive Committee, and the recognized leader of any political group in the Council, who shall not be restricted in regard to the length of time they may speak;

(2) in Committee of the Whole Council on a draft ordinance, address, or other matter, Members shall not speak to any question before the Committee for longer than 10 minutes at a time, nor address the Committee for more than one such period of time consecutively, except in the case of Members in charge of draft ordinances, who shall not be so restricted.

South-West Africa (Walfish Bay).—The South-West Africa Affairs Amendment Act¹ was passed in 1944 to apply all future Acts and Proclamations passed or issued by the Governor-General of the Union of South Africa in force in the Mandated (c) Territory of South-West Africa, also to Walfish Bay (a former port of the Colony of the Cape of Good Hope and later of the Union of South Africa) unless specifically excluded.

Southern Rhodesia (Offices of Profit under the Crown).²—Under s. 22 of the Constitution acceptance of an office of profit under the Crown by an M.L.A. automatically causes his seat to become vacant and disqualifies him from sitting or voting as a Member. Before the present War, the only exceptions to this rule were those set out in that section as amended by Act No. 22 of 1937. Since the outbreak of the War, two Acts have created further exceptions. Act No. 18 of 1939, which is not expressed to be a temporary measure, relates to members of the armed forces, and Act No. 15 of 1940, which is due to expire 6 months after the end of the War, relates to a seventh Minister and a Parliamentary Secretary.

This Act creates further exceptions during the War period only. Section 3 indemnifies for the past and safeguards for the future any Members of the present Legislative Assembly who may have already accepted offices of profit. Section 2 allows not more than 5 appointments. Unlike the other 2 Acts passed since the outbreak of War, this Act relates only to acceptance of office after becoming a Member of the Legislative Assembly; it does not make any person who is in the permanent service of the Crown eligible for election to that Assembly.³

Section 2 of the Act empowers the Governor, if he deems it to be in the public interest that any M.L.A. should be appointed to any office of profit under the Crown, to issue a certificate to that effect. In such cases, notwithstanding s. 22 of the Constitution, (a) such M.L.A.'s seat shall not become vacant; (b) nor shall such M.L.A. become disqualified from sitting or voting in the House, nor be liable to any forfeiture under the Constitution, by reason of holding that office of profit under the Crown during the present War period. A copy of every such certificate is required to be laid before Parliament, and the number of M.L.A.s who may so be exempted from disqualification may at no time exceed 5.

“Present War period”, as defined in s. 5, means “the period beginning with the 3rd September, 1939, and ending with the expiry of the Emergency Powers (Defence) Act, 1939, which will be a date fixed by the Governor by Proclamation in the *Gazette*, not later than 6 months after the end of the present War”.

Amalgamation of the Rhodesias and Nyasaland.⁴—On October 18,⁵

¹ No. 28 of 1944.

² See also JOURNAL, Vols. VI, 33; VIII, 54; XI-XII, 61.

³ Contributed by the Clerk of the Legislative Assembly.—[ED.]

⁴ See also JOURNAL, Vols. IV, 30; V, 50; VI, 62; IX, 49; XI-XII, 61.

⁵ 403 *Com. Hans.* 5, s. 2364.

in answer to a Q. in the House of Commons as to whether H.M. Government could make any statement as to the future relations between Southern Rhodesia, Northern Rhodesia and Nyasaland, the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) said, as his reply would be long, he would, with the permission of Mr. Speaker, reply at the end of Q. Time. Colonel Stanley then stated that H.M. Government had had this subject under further consideration and also discussed the present situation in the 3 Territories with the Prime Minister of Southern Rhodesia and the Governors of Northern Rhodesia and Nyasaland, as well as taken into account the recommendations of the Royal Commission of 1938-39. It was recognized that there should be the closest co-ordination of the policy and action of the Governments of the 3 Territories in all matters of common interest and that a Standing Central African Council should be appointed on a permanent basis with an Inter-Territorial Secretariat. This Council would be consultative and its general function would be to promote the closest contact and co-operation between the 3 Governments and their administrative and technical services. It was contemplated that it should deal with communications, economic relations, industrial development, research, labour, education, agricultural, veterinary and medical matters, currency and such other matters as may be agreed upon between the 3 Governments. It was also contemplated that permanent Standing Committees of the Council should be set up to deal with communications, industrial development, research and such other matters as might be agreed upon and that in addition *ad hoc* conferences should be held under the ægis of the Council to deal with technical and special subjects. It was intended that the leading non-officials in Northern Rhodesia and Nyasaland should be closely associated with the work of the Council and its Committees.

H.M. Government realized that the Southern Rhodesia Government still adhered to their view that the 3 Territories should be amalgamated. While H.M. Government did not regard the amalgamation of the 3 Territories under existing circumstances as practicable, they were confident that the present scheme would make an important contribution to the future prosperity of the 2 Rhodesias and Nyasaland.

Northern Rhodesia.—On the same day, when replying to the same Q.¹ in regard to the amalgamation of the Rhodesias and Nyasaland, Colonel Stanley said that he had discussed the reform of the Northern Rhodesia Constitution with the Governor, and H.M. Government had decided to increase the unofficial nominated membership of the Legislative Council from 1 to 5, 3 of whom would represent the interests of the African community. The Council would then consist, in addition to the Governor as President, of 9 official Members, 8 elected unofficial Members and 5 nominated unofficial Members, and the Governor would be provided with the necessary reserve powers. It was intended that African interests should be represented by Africans as soon as a

¹ *Ib.* 2366.

suitable basis of representation could be built up. Provincial African Councils had recently been established in the Territory, and, when they had had sufficient experience, an African Central Council would be set up consisting of delegates from the Provincial Councils. It was intended that, in due course, African Members from this Central Council should sit on the Legislative Council to represent African interests. In the meantime, African interests would be represented by Members directly nominated by the Governor. For the present those Members would be Europeans; but, on the occurrence of a vacancy, or vacancies, at any time during the interim period before the representatives of African interests could be appointed from the African Central Council, it would be open to the Governor to select for nomination one or more Africans, if he considered that African interests would benefit from such a course.

Nyasaland.—It was later reported in the South African Press¹ that the first public statement on the above-mentioned announcement by the Secretary of State for the Colonies was made in the Nyasaland Legislative Council on December 12, by the senior unofficial Member, Sir W. T. Bowie, who said that the announcement had been received with mixed feelings in neighbouring territories, and the Colonial Office had been accused of a breach of the "gentlemen's agreement" with Southern Rhodesia, but the question had been discussed in Nyasaland for the past 15 years and could not be dismissed. In his opinion, if the proposed Council was composed of both unofficial and official Members and had some executive power it might be all to the good.

British India (Legislative Reference).—Except in Article XV of Volume II of the JOURNAL, in so far as it relates to India, wherever a reference to the "Government of India Act" occurs in the JOURNALS, it should read "Government of India Act as continued in force under s. 317 of the Government of India Act, 1935".²

British India (Failure of Constitutional Machinery in Provinces).³—On April 18,⁴ the Secretary of State for India (Rt. Hon. L. S. Amery) in moving:

That this House approves the continuance in force of the Proclamation issued under s. 93 of the Government of India Act, 1935, by the Governor of Madras⁵ on October 30, 1939, and of his Proclamation varying the same issued on February 15, 1943, copies of which were presented on November 28, 1939, and March 16, 1943, respectively.

said that the Act of 1935 provided in s. 93 that, if the Governor of a Province found that Parliamentary government in accordance with the provisions of the Act could not be carried on, he was empowered by Proclamation to announce that he was himself, in his own discretion, taking over any or all the functions of government. That situation arose in 1939. Those Proclamations were valid only for 6 months

¹ *Cape Times*, Dec. 13, 1944.
India Central Legislative Assembly.—[ED.]

⁴ 399 *Com. Hans.* 5, s. 155.

² Contributed by the Secretary of the
³ See JOURNAL, Vol. IV, 92, 95.
⁵ See also JOURNAL, Vol. VII, 63.

unless confirmed and continued by Parliament for 12 months at a time. Originally there was a limit of 3 years for the continuation of the Proclamations, but in view of the War situation Parliament, in 1942, decided that they could be continued from year to year by Parliament so long as the War period lasted. These Resolutions affected only 5 out of the 11 Governor's Provinces of British India—namely, Madras, Bombay, United Provinces, Central Provinces and Berar, and Bihar. Originally 7¹ Provinces were so administered by their Governors, but in the course of the War first Orissa and then the North-West Frontier Province had found it possible to provide self-governing Ministries supported by adequate majorities in their Legislatures.

Questions upon the above and similar Motions in regard to Bombay,² United Provinces,² Central Provinces and Berar,² and Bihar,² were put and agreed to.

British India (Extension of Term of Office of Provincial M.L.C.s).—The India (Miscellaneous Provisions) Bill (37) originated in the Lords, where Motion for leave was made on June 28,³ and the Bill passed 1 R. In moving 2 R. on July 4,⁴ the Under-Secretary of State for India and Burma (Rt. Hon. the Earl of Munster) said that in 1941 Parliament approved of an Act extending the maximum permissible life of the Provincial Legislative Assemblies from 5 years to a period of 1 year after the end of the War,⁵ but such Act did not touch the Legislative Councils (Upper Houses) in the Provinces of Madras, Bombay, Bengal, the United Provinces, Bihar, and Assam. The Legislative Councils are permanent bodies not subject to dissolution but to a rotational system of election,⁶ by which $\frac{1}{3}$ of the Members retired every third year. Although the provisions of the principal Act governing Legislative Council elections had been suspended in those Provinces temporarily administered under s. 93 thereof,⁷ elections had been held in Bengal and Assam, where Ministerial Governments were functioning.⁸ The suspension of elections in the s. 93 Provinces had upset such rotation system, and it was proposed under Clause 1 of the Bill to extend the period of M.L.C.s in the s. 93 Provinces, by the period for which the proclamations were in force plus an additional period up to 1 year, so as to enable the elections to be held at a suitable time of year. Clause 2 dealt with the transfer of Judges. Clause 3 amended s. 314 of the principal Act under which the advisers of the Secretary of State shall not be more than 12 nor less than 8, a transitional provision pending the establishment of Federation. In the circumstances of war, it was proving difficult to ensure that the statutory minimum of 8 could be maintained. The statutory minimum had therefore been reduced to 5 years, but it was intended to work to the higher figure as long as possible. Clause 4 dealt with leave for the Viceroy and Clause 5 amended s. 87 of Schedule IX (in connection with acting appointment

¹ *Ib.* VIII, 63 n.

² *Ib.* 63.

³ 132 *Lords Hans.* 5, s. 479.

⁴ *Ib.* 631.

⁵ See *JOURNAL*, Vol. X, 75.

⁶ *Ib.* IV, 94, 95; VII, 71.

⁷ *Ib.* VIII, 63.

⁸ *Ib.* VIII, 67; X, 74.

of and leave of the Commander-in-Chief) by providing that whenever the Viceroy was absent for any reason an acting Governor-General must be appointed. Without further debate the Bill passed 2 R., was reported from *C.W.H.* without *amdt.* on July 6,¹ and passed 3 R. on July 11.²

Finance: Bracketed Provisions.—In the House of Lords Bill (37) the following sub-clause (2) was struck out, underlined and bracketed:

[(2) For subsection (6) of the said section eighty-six (which provides for the granting to the Governor-General and the Commander-in-Chief of travelling allowances in addition to the leave allowances to which they are entitled under that section) there shall be substituted the following subsection:

"(6) If the Governor-General or the Commander-in-Chief is granted leave for urgent reasons of public interest, the Secretary of State may—

(a) direct that he shall be entitled to receive during his absence his salary as fixed under the last foregoing section in lieu of the leave allowances to which he would otherwise be entitled under the last foregoing subsection;

(b) grant to him, in addition to his salary as so fixed or any leave allowances, as the case may be, such allowances or further allowances in respect of travelling expenses as the Secretary of State may think fit."]

with the following endorsement at the top of the Bill:

NOTE.—*The words enclosed in brackets and underlined were left out by the Lords to avoid questions of privilege.*

and the Bill was printed and transmitted to the Commons.

After the Bill had passed 2 R. in the Commons and before it had been committed, the following Resolution was considered in *C.W.H.*, under S.O. 69, on September 27,³ and reported on October 11,⁴ when it was agreed to:

Resolved: That, for the purpose of any Act of the present Session to amend the Government of India Act, 1935, in certain respects, it is expedient to authorize the payment out of the revenues of India of such sums as may become payable therefrom by reason of any provisions of the first-mentioned Act.—(*King's Recommendation signified.*) [Mr. Amery.]

Therefore, when the Commons went into *C.W.H.* on October 11, Clause 4 of the Bill was amended by the addition of sub-clause (2) above set forth, and the Bill was reported to the House with that *amdt.*; as amended considered; passed 3 R.; with an *amdt.* to the Lords Bill, which was sent to them for concurrence,⁵ and their Message agreeing to the Commons *amdt.* was received by the Commons on October 12,⁶ duly becoming 7 & 8 Geo. VI, c. 38.

British India: Bengal (Military Service of Members).—The Bengal

¹ 132 *Lords Hans.* 5, s. 709.

² *Ib.* 825.

³ 403 *Com. Hans.* 5, s. 349.

⁴ *Ib.* 1778.

⁵ 133 *Lords Hans.* 5, s. 498.

⁶ 403 *Com. Hans.* 5, s. 349.

Legislature (Removal of Disqualification) Act, 1937, has been amended by Act XIX of 1940, declaring that the holders of any office in any of His Majesty's Naval, Military or Air Forces in India or an office under the Central Government connected with the equipment or administration of any of these Forces or otherwise connected with the defence of India shall not be disqualified for membership of the Bengal Legislature. The Act shall be in force during the continuance of the present War and for a period of 12 months thereafter.¹

British India: Sind (Offices of Profit).—The 'Sind Legislative Assembly (Prevention of Disqualification) (War Service) Act,' passed by the Legislative Assembly of the Province on June 25, 1943, and assented to by the Governor of Sind July 22, 1943, provides that a person shall not be disqualified (under s. 69 of the Government of India Act, 1935) for being chosen as, and for being, a Member of the Assembly if he holds an office of profit under the Crown of India, if such office is certified by the Governor of Sind to be an office concerned with the prosecution of the War. The Act remains in force "until the termination of the present state of War or for such period not exceeding 12 months thereafter as the Provincial Government may, by notification in the official *Gazette*, appoint."¹

British India: Sind (Adjournment (Urgency) Motion—Detention of a Member).—On July 19, 1944, a Member of the Legislative Assembly of the Province of Sind sought to move at the commencement of the Session a Motion for the Adjournment of the Assembly for the purpose of discussing a definite matter of urgent public importance and of recent occurrence—namely, an Order of the Provincial Government passed under s. 3 of the Restriction and Detention Ordinance, 1944 (Governor-General's Ordinance No. III of 1944, under s. 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935), and served on a Member of the House, in preventing him from attending the meetings of the Assembly during the Session. The Motion was admitted by the Speaker, after hearing the parties, holding that an order of the nature referred to in the Motion was not made in the ordinary administration of law inasmuch as in this case instead of the ordinary law of the land an extraordinary law (a special law for special times) was applied, and it was certainly open to the House to discuss its enforcement, etc. He held the matter to be one of great public importance as a Member of the House was by that order prevented from attending the meetings of the House—*i.e.*, he was prevented from doing his duty to the Province in general and his constituency in particular. The Motion was taken up for discussion on the following day at 5 p.m., and was talked out, without any question being put, after the expiration of 2 hours (*vide* Rule 113 (1) of the Sind Legislative Assembly Rules), none having applied for closure.¹

¹ Contributed by the Secretary of the Legislative Assembly.—[Ed.]

² Sind Act XXI of 1943. The Act in the *Gazette* is endorsed "to be translated into Sindhi".—[Ed.]

India (Attachment of States).¹—This Bill (11) originated in the Lords, where Motion for leave was made February 8,² and the Bill read 1 R. In moving 2 R. on 16th *idem*,³ the Parliamentary Under-Secretary of State for India and Burma (Rt. Hon. the Earl of Munster) said that the measure was intended to place beyond doubt the right of the Crown Representative, the Viceroy, to provide for the most suitable administration of a large number of small States, in fact, estates, more particularly 400 petty States in Kathiawar and Gujarat. Just before the War a comprehensive plan was drawn up for the attachment of small States to larger States in their particular neighbourhood. It was scarcely necessary to emphasize the disastrous effect produced upon 800,000 inhabitants of these States by the present multiplicity of jurisdiction and fragmentation of their territories. Dealings between them had to be conducted through political officers who were fully occupied in settling difficulties arising between so many petty authorities. Certain personal privileges accorded those Chiefs or Taluqdars would be maintained. Their Territories had never been annexed to British India and their peoples were not British subjects and they exercised practically no administrative powers. Political officers had neither time nor administrative machinery to ensure that such Chiefs, etc., employed their resources to the best possible advantage. The Viceroy last year declared his intention to relinquish his jurisdiction over these petty States and authorized its assumption by larger neighbouring States subject to guaranteeing to the Taluqdars their existing rights, with the right of appeal to the Crown Representative Officers, who would continue to be responsible for their suspension in the interests of all concerned. By this arrangement the peoples of these States would secure administrative benefits, normal in British India and the larger States. Law and order was assured, but public health, communications and education had not been established on a modern basis. One of the Taluqdars had filed a revision application in the Court of the Judicial Commissioner alleging the order of attachment illegal under the Crown Representative by the Government of India Act, 1935, by the India (Foreign Jurisdiction) Order in Council, 1937, and the Crown Representative's Letters Patent. Appeal had been allowed stating that the appeal contravened the proviso of s. 1 (2) of the Government of India Act.

The Bill affected only the States not named in Schedule I of the Government of India Act. It would therefore apply only to the very small States. Clause 1 (2) empowers the Crown Representative to give such directions as he may think fit in relations with the States. The Bill took nothing from the Taluqdars which they did not have in the past. The beneficial Governments of such States as Nawanagar and Baroda, to which most of these small States would be attached, was well known.

¹ See also JOURNAL, Vols. IV, 77, 78; IX, 51.

² 130 Lords Hans. 5, s. 680.

³ *Ib.* 803.

The Bill went into *C.W.H.* on February 22,¹ was reported without *amdt.* and passed 3 R. on the following day.

The Bill was received by the Commons on February 23,² and passed 2 R. March 1.³

In *C.W.H.* on March 14,⁴ the Secretary of State for India (Rt. Hon. L. S. Amery) moved the *amdt.* in p. 1, l. 10, of the Bill to read:

being a State included in the Western India States Agency or the Gujarat States Agency on the twenty-fifth day of August nineteen hundred and forty-three.⁵

These little States, continued Mr. Amery, were so poor and scattered that it was beyond their power to provide the ordinary amenities of life. The possibility of federating them would be found more difficult by the Taluqdars than the present scheme, which amounted to provision, at extremely moderate cost and without loss of any of their existing powers, of services which were desirable and essential.

The Clause as amended was put and agreed to, and afterwards ordered to stand part of the Bill, which was reported with an *amdt.*, so amended considered, read 3 R. and passed with an *amdt.* which was concurred in by the Lords on March 15,⁶ and duly became 7 & 8 Geo. VI, c. 14.

Indian States: Mysore (Privilege).⁷—The new Legislature is making provision for its rights and privileges and those of its Members. The question of the privileges of the British Indian Legislatures, said the President of the Legislative Council in a talk from the Akesh Vani, Mysore, July 23, 1943,⁸ seemed to be still in a very nebulous state. So far as the Provincial Legislatures were concerned, the Government of India Act, 1935, had, in s. 71, specifically provided for—(1) freedom of speech for Members, (2) freedom of publication of report, paper votes or proceedings by or under the authority of the Legislature, (3) exemption of proceedings in Court in respect of anything said or vote given or any publication made. In other respects the privileges of Members were said to be such as were enjoyed by the Legislature before such Act came into force. Even when action was taken to define the privileges, the Indian Legislature was expressly forbidden to confer on any Chamber, Committee or Office the status of a Court or any punitive or disciplinary power, other than power to remove or exclude persons infringing the rules or Standing Orders or otherwise behaving in a disorderly manner. In pursuance of this provision, continued the President, attempts were being made in some Indian Legislatures—as for instance, Bengal⁹—to define their powers and privileges. Similarly, questions connected with the detention¹⁰ and

¹ *Ib.* 882.

² 397 *Com. Hans.* 5, s. 837.

³ *Ib.* 1498-1553.

⁴ *Ib.* 177.

⁵ *Ib.* 179.

⁶ 131 *Lords Hans.* 5, s. 29.

⁷ See JOURNAL Vol. XI-XII, 69.

⁸ *Mysore Information Bulletin*, Nov., 1943, 313.

⁹ A Bill was introduced into the Bengal Legislative Assembly, July 12, 1939, and the Report of the Privileges Committee was discussed in the 1941 Session but without any final decision.—[ED.]

¹⁰ See JOURNAL, Vol. IV, 134.

imprisonment of politicals had often come up for consideration in different Provinces, but so far no progress worth the name seemed to have been made in coming to final conclusions on the subject.

In Mysore, s. 22 of the Government of Mysore Act¹ conferred privileges similar to those in the Government of India Act, 1935. Mysore had, however, not adopted the restrictive provisions of the India Act, nor had it excluded the exercise of other privileges which were necessary and desirable to maintain the dignity and enhance the usefulness of the Houses. Therefore, the Mysore Legislature, said the President, was occupying a vantage position in building up its rights and privileges on proper foundations. A set of rules on the subject, both for the Representative Assembly and the Legislative Council, has already come into existence.

Mysore State (General Elections).²—Under Rules 85 and 65 of the Representative Assembly and the Legislative Council Rules, 1940, the Government in December, 1944, called upon all constituencies for these 2 bodies, as the case may be, to elect Members and fix dates for the several stages of the election. Dates and, in some cases, times are fixed for the presentation of notices of candidature; for scrutiny of notices thereof; for withdrawal of such notices; and what publication of lists of candidates with symbols, if any. The election for the 2 Chambers in all Territorial constituencies was fixed for February 17, 1945, and for the Labour and Women's constituencies the following day, and for all other constituencies for 19th *idem*. The report and publication of the results were fixed for February 24 and March 8, 1945, respectively.

The deposits required of candidates are: Legislative Council, Rs. 250; Representative Assembly, Rs. 150; and for a Special Constituency for Women, Labour or for a seat reserved in either Chamber for the Depressed Classes, Rs. 25.³

Burma (Failure of Constitutional Machinery).—On April 18,⁴ the Secretary of State for Burma (Rt. Hon. L. S. Amery), in moving the following Motion:

That this House approves the continuance in force of the Proclamation issued under s. 139 of the Government of Burma Act, 1935, by the Governor of Burma⁵ on December 10, 1942, a copy of which was presented on December 9, 1943.

said that the Motion arose from the sheer necessity of the fact that the Government of Burma had to be carried on outside Burma in the main owing to Japanese occupation. Neither a Ministry nor a Parliament was able to function.

Question was put and agreed to.

Bahamas⁶ (Constitutional).—In reply to a Q. in the House of

¹ See *Ib.* Vol. VIII, 74.

² See JOURNAL, Vols. VII, 91; VIII, 70.

³ *Mysore Information Bulletin*, Dec., 1944, 393.

⁴ 399 *Com. Hans.* 5, s. 167.

⁵ See JOURNAL, Vols. X, 76; XI-XII, 74.

⁶ See also JOURNAL, Vol. IV, 33.

Commons on October 4,¹ the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) said that the secret ballot had been made permanent in New Providence but rejected (17 votes to 8) by the Legislature for the whole Colony.

British Guiana (Constitutional).²—Several *Q.s* were asked in the House of Commons during the 1943-44 Session on this subject, and on October 4³ the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) circulated in *Hansard* a statement in which, in regard to the franchise for the Legislative Council, the following were the main recommendations of the Franchise Commission, with the action it was proposed, with his approval, to take upon them. Such action would involve an amending Order-in-Council, a draft of which would be tabled in the House, and in due course legislation would be introduced in the Legislative Council of the Colony:

*Qualification for Membership of Legislative Council.*⁴

Para. 59.—The Commission with one exception recommend that membership of the Legislative Council should be open to women on the same terms as men. I have accepted this recommendation.

Para. 63.—The Commission with one exception recommend that the financial qualifications for membership should be reduced from

- (a) possession of income of \$2,400 a year, to the possession of income of \$1,200 a year or over,
- (b) possession of property to the value of \$5,000 to the possession of property of \$1,000 or over,
- (c) the holding of a lease to the annual value of \$1,200 to the holding of one of the annual value of \$300 or over.

I have accepted these recommendations.

Para. 65.—The Commission unanimously recommend the removal of the present disqualification of ministers of religion who possess the other qualifications required. I have accepted this recommendation.

Para. 64.—The Commission unanimously recommend that any person before becoming eligible for election to the Legislative Council must at some period of his life have previously resided continuously in the Colony for at least one year before nomination. I have accepted this recommendation.

Qualifications for voters for Legislative Council.

Para 11.—A majority of the Commission recommend that the qualifications for exercise of the franchise should be reduced as follows:

- (a) Ownership, occupation or tenancy of land of 6 acres, to 3 acres.
- (b) Ownership of land to the value of \$350, to \$150.
- (c) Occupation or tenancy of property of rental to the value of \$96 a year, to \$48 a year.
- (d) Possession of income of \$300 a year, to \$120 a year.

A minority of the Commission recommend universal adult suffrage.

The Rt. Hon. Oliver Stanley then said:⁵

It will be recognized that the majority report of the Commission provides for a substantial extension of the franchise, though one still falling short of universal adult suffrage. The matter had been fully debated in the

¹ 403 *Com. Hans.* 5, s. 928.

² See also *JOURNAL*, Vols. III, 27; IV, 34; VII, 109; IX, 62; XI-XII, 79.

³ 403 *Com. Hans.* 5, s. 923.

⁴ *Ib.* 924.

⁵ *Ib.* 925, 926.

British Guiana Legislative Council, a substantial majority of whom stated that they approved the majority report of the Commission; that report was also accepted unanimously by the unofficial Members of the Executive Council. On the other hand, representations have been received from numerous bodies in the Colony such as those from the East Indian Association in favour of universal adult suffrage. At a recent Conference of Chairmen of the Village Councils, however, 150 delegates passed a resolution strongly supporting the majority report. The matter is clearly one in which there is a considerable division of opinion in the Colony and where a large majority of the Commission, which was fully representative and responsible, and was appointed in exactly the same manner as the Trinidad Franchise Committee, has reported in favour of an extension of the franchise falling short of universal adult suffrage, and as this report has met with the approval of the majority of the Legislative Council, I feel that I should accept it.

It is true that in Trinidad and Jamaica the principle of universal adult suffrage has been accepted, but in Trinidad this was recommended by the majority of a Committee, which, as I have said, was appointed in the same manner as the British Guiana Commission, while in Jamaica universal adult suffrage was unanimously recommended by responsible local bodies including the Legislative Council. Moreover, conditions in British Guiana are not in all respects parallel to those in Jamaica and Trinidad, and I feel that it would not be reasonable that a Colony with differing conditions should be held bound to follow measures adopted in others.

I desire, however, to make it plain that, as envisaged by the Commission, the aim of policy in British Guiana will be the adoption of universal adult suffrage at a later date, and, as suggested in para. 57 of the Commission's report, a census of the country will be taken, as soon as practicable, as a step towards that end.

Para. 10.—The majority of the Commission recommend that every elector should be required to pass a literacy test in English. A minority of the Commission recommended that the existing literacy test should be abolished.

As I have already explained, the British Guiana Legislative Council will not be invited to approve the introduction of adult suffrage. There is, therefore, less reason than there was in the case of Trinidad to invite the Council to accept the abolition of all literacy or language tests. But just as, in Trinidad, I saw objection to the recommendation that ability to understand spoken English should be a qualification for the franchise, so I do not feel able to accept the majority recommendation in British Guiana for a literacy test confined to English. I have therefore approved in British Guiana the retention of the existing test of literacy in any language. I have, however, accepted the recommendation of the Commission for a literacy test in English for membership of the Legislative Council on grounds of practical convenience since otherwise Members would be unable to carry out their duties. Moreover, the necessity for such a qualification has been expressly submitted in writing to the Franchise Commission by the British Guiana East Indian Association and the Islamic Association, among other organizations.

Ceylon (Constitutional).¹—On July 5,² in the House of Commons, the Secretary of State for the Colonies (Rt. Hon. O. Stanley), in reply to a Q., said that a draft scheme for the future Constitution of Ceylon had been submitted by the Board of Ministers in Ceylon, and H.M. Government had decided to appoint a Commission which it was hoped would visit Ceylon at the end of the year to examine their scheme.

¹ See also JOURNAL, Vols. II, 9; III, 25; VI, 83; VII, 98; VIII, 83; X, 76; XI-XII, 76.

² 401 *Com. Hans.* 5, s. 1142.

H.M. Government had accordingly authorized the Governor of Ceylon to communicate to the Ministers a further statement by H.M. Government, the text of which would, with the hon. Members' permission, be circulated in *Hansard*.

On September 26,¹ the same Minister, in reply to a Q., said that he had arranged for a copy of the Constitution to be placed in the Library of the House.

Gambia (Constitutional).—On March 29,² in the House of Commons, the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) said that hitherto representation on the Legislative Council had consisted of 3 out of 4 unofficial Members, all nominated by the Governor. Recently he (the Minister) had approved proposals from the Governor which would introduce the principle of election and which provided for one member to represent the one urban constituency in the Territory, and for the nomination of 3 Members. Two of the latter would have to be Africans and one of the 2 Africans would represent the interests of the Protectorate as distinct from the Colony.

Gold Coast (Constitutional).³—On April 5,⁴ in reply to a Q. in the House of Commons, the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) as to how many towns in the Colony had the right to elect Members of the Legislative Council and whether there was a plan to extend that right to other towns at present unrepresented and as to what action was to be taken in future, Colonel Stanley said that the 3 towns, Accra, Cape Coast and Sekondi, had each the right to elect one Member. As regards the future, the Minister referred the hon. Member to his reply to the hon. Member on April 14, 1943,⁵ which was to the effect that the progressive constitutional development in the West African Dependencies continued to engage the attention of H.M. Government in consultation with the Governors of those Dependencies. The importance of developing the representative character of Native Administrations and of the municipal and electoral legislative bodies was not overlooked. Plans were being made to ensure the filling by African officers of a steadily increasing number of posts in the Government Service hitherto normally held by Europeans.

On October 5,⁶ in reply to a Q. in the House of Commons, the Secretary of State for the Colonies (Colonel Stanley) said that it was proposed to grant an unofficial majority on the Legislative Council of the Gold Coast and to include on the Council representatives of Ashanti as well as of the Colony, with a corresponding extension of its legislative authority. Under the proposals, such Council would consist of the Governor, as President without a vote, and of 6 official Members, including the Chief Commissioners of Ashanti and the Northern Territories; 9 Provincial Members for the Colony, which would be divided into 2 Provinces, Eastern and Western, instead of 3 as at present;

¹ 403 *Ib.* 74.

² 398 *Com. Hans.* 5, s. 1420.

³ See also *JOURNAL*, Vol. XI-XII, 79.

⁴ 398 *Com. Hans.* 5, s. 1990.

⁵ 388 *Ib.* 1205.

⁶ 403 *Ib.* 1161.

these Members, of whom 5 would be drawn from the Eastern Province and 4 from the Western Province, would be elected by the Joint Provincial Council; 4 Members for Ashanti, elected by the Ashanti Confederacy Council; 5 Municipal Members—namely, 2 for Accra and 1 each for Cape Coast, Sekondi-Takoradi and Kumasi—elected by ballot; and 6 nominated Members appointed by the Governor.

In addition, the Governor would have power to appoint extraordinary Members who would not be entitled to vote. The Governor would be granted reserve powers which would permit him to override a decision of the Legislative Council in the interests of public order, public faith or good government. Any such action by the Governor would be subject to revocation by the Secretary of State except in the case of a Bill, which would be subject to disallowance by His Majesty.

Malta, G.C. (Extension of the Franchise).—An important amendment to the existing Electoral Law (Ordinance No. XXXIV of 1939¹) was passed by the Council of Government of Malta at the sitting of January 26, 1945, on the proposal of the Labour Leader, the Hon. Dr. P. Boffa, O.B.E., M.D. This amendment abolished the property qualification of voters which has been in existence ever since the grant of the 1887 Constitution. In future, all male British subjects of the age of 21 years and upwards, who have been resident in Malta or Gozo for a period of not less than 12 months immediately preceding registration, will be entitled to be registered as voters.²

Nigeria (Constitutional).³—On April 5,⁴ in the House of Commons, an hon. Member asked the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) how many towns in Nigeria had the right to elect Members to the Legislative Council; whether there was any plan to extend that right to others at present unrepresented; and whether action was likely to be taken in the near future; to which Colonel Stanley replied that Lagos represented 3 Members and Calabar one. In regard to the future he could not at present add to his reply to the hon. Member on the subject on April 14, 1943.⁵

Trinidad and Tobago (Constitutional).⁶—On August 2,⁷ in reply to a Q. in the House of Commons, the Secretary of State for the Colonies (Rt. Hon. Oliver Stanley) said that the Report of the Franchise Committee of the Colony had been laid in the Library of the House that day. The main recommendations of the Committee, with the action which it was proposed, with his approval, to be taken upon them, in regard to the Legislative Council, were as follows:⁸

Para 8. Qualifications for membership of the Legislative Council.

The Committee unanimously recommended that women should be eligible for membership equally with men; that ministers of religion should

¹ No. XXXIV of 1939; see JOURNAL, Vols. VII, 104; VIII, 92.

² Contributed by the Clerk of the Council of Government.—[Ed.]

³ See also JOURNAL, Vol. XI-XII, 79. ⁴ 398 *Com. Hans.* 5, s. 1990.

⁵ For which see Editorial Note, "Gold Coast."—[Ed.]

⁶ See also JOURNAL, Vols. III, 27; VII, 108; IX, 62; X, 82.

⁷ 402 *Com. Hans.* 5, s. 1397.

⁸ *Ib.* 1398.

be disqualified from membership; and that qualification for membership by residence or ownership of property within the electoral district for which the member proposed to stand should be removed. A large majority recommended that the property qualification for membership should be reduced from \$12,000 to \$5,000 in the case of owners of real estate and the income qualification from \$1,920 to \$960. A minority of the Committee recommended that all persons qualified as voters should be *ipso facto* qualified for membership of the Legislative Council.

I have accepted the recommendations of the Committee or of the majority thereof.

Para. 10. *Qualifications for voters for the Legislative Council.*

The majority of the Committee recommended that the franchise be altered and extended by reducing the age qualification of women voters from 30 to 21 years; by reducing the period of residence in an electoral district required of the voter from 12 months to 6 months; and by the abolition of the property and income qualifications; and that the intending voter should be able to satisfy the registering officer that he, or she, can understand the English language when spoken. A minority of the Committee, while in agreement that universal adult suffrage should be the ultimate goal, considered that the existing basis on which the franchise is granted should be reduced now by 50 p.c.

I have accepted the view of the majority save in respect of the requirement that voters shall be required to show that they can understand the English language when spoken. The proposal to be put before the Colonial Legislature will, therefore, be universal adult suffrage for both men and women, without a language qualification.

SHORT SUMMARY OF THE RECOMMENDATIONS OF THE TRINIDAD
FRANCHISE COMMITTEE.¹

Qualifications for membership of the Legislative Council.—Women to be eligible for membership equally with men. Ministers of religion to be disqualified from membership. Qualifications for membership by residence or ownership of property within the electoral district for which the Member proposes to stand to be removed (*unanimous*). Property qualifications for membership and income qualification for membership to be considerably reduced (*large majority*).

Qualifications for voters for the Legislative Council.—Age qualification for women voters to be reduced from 30 to 21 years. Period of residence in electoral district of voter to be reduced to 6 months. Abolition of property and income qualifications, but intending voter should understand spoken English language (*majority recommendation*).

The Secretary of State accepted the view of the majority save that he did not agree that voters should be required to show that they can understand the spoken English language. The proposal which the Colonial Legislature will be invited to debate will therefore be universal adult suffrage for both men and women, without a language qualification.

¹ *Ib.* 1400.

Zanzibar (Legislative Council).—In reply to a Q. in the House of Commons on January 19,¹ on African community representation on the Legislative Council, the Secretary of State for the Colonies said that the decree of the Sultan creating a Legislative Council did not provide for separate representation of particular racial communities. The non-official Members appointed by the Sultan, acting by and with the advice of the British Resident, included 3 Arabs and 2 Indians. There were no African Members of such Council.

O. C.

*November 23, 1945.*¹ 396 *Com. Hans.* 5, s. 178.

II. BOMBING OF THE HOUSE OF COMMONS

BY B. H. COODE,

Clerk of Public Bills, House of Commons

BEFORE war broke out in September, 1939, a plan had been evolved for the evacuation of Parliament from London to another place, which was kept secret. Billets for Members of both Houses were settled; transport, which involved in some cases railheads to which parties were to be conducted, were detailed; a certain amount of office baggage was kept packed in readiness for any emergency. The place selected—which is no longer a secret—was Stratford-on-Avon.

It was realized before the war started, and more especially after Dunkirk in 1940, that with the possibility of an enemy landing in England and fighting taking place in and around London it would be impossible to transact business at Westminster. The move would therefore become necessary for military reasons.

As soon, however, as enemy bombing started in the summer of 1940 the whole scheme with regard to Stratford-on-Avon began to fade into oblivion. There were obvious reasons for this. For one thing a landing in England fortunately did not happen, owing largely to the heroism of the Royal Air Force; the bombing of such places as Coventry soon made it apparent that no one place was likely in any way to be more immune from bombing than another; any locality selected—Stratford-on-Avon or any other town—would undoubtedly be discovered by the enemy and therefore become a special target for the enemy air force. But more important than any of these considerations to Members of Parliament was their determination to remain where they were with the people of London and face the attack there.

However, the Houses of Parliament were a prominent military target in themselves, and therefore Church House in the precincts of Westminster Abbey was selected as the place to which Parliament should move as and when the necessity arose. In fact the necessity for another building was constant from then onwards. Church House itself was a steel-framed building only recently completed and designed for the accommodation of the three Houses of the Church Assembly, the Bishops, the Clergy, and the Laity; and also for the Upper and Lower Houses of the Convocation of Canterbury.

The first meeting of Parliament was held here on November 7, 1940, more or less by way of experiment. The House of Lords sat in the Hall of Convocation and the House of Commons in the Hoare Memorial Hall. A temporary Speaker's Chair and Table of the House had been set up; the Mace was taken across daily from the Palace of Westminster, and on November 21, 1940, the King opened the new Session of Parliament in Church House.

Meanwhile as early as the previous September the Palace of Westminster had been heavily damaged on its west front, where a high-

explosive bomb fell immediately behind the statue of Richard the First. His sword was bent but not broken; the whole of the window at the south end of Westminster Hall was blown out, and the greater part of the War Memorial under the window was destroyed. On December 8 another bomb demolished the south and east sides of the Cloisters, completely destroying the Public Bill Office of the House of Commons and almost all of the Votes and Proceedings Office—thus ruining a portion of the Palace which survived the fire of 1834 and dates from the early years of the sixteenth century.

With the Palace of Westminster thus coming under direct attack from the air Church House was and continued to be the place of meeting during the winter of 1940-41 periodically. Although the building might be considered safer because of its closer and stouter construction, and although it was not easily identifiable, it never became popular with Members of Parliament; its topography was found to be inconvenient and difficult to master; there were no proper means of reference to books and papers. The result was a constant running to and fro between Church House and the Palace of Westminster, which made it often difficult to know where anybody was, Members or staff. Members themselves preferred the Palace of Westminster, and resorted to it for everything except the actual sitting of the House.

But to the Palace of Westminster there came a greater disaster on May 10, 1941. On that night the Commons Chamber was completely destroyed by fire as a result of deliberate enemy attack. Everything disappeared and every vestige of the Chamber was obliterated. The Speaker's Chair, the green benches, the Table of the House and the two famous dispatch boxes upon it were demolished; the snuff box kept for the use of Members by the Head Doorkeeper vanished¹; the division lobbies were wrecked. The fire extended into the Members' lobby, which had already been dislocated by the bomb of December 8, 1940, and burnt into the stonework to such an extent that the whole lobby will require complete rebuilding, though the entrance arch to the Chamber is to be kept in its present damaged condition as an historical reminder of the event. Of the Commons Chamber itself what remained was a mass of twisted steel girders, of iron bars and broken stone—a gaping wound in the centre of the Palace. From then for many months, like some ancient ruined abbey, the devastated building, with its pinnacles of charred and pitted masonry burnt red by the flames, stood outlined and glowing in face of the setting sun.

After this catastrophe the House met again in Church House on May 13, 1941, and continued to sit there until June 19, 1941. But just as more than a hundred years before, on October 16, 1834, almost the whole of the old Palace of Westminster had been destroyed by fire, and methods were then devised for accommodating the two Houses, so now a similar adjustment was agreed to with regard to the places of

¹ A snuff-box made out of wood salvaged from the Speaker's old Chair has since replaced it.

sitting. From after June 19, 1941, the House of Commons went to the Chamber of the House of Lords; the House of Lords to the King's Robing Room. This arrangement has continued since that date. There was a break from June 20 to August 3, 1944, during enemy attacks with flying bombs, when again Church House was resorted to.¹ When the rocket bomb succeeded the flying bomb later in the year, the Houses kept to the Palace of Westminster because with the rocket bomb there was no possibility of warning, and no better protection in Church House than in the Palace of Westminster. Therefore after August 3, 1944, the two Houses occupied the Chambers as arranged in the summer of 1941 and have done so until the present moment. This arrangement will no doubt continue until a new House of Commons Chamber has been built and the Palace of Westminster restored.

A Select Committee appointed in 1943 for this purpose produced a scheme of reconstruction, and this was agreed to by the House in January, 1945. The work of rebuilding has now been started.

One interesting fact remains to be noted. Throughout the war period one part of the Palace, and that the most ancient, survived in all essentials, just as it had survived the fire of 1834. Except for the loss of the glass in all the windows and serious damage to part of the roof, which was pierced by a fire bomb, Westminster Hall, dating from the reign of William the Second, remained practically unscathed, and stands now as it has stood throughout the centuries.

¹ It may be of interest to record shortly how the House of Commons received warning of aerial attacks. Under an Order first made on July 11, 1940, sittings were suspended at the interrupted blast of the warning siren and resumed soon after the steady note of the "All Clear".

From September, 1940, the House, growing accustomed to the danger and loath to waste its time, continued to sit after the siren went, and until a new signal, the "Imminent Danger", was received from the Air Ministry and spread through the Palace, in early days by the blowing of police whistles and later (January, 1941) by the ringing of special alarm bells.

In all, the House interrupted its sittings on fewer than a dozen occasions, and latterly, during the flying-bomb period, when the House sat at Church House, the discretion to suspend at the "Imminent Danger" bell was left to the Speaker, who disregarded it.

III. HOUSE OF COMMONS: REBUILDING

BY THE EDITOR

THE question of the rebuilding of the House of Commons consequent upon its destruction by enemy action on May 15, 1941, has been referred to in previous issues of the JOURNAL,¹ and in the last some account was given of the debate upon the Motion for the appointment of the Select Committee.

The Report from the Select Committee was brought up in 1944, and in our next issue, reviewing 1945, further proceedings upon the adoption of such Report will be given as well as reference to the Reports² from the Joint Select Committee of the Lords and Commons to inquire into the accommodation in the Palace of Westminster, the first Report from which, presented on November 14, 1943, stated that the Committee had been unable to complete the hearing of the evidence before it had had the opportunity of considering the Report of the Select Committee on rebuilding and therefore that the Joint Committee had recommended its own reappointment in the 1944-45 Session.

The Report from the Select Committee of the House of Commons on its rebuilding, together with the Minutes of Evidence, etc., represent a thorough investigation into the whole subject from every angle. Although no question of Constitutional law or Parliamentary procedure arises, the inquiry reveals many points of practical difficulty in regard to the shape of a legislative chamber, its plan of seating, acoustics, ventilation and accommodation for its officers and legislators, as well as for the Press and public, which have confronted, and will from time to time confront, other Parliaments and Legislatures of the Empire.

The inquiry we now deal with is directed to providing the best and most suitable structure, in keeping with the style of architecture of the Palace of Westminster, in which to house the machine of Parliament as operated by His Majesty's "faithful Commons". Furthermore, the Committee takes the opportunity: to substitute improved conditions for both Officers and Members; to give all sections of the Press every assistance; to enable as many of the public as possible to visit the House and hear the debates; as well as to improve the acoustics, lighting and ventilation of the Chamber.

Throughout this inquiry, one is impressed with the splendid opportunity which enemy action has brought about to provide a thoroughly up-to-date and improved Legislative Chamber, in which a people, free both collectively and individually, who have fought in a Second World War to defend that freedom, may continue on their hard-won path of democratic government.

It is proposed, first, to deal with the Report itself and afterwards to sift the evidence, giving, by footnote, the references to assist any reader wishing for fuller information on any particular subject.

¹ Vols. IX, 5; X, 13; XI-XII, 34.

² H.C. 50; H.C. 116 of 1943-44; H.C. 26; H.C. 64 of 1944-45.

On December 9, 1943,¹ the House of Commons made the Order of Reference for the Select Committee as laid down in the Resolution of October 28 of that year.² The Order of Reference also provided for the Committee to consist of 15 Members; for a quorum of 5; for power to send for persons, papers and records; for the Committee to sit notwithstanding any Adjournment of the House; to adjourn from place to place; and to report from time to time.

On January 20,³ it was further ordered:

That the Select Committee on House of Commons (Rebuilding) have power to invite any specially qualified persons, whom they may select, to attend any of their meetings in an advisory capacity.

Report.—The Report⁴ from the Select Committee on House of Commons (Rebuilding), together with photographs, plans and sections, and the proceedings of the Committee, was tabled on October 25.⁵ There are 5 Appendices dealing with the proposed new House of Commons, namely: (1) Architect's Report; (2) Schedule of Seating; (3) Schedule of Staircases and Lifts; (4) Engineer's Report on the Heating and Ventilation; and (5) Report by the Royal Fine Art Commission on the design.

The Report itself covers only 6 of the 29 printed pages, including 10 pp. of the Proceedings of the Committee. The Committee held 21 sittings and examined 30 witnesses. In addition to Mr. Speaker, the Chairman of Ways and Means, the Joint Secretaries to the Treasury, the Clerk of the House and the Serjeant-at-Arms, evidence was taken from the Minister of Works and his principal technical officers, the Press Gallery, the Lobby Correspondents, the Official Reporters (*Hansard*), the British Broadcasting Corporation and the Home, Dominion and Foreign Press. The Committee also received written memoranda from a variety of sources. Under the power given the Committee, Mr. E. N. de Normann, C.B., Deputy Secretary of the Ministry of Works, was appointed as a specially qualified adviser, and acted throughout as a combination of perpetual witness, source of technical information and liaison officer with the Ministry of Works, the Department advising the Government on the subject.

At its second meeting the Select Committee ordered, "That until the Committee otherwise order, Strangers be not admitted."

The Committee decided to interpret "House of Commons" as the Chamber itself, with the space below and above it and such other accommodation as was necessary for the efficient functioning of the House, with the stipulation that only premises destroyed or damaged be included.⁶

Dimensions of the Floor of the House.—The Committee was unanimous in the opinion, "That the sense of intimacy and almost conversational

¹ 395 *Com. Hans.* 5, s. 1244.

² 396 *Com. Hans.* 5, s. 499.

³ 396 *Com. Hans.* 5, s. 499.

⁴ H.C. Paper 109 of 1943-44 (hereinafter referred to as "*Rep.*"), § 5.

⁵ See JOURNAL, Vol. XI-XII, 34.

⁶ H.C. 109 (foolscap) and 109-1 of 1943-44.

form of debate encouraged by the dimensions of the old Chamber should be maintained." The Committee "believed that the present intimate and traditional style of discussion is firmly established in the customs and affections of the nation". The crucial decision was how the dimensions of the Floor of the Chamber could be increased to accommodate more than the original number of 346 Members out of the (then) 615, "without forfeiting that quality of intimacy."¹ And there was no doubt that the Committee's decision was influenced by the Members' experience in sitting in the House of Lords Chamber, since the bombing of the House of Commons. The Lords Chamber is the same width as that of the old House of Commons but 12 ft. 9 in. longer, and the Committee was impressed by the noticeable diminution of the sense of intimacy produced by this slight difference in length. On the question of widening the Chamber, however, by one extra row of seats each side, the Committee was almost equally divided, and it was decided to adhere to the original dimensions.²

Galleries.—The evidence in favour of increased and better accommodation for Strangers and the Press was so overwhelming that it was decided to enlarge both Galleries and add a third row at the back of the Side Galleries.³

Additional Storeys.—The opportunity afforded by economies in ventilation space on the floors immediately below the Chamber was welcomed by the Committee as a means of providing much needed amenities for Members. Similarly, the proposed storey above the Chamber promised to increase efficiency and convenience for the offices of the Clerk of the House.

Choice of Architect and Engineer.—Sir Giles Gilbert Scott, O.M., R.A. (with the co-operation of the Minister of Works), was selected as the architect best qualified to provide plans in keeping with the Gothic style of the Palace, and Dr. Oscar Faber, O.B.E., D.C.L.(Hon.), D.Sc., was invited to submit a scheme for ventilation and heating.⁴

The proposals of the Committee were:

- (i) preservation of the traditional dimensions and essential features of the House;
- (ii) increase of Press seats by 68 (from 93 to 161), and increase of other Strangers' seats by 67 (from 259 to 326);
- (iii) concentration in separate Galleries of Reporters and of all other Strangers, thus making for convenience of access and control by the Serjeant-at-Arms;
- (iv) improvement in vision from all Strangers' seats;
- (v) a thoroughly up-to-date system of heating, ventilation and lighting;
- (vi) provision for secretarial, interviewing and conference rooms not hitherto available to Members;
- (vii) considerable improvements to the Whips' and Staff Offices; and
- (viii) improved access to all parts of the House.

*Allocation of Accommodation.*⁵—Appendix 2 gives a schedule of ten-

¹ Rep. §§ 7 and 8.

² *Ib.* § 9.

³ *Ib.* § 10.

⁴ *Ib.* §§ 12-15.

⁵ *Ib.* § 18 (i).

tative suggestions regarding the seating accommodation in the new Chamber, while the seating for M.P.s and House officials (Speaker, Clerk of the House, Serjeant-at-Arms, etc.) it is suggested shall remain at 346 and 6 respectively, as well as the " Official Gallery " and " Under the Gallery " at 9 in each case, making a total on the Floor of the House of 370. The seating in the Side, North and South Galleries it is suggested be increased from 432 to 569.

The total seating of the Chamber would therefore be: for Members 437; Special Strangers 114; Ordinary Strangers 145; Reporters 93; and officials 13 (a total of 802), and these figures have been increased to 437; 165; 161; and 15 respectively (a total of 939).

Additional Refreshment Facilities.—The scheme recommended by the Chairman of the Select Committee on Kitchen and Refreshment Rooms (House of Commons) necessitates additional refreshment facilities, which the House of Commons (Rebuilding) Committee trusts may receive the attention of the Joint Select Committee of the two Houses on Palace of Westminster (Accommodation) already referred to.¹

Heating and Ventilation.—The system recommended for heating and ventilation in the Chamber seeks to reproduce " in the Chamber all the atmospheric conditions of a warm spring day out of doors ". The direction of the ventilation is to be lateral—instead of vertically upwards or downwards, as in the older systems—and in one respect, the alternation of these gentle lateral air currents, the plan is ahead of anything yet attempted. The Committee agreed that the high windows of the Chamber be sealed, but not those beside the writing tables in the Division Lobbies.²

Acoustics and Sound Amplification.—In regard to acoustics and sound amplification, the Committee agreed, after hearing experts, that the acoustical advantages accruing from a flatter roof would be insufficient to jeopardize the whole appearance of the Chamber. Provision will be made for the installation of an unobtrusive system of sound amplification pending the decision of the House.³

Appendices to the Report.—These number 5 and may briefly be summarized as follows:

Architect's Report (Appendix 1).—The architect is strongly of opinion that the style adopted should be in sympathy with the rest of the structure.

A dark colour is proposed for the oakwork. The roof is to be a shaped ceiling. In regard to the angle of the slopes forming the outer area of the ceiling, it was recommended that they should not be made flatter as suggested by the National Physical Laboratory, who showed that the improvement would affect only the Gallery seats and not the Floor of the House and would not be sufficient to render the amplifying system superfluous. Artificial lighting will be through square panels in the centre of the ceiling, much as existed previously, but providing

¹ *Ib.* § 18 (ii).

² *Ib.* § 18 (iii).

³ *Ib.* § 18 (iv).

better lighting owing to the increased area of the flat ceiling. The carpets covering all the floor area are to be a mottled brown fawn colour, to tone with the oakwork, except for the area between the red lines on the Floor of the House, which will be green to match the green leather upholstery of the seats.

The materials used will be Clipsham¹ stone and selected English oak. The architect did not see how it would be possible to utilize any Empire woods for any of the fixed joinery, "though these might be suitable for certain movable items, such as the two Dispatch boxes, etc."

The seating arrangements for Members will be the same as in the old Chamber (except for the omission of the oak posts under the Galleries), "as this arrangement is the result of 100 years' practical experience, during which, after many changes, the present arrangement has been evolved by a process of trial and error. The architect goes on to make recommendations as to the seating in the Chamber for Strangers and an improvement in the rake of the South Gallery from 28° to 30° and that of the Side Galleries from 21° to 28°.

The Chamber will be artificially lighted from glass panels in the centre portion of the ceiling, on the same principle as before, but it is proposed to floodlight the Commons Lobby from the deep window-sills, instead of by the former chandeliers.

The Floor of the House is to remain 68 ft. by 45 ft. 6 in., but in the "Above the Gallery Level" the Chamber will be increased from 46 ft. 6 in. by 84 ft. to 48 ft. by 103 ft., to accommodate the additional Strangers' and Reporters' seating. The total height of the Chamber will be 46 ft. compared with 44 ft. as before, while the area of the glass ceiling lighting panels will be increased from 735 to 1,282 sq. ft. and the window glass area from 609 to 718 sq. ft.

The Ministers' and Vote Office accommodation on the ground floor beneath the Chamber has been increased, with additional counter-space to the Commons Lobby.

Entirely new accommodation for Members has been provided on the ground floor for a Lounge, 21 Secretarial rooms, 2 Conference rooms and 10 Interviewing rooms, with a total area of 7,955 sq. ft. The Party Whips' accommodation has been increased from 1,765 to 3,042 sq. ft. and the accommodation for the Clerk of the House offices, the Reporters and the Post Office has also all been increased.

Approximate Estimate of Cost and Time Required for Building Operations.—£784,000 and 4 to 5 years.

Staircases and Lifts (Appendix 3).—These and the floors and rooms they serve are set out in detail in Appendix 3 and total 7 respectively, while an additional and express lift (to carry 8 persons) is provided between the principal floor (Commons Lobby) and the Clerk of the House offices on the third floor.

Heating and Ventilation (Appendix 4).—The abbreviated Report on

¹ Rutland.

this subject by Dr. Oscar Faber is based on his full Report of July, 1944. The records of the many Reports from Select Committees which have considered ventilation, from 1854 to the present time, and Cmd. 3871 of 1931 have been studied. The old gratings in the floor of the House have been done away with and the floor made solid, with inlet for the floor of the House by ducts under the side galleries, discharging horizontally, the inlets for the upper portion of the House being through apertures at the sides near the roof level. When the House is fully occupied the inlet temperature will be 8° to 10° lower than that of the Chamber. Warm feet will be ensured by a bronze panel (warmed to about 80° F.) under the carpet immediately under the feet of all occupants. To make the air currents variable, it will be arranged that they come from one side of the Chamber for a short interval of time, and then change over to the other side. The relative humidity will be adjustable in accordance with the seasons, and the temperature of the Chamber will be maintained at about 65° F. by day and 70° F. at night, but adjustable. The air will be cleaned electrostatically instead of by the old cotton-wool filters. Air volumes will be about 12,000 cu. ft. per minute to the Floor of the House and 18,000 to the Galleries, in accordance with the number of persons present; which corresponds with nearly 2,000 cu. ft. per hour per occupant. This air serving the Floor of the House will still be taken from the Terrace. That serving the Galleries will be taken at roof level, each plan being independent. When a Division takes place, the air-conditioning will be directed to the Division Lobbies. There will be 5 complete ventilating plants in all.

The Chamber itself, being almost entirely surrounded above, below and at the sides with warmed rooms, will not require heating in the ordinary sense, but the Division Lobbies, writing rooms, etc., having outside exposure by walls or windows, will be protected from down draughts and radiation losses by warm-water radiators or panels.

Report of the Royal Fine Art Commission (Appendix 5).—This Report gives the opinion that, working within the limits proposed, the architect has in the opinion of the Commission overcome the difficulties and provided a dignified and satisfactory solution.

Photographs, Plans and Sections.—The remainder of H.C. Paper 109 contains: photographs (N. and S. ends) of the Chamber destroyed in 1941; drawings—being the plans for: the Lower Ground Floor; Ground Floor; Ground Floor Mezzanine; Principal Floor; Principal Floor Mezzanine; First Floor; Second Floor; and Third Floor; and the cross-section looking N. as well as longitudinal section looking W., with a key to the arrangement of seating in the plans.

Evidence.—The Minutes of Evidence¹ of the Select Committee (with their 14 appendices and index) were tabled and ordered to be printed on the same day as the Report. Space does not admit of even a brief review being given of the 1,397 Questions and the 14 Appendices to

¹ H.C. Paper 109-1 of 1943-44.

this subsidiary H.C. Paper, but there are certain points which it may be both useful and interesting to note.

In the first place the Chairman suggested that Mr. de Normann, the first witness, be allowed to make his statement, after which Members could ask questions as they went round the table, which was agreed to.

In reply to Q. 12, Mr. de Normann stressed that the bottom floor of all would have to be artificially lighted and air-conditioned because it was below the surface,¹ and that the Lords Chamber had no roof lighting.²

In reply to a Q., one witness said that it had to be borne in mind that a reporter took up more room than a Stranger as the reporter had a writing desk.³

In connection with the use of the Gallery by M.P.s to take part in Debates, Mr. Speaker said that it was very seldom that anybody had wanted to take part in the proceedings of the House from the Gallery.⁴

In regard to the inconvenience of Members passing the Chair when coming in and going out of the Chamber, Mr. Speaker replied that Members come into the Chamber from opposite the Chair and that in former days only Ministers and their Parliamentary Private Secretaries came in from behind the Speaker's Chair.⁵ Mr. Speaker considered the present Chamber (Lords), in which the Commons now sit, was too big.⁶

As to whether accommodation for 383 Members only on the Floor of the House was a sufficient proportion of the whole House, Mr. Speaker replied that surely when you are attending the House you do not have to be in the Chamber all day. "It is only during an opening speech that you are there and then the House can be crowded, with people standing at the Bar. Then everybody disperses and goes to Committees or to one place or another." Mr. Speaker thought that accommodation for something like 400 out of a House of 600 was quite sufficient for a working period in the House.⁷

With reference to the traffic that went by the Speaker's Chair being disconcerting, it did not matter after a Division when Members were coming back to the Chamber and there was no means of getting round to the other entrance, as the Speaker was then sitting quietly. It was, however, sometimes very difficult to listen to Debates, when Members came to the Chair to carry on a pleasant conversation, particularly if Mr. Speaker thought that the Member speaking was just on the borderline when he had to be pulled up. "If somebody comes and interrupts you, you lose the trend of the speaker's argument."⁸

Mr. Speaker said he did not want a longer Chamber as he thought that the width, provided there was not too much overhang, could be increased.⁹ If the number of 400 Members on the Floor was exceeded, the auditions would suffer.¹⁰ Mr. Speaker considered the present

¹ Q. 12.² Q. 182, 183.³ Q. 262.⁴ Q. 56.⁵ Q. 213.⁶ Q. 266.⁷ Q. 90.⁸ Q. 215.⁹ Q. 178.¹⁰ Q. 217.

Press accommodation very poor. He regarded the Press as a very important adjunct of Parliament's work and considered probably an increase of 50 p.c. in the number of seats advisable.¹ In reply to a question as to whether accommodation for the Press or Strangers should be sacrificed, had a decision to be come to Mr. Speaker said that he would be inclined to say that the Press circulated all over the world, and it was probably more important that there should be a better Press service than better accommodation for the public.²

The next witness was Major James Milner, M.C., T.D., LL.B., Chairman of Ways and Means, who was of the opinion that the House should be rather larger than it was. He regarded it as undignified and uncomfortable on big days to be crowded, as was the case in the old House.³ He suggested that there should be accommodation on the Floor, excluding the Galleries, for approximately the same number of Members as was before accommodated on the Floor and in the Galleries. He believed that in the old House there were seats for 346 Members on the Floor and 90 in the side Galleries—namely, 436; and that if one row of 40 were added on each side, that would give 426 Members on the Floor, which, with the retention of the side Galleries with the same accommodation as before, would make a total of 516 Members' seats. Major Milner said that he believed there was no old print showing Galleries at all before 1700,⁴ and that Members did not sit at all in their Galleries until the new House was built. These Members' Galleries did serve a useful purpose as an overflow on special occasions. He urged 2 additional gangways on either side to avoid the inconvenience of passing 8 to 10 Members in order to get to the place where one was accustomed to sit. Major Milner believed he was right in saying that Press accommodation was introduced for the first time in 1835 when the Commons, for a time, occupied the old House of Lords temporarily built for the purpose. As a very tall man, he had always found it embarrassing to stand up in one of the back benches, and he suggested that some sort of a railing on which one could put one's hand would give a little support. He would also like to suggest that along the whole of the benches at the back of each there might be a ledge with a hinge perhaps 5 or 6 in. wide, double, so that when one wished to write on it one could turn over the top half and then form a table about 12 to 15 in. square. He thought that the time taken for Divisions was unjustifiable. The Prime Minister had spoken of there being occasionally 20 to 30 Divisions in one Sitting and 10 to 15 minutes each represented 2½ hours spent in Divisions, one-third of a Sitting. He hoped the Committee would consider some electrical system⁵ whereby each Member had a key and could vote and at least half the time be saved. As Members knew, it took 2 minutes to clear the Lobby, then there were another 6 minutes before the doors were locked. Then you had to wait until the Lobbies were cleared, an average of 15 minutes,

¹ Q. 267.² Q. 272.³ Q. 308.⁴ Q. 308, 309.⁵ See JOURNAL, Vol. II, 62.

depending, of course, on the number voting. He would also like to suggest (though he had not spoken to Mr. Speaker) that there might be a seat for Mr. Speaker, perhaps alongside where the officials sat, because at present where Members came in by the Speaker's Chair it was extremely crowded, and it seemed a little undignified for Mr. Speaker to have to sit on the front seat there frequently for half an hour or more, at a time when Members were passing to and fro.¹ Major Milner also urged for more indicators. There might be some system on the lines of a tape machine whereby the appropriate official, sitting in a place provided for him with a noiseless typewriter, could type out what was happening and the name of the speaker, to be instantly conveyed to many more parts of the building than was the case at present.² They should remember that the old House of Commons had been in existence for 100 years and that for 300 years before that the Commons sat in St. Stephen's Chapel, and for 200 years before that again in the Chapter House across the way, and prior to that in Westminster Hall.³ In the present (Lords) Chamber he found audition very good.⁴ Even right down on the place where the Throne used to be it was quite possible to hear someone speaking at the other end of the (Lords) Chamber.⁵

The next witness was the Serjeant-at-Arms (Brig. C. Howard, D.S.O.), who stated that under the statutory powers conferred upon him by 52 Geo. III, c. 11, he was the Housekeeper of the House of Commons and that all rooms in the Palace of Westminster prepared for the accommodation of the House of Commons were occupied by the Serjeant-at-Arms under warrant from the Lord Great Chamberlain.

It was only by an *en bloc* delegation to the Ministry of Works that the Ministers got their rooms.⁶

In regard to the allocation of seats to M.P.s for visitors, the following was given by the Serjeant-at-Arms in a supplementary memorandum:⁷

Six days before the day on which the Orders were required (there was no ballot for Friday sittings), Members wrote their names in a book and from these (usually about 400), 56 were chosen by ballot for "original" orders, a further 60 for "supplemental" orders, and a further 25 for "extra supplemental" orders. This made a total each day of 141 Members who were successful in the ballot, each of whom was allotted two orders. (As regards the Ladies' Gallery the 36 available seats were also balloted for, but vacancies were filled by application to the Serjeant-at-Arms in the Chair.) At 2.45 those holding "original" orders were admitted to the Gallery; at 3.30, if there were vacancies (and it should be noted that usually there were a number of vacancies at that time), the holders of "supplemental" orders were admitted; and again at 4 o'clock, if there were vacancies, the holders of "extra supplemental" orders. At 4.15 again, if there were vacancies, the "general public" (*i.e.*, those without orders) were admitted, holders of "original," "supplemental" or "extra supplemental" orders always having a preference. At 3.30 not only were holders of "supplemental" orders admitted, but a limited number of holders of cards from Embassies,

¹ Q. 309.

² Q. 341.

³ Q. 310.

⁶ Q. 497.

³ Q. 311.

⁷ H.C. 109-1 of 1943-44, 50.

⁴ Q. 338.

Legations and the offices of the High Commissioners, and it was these that formed the majority of those waiting for places at 3.30.

The following are the average daily total attendances in the Members' Gallery (Fridays excluded) for the years 1934-38:

1934	..	..	..	337	1936	..	..	..	371
1935	..	..	..	330	1937	..	..	..	362
				1938	..	..	..	..	348

It may be noted that of these totals the average proportion between Members' orders (*i.e.*, those obtained in the ballot) and those obtained directly by the public from the Admission Order Office, was 2 Members-3 Public. There were also (apart from the Ladies' Gallery and the private galleries of the Speaker and Serjeant-at-Arms) the Special and Under Galleries, which were administered by the Serjeant. Application for orders for these was confined to Members, and vacancies were filled by the Serjeant in the Chair. These two galleries contained together 21 seats before 4 p.m., and a maximum of 40 seats after that time.

As a rule, members of the public (from 4.15 onwards) did not have to wait as much as half an hour for a vacancy, and after 6 o'clock could usually gain admission immediately. The "peak" period was question time, and it is of interest to note that of the orders obtained in the ballot by Members for the Members' Gallery (282 each day) an average, over five years, of only 54 p.c. were actually presented.

In his evidence before the Committee, the Clerk of the House (Sir Gilbert Champion, K.C.B.) said that the seats at the Table were very close together and the accommodation very cramped.¹ In regard to the Clerk of the House offices, these were extremely scattered, which did not make for efficiency. Sir Gilbert said that it would be a great advantage if they could retain the Table Office, which was a room, near the entrance to the present Chamber, to which Members could take Questions and consult the Clerks of the Table or their representative. "It also gave a good central position for keeping in touch with the Departments over Questions." This was particularly valuable for Members.² Many Members, instead of bringing them to the Table, took Questions to this room, especially if they raised difficult points,³ rather than coming in a procession to the Chamber and thence to the Table, which caused interruption to the general proceedings of the House⁴ and was disturbing to the Speaker and to any Front Bench Member who might be speaking.⁵

Sir Gilbert did not consider that additional space was often required on the Floor of the House, except on the Second or Third Reading of a big Bill or on important statements.⁶ One seldom saw Members standing at Question Time.⁷ The only difficulty in a Member speaking from the Gallery was that of catching the Speaker's eye.⁸ Transverse gangways cutting across and not coming right out on to the Floor would be a great convenience if it was worth the loss of the seats. It would also prevent passing between the Member speaking and the Chair.⁹ The witness did not think there was much point in cross-

¹ Q. 519.
² Q. 539.

³ Q. 529.
⁴ Q. 562. ⁷ Q. 563.

⁵ Q. 536.
⁶ Q. 567.

⁸ Q. 538.
⁹ Q. 573, 575.

benches. In the old days they were perhaps used as a sign of independence of party. In the old House of Commons they were largely beyond the Bar and therefore sterilized from the point of view of speaking.¹ Before 1918 there were 670 Members in a Chamber of the same size. The normal size of the House was 705, but nearly 100 Irishmen did not come.² The important point of the Chairman of Ways and Means, sitting at the Table was that should he need the Clerks they were handy.³ The Speaker would never call a Member if the Member were beyond the Bar.⁴ The cross-benches were much more a feature in the Lords and were used definitely for the purpose of indicating independence of party. The cross-benches in the House of Lords were historically a carry-over from mediæval times when they always sat in a square with the King more or less in the position of the Lord Chancellor.⁵ The number of independents in the Commons rose during the '30s and had greatly increased during the War. The presence of a large number of independent Members may be merely a passing phenomenon. The tendency of the House was to divide people into 2 Parties.⁶

In a memorandum subsequently put in by Sir Gilbert Campion, further information is given in regard to the subject of the cross-benches in the House of Commons. The use of such benches was twofold—namely, for use by Members who did not wish to speak (as no speech may be made from there), and secondly for Members who had not yet been sworn. Redlich⁷ speaks of these benches being “in the House” but not “of the House”. The cross-benches included small box seats, 2 on either side of the space beyond the Bar. One was occupied by the Serjeant-at-Arms, but the remaining seats had their counterpart in the Lords, being evidently intended for counsel and parties appearing at the Bar, and therefore having a certain procedural significance. It was doubtful, continued the memorandum, whether the 54 seats available for Members on the cross-benches below the Bar of the House of Commons before 1834 were exclusively used by them.

Porritt is quoted as saying that the rigid exclusion of strangers from the Floor was comparatively modern. In the XVIIIth century, during the Speakerships of Onslow, Cust, Norton and Cornwall, strangers were frequently admitted to the Floor. In the XVIIIth century, in the old Chapel of Stephen, Westminster schoolboys were also privileged to seat themselves under the Gallery on a level with the Floor of the House.⁸

Sir Gilbert, in concluding his memorandum, stated that plans of the old House of Commons destroyed by fire in 1834, of the temporary Chamber erected in 1835 and of the modern House destroyed in 1941, showed that cross-benches had been constructed, in each case, beyond the Bar, but no authority had suggested that the cross-benches had

¹ Q. 5 576, 577.

² Q. 5 640-4.

³ *Commons*, II, 22.

⁴ Q. 5 592-5.

⁵ Q. 654.

⁶ Porritt: *The Unreformed House of Commons*, I, 578.

⁷ Q. 615.

⁸ Redlich: *Procedure of the House*

more than slight political or procedural significance. Analogies with the Lords cross-benches within the Bar would be misleading.¹

The Chairman (Mr. M. J. Landa) and Hon. Secretary (Mr. G. E. Christ) of the Parliamentary Press Gallery were then called and placed before the Committee the characteristics essential to the Press Gallery, which under the old conditions were inadequate, and submitted proposals in the construction of the new Chamber which would afford newspaper correspondents working regularly in Parliament the conditions necessary—namely, to observe, record and interpret Parliamentary proceedings; the prime needs of correspondents in the Press Gallery were adequate vision, audibility and room to work.²

The evidence showed that the Commons Press Gallery was originally brought into use in 1852, when London newspapers and agencies only were admitted. In 1881, the Provincial newspapers were given facilities and, notwithstanding extension, overcrowding became acute. The greatest importance was attached to the necessity, not only of a sufficient number of seats, but insurance that the proceedings of the House could be heard and seen from every seat. An essential basis of Parliamentary reporting was accurate hearing of the precise words used. The Committee was urged to consider a continuation of the system of sound amplification by microphone and loudspeaker which had been of such great assistance to the Press in the present Commons (Lords) Chamber. From the central back row reporters could see only as far as the Mace, unless they stood up. Nearly half the back seats in the side rows were virtually useless for reporting. From none could the Front Bench on the same side of the House be seen. All questions of admission of newspapers and agencies rested with Mr. Speaker acting through the Serjeant-at-Arms. The witnesses stated that with certain reservations 95 seats were required for the home Press in the new Gallery. There were at present 233 holders of Press Gallery tickets, members using the same seats in rotation.

The memorandum also dealt with the accommodation required by the Press outside the Chamber, such as writing rooms adjacent to the Gallery, telephones, refreshment rooms, cloak-rooms, lavatories and rest rooms, Press Gallery attendant, Press messengers, etc. The following was a summary of the Press Gallery proposals:³

- (a) for the Home Press on the basis of its existing representation in the Gallery 95 seats are the minimum requirement, compared with 69 seats in the former Gallery;
- (b) improved acoustics are needed; reinforced by microphone amplification;
- (c) every seat should command a good view of the Chamber;
- (d) easy passage to and from every seat is equally important;
- (e) a large room, equipped with telephones, is required immediately behind the Gallery to meet the needs of the Press at rush periods;
- (f) improved accommodation for the Press Gallery attendant and for newspaper messengers is needed; and
- (g) an improved entrance to the Press Gallery premises is required.

¹ H.C. Paper 109-1 of 1943-44, 61, 62.

² Memorandum, *vide* Q. 665.

³ H.C. Paper 109-1 of 1943-44, 65.

In reply to a Q., the witnesses said that 2 seats were required for most papers, for the reporter and the sketch writer.¹ Pneumatic tubes, it was stated, would be a bigger nuisance than a convenience, as they were apt to go wrong.² The acoustics in the House of Lords before the mechanical improvements (earphones) in 1925 were extremely bad.³ The present microphones and loudspeakers were installed in 1941.⁴ There must be a separate entrance to each reporter's seat.⁵ In reply to a Q. by the Chairman, Mr. Landa said that if a speaker spoke with the chin down he could not be heard, and in a nearly empty Chamber no aid to acoustics would make much difference.⁶ A good view of the House was defined by one of the Press witnesses as the point of vision falling on the Speaker's side of the Dispatch Box on the Table.⁷

Lobby Correspondents.—The next witnesses were the Chairman (Mr. S. W. Mason) and Hon. Secretary (Mr. Guy Eden), representing the 40 (of whom 38 had also Gallery tickets) Parliamentary Lobby journalists, whose professional needs differed widely from those of the reporters, reporting the proceedings of Parliament. For many years the Lobby journalists had the use of a small room beneath the M.P.s' Lobby, a room very unsuitable for the purpose. The Lobby journalists now asked for a room as close as possible to the Commons Debating Chamber in which they might work and conduct conferences (with official and unofficial M.P.s), the room to be equipped with facilities for writing, typewriting and keeping works of reference and telephones.⁸

In reply to a Q., the witnesses said that as Lobby journalists they, daily at Q. Time, and as often as was necessary during Debate, went into the official box of their paper,⁹ and that the practice was for the sketch writer to take the front (the best) seat, and the Lobby correspondent the back seat. The Lobby correspondents were also members of the Press Gallery and had common interests with the Press Gallery in accommodation, although the work of the Lobby journalists covered a wider field.¹⁰

Hansard Reporters.—The editor of the Official Report (*Hansard*) (Mr. P. F. Cole) and one of the members of his staff (Mr. V. E. Hamson) also put in a memorandum showing that up to now the official reporters had had seats in the centre of the front row of the Press Gallery, immediately above the Speaker's Chair. Their special needs were more acute than those of the Press reporters, as they were the only reporting corps providing a verbatim account of the proceedings of the House, which task had been entrusted to them without the implied facilities of being able to hear and to see every hon. Member in every part of the House, which, even in the front seats of the destroyed Press Gallery, was not possible without rising and leaning forward over the front

¹ Q. 706.
Vol. VII, 29.

² Q. 710.
⁵ Q. 743.

³ Q. 738.
⁶ Q. 746.

⁴ Q. 739; see also JOURNAL,
⁷ Q. 755.

⁸ Memorandum, H.C. Paper 109-1 of 1944, 77; Q. 811.

⁹ Q.s 774, 775.

¹⁰ Q.s 776, 781.

of the Gallery. This had led to great difficulties and errors of identification and hearing, added to which were the defective acoustics of the Chamber. The *Hansard* staff (of 12) asked for a special gallery (for 4) placed midway between the Press Gallery and the canopy of the Speaker's Chair. The continuance of the amplification system (in the Lords) was urged. The *Hansard* staff asked for a suite of rooms for (1) the editor and office clerk; (2) the assistant editor and reporting staff; and (3) the typists (cloakroom, etc.), more conveniently adjacent to the Chamber. This would also be a convenience to M.P.s, who often came (12 to 20 a day) to read through their speeches before being sent to the printers.¹ There were 12 men on the staff. Each man did roughly 4 turns per day.² The *Hansard* staff wished for a separate gallery in view of the speaking in the Press Gallery. It was almost impossible to prevent members of the Press Gallery from asking questions.³ It was bad enough when a Member speaking turned down the Chamber with his back to the Chair and the Press Gallery.⁴ The *Hansard* staff must be centrally placed and to a certain extent above the Chamber. They did not want seats on the Floor of the House.⁵ They wanted to see and hear every Member.⁶ So often the inaudibility was not the Member's fault, but that of other Members. If a Member coughs one may so easily lose the key word in a sentence.⁷ The system of amplification in the Lords Chamber was loudspeakers (which were preferable to headphones), with hanging microphones from the ceiling.⁸ The *Hansard* staff used the Press Gallery tea room, etc., and they were members of the Press Gallery in a sense.⁹ There were never more than 4, and rarely 4, *Hansard* reporters in the Gallery at a time. Normally there were 2, one taking the actual note and the other sitting by, ready to relieve or help him if he did not catch a word or did not know who was speaking.¹⁰

The next memorandum to be put in was that of the President (Col. J. J. Astor) on behalf of the Council of the Empire Press Union, which represented about 20 million readers of more than 1,000 British newspapers in the Dominions, India, British Colonies and Protectorates, served from 30 London offices. More than half the literate population of the British Empire read newspapers published overseas. Parliamentary reports in the overseas Press were much fuller than those in the home Press. The inadequacy of the accommodation in the Press Gallery was stressed, as well as the inaudibility. Their Council asked for a block of 12 seats, in a good position, permanently reserved for the Empire Press, each ticket to bear the names of 2 or 3 alternative members of the ticket-holding newspaper's or agency's staff, any of whom would be admitted by it, and a special Empire Press writing room, telephone, etc.¹¹ In reply to a Q., the witness stated they would like facilities of all kinds parallel to what existed in overseas Parliaments.¹²

¹ H.C. Paper 109-1 of 1943-44, 81, 82.

² Q. 829.

³ Q. 830.

⁴ Q. 834.

⁵ Q. 820.

⁶ Q. 823.

⁷ Q. 861, 862.

⁸ Q. 830.

⁹ Q. 834.

¹⁰ Q. 838.

¹¹ Q. 853, 857.

¹² Q. 885.

In reply to another Q., the witness said that the interests of the overseas Press were so varied compared with what was wanted in the United Kingdom. One Dominion might be greatly interested in a matter like the Beveridge Report and wanted a report at great length, and another might be interested in quite another subject on a different occasion. A standardized report as sent out in the United Kingdom would not suit the Dominions. What they required was something bearing on the problems in their own Parliaments.¹ There was increasing and intensive competition now in all the Dominions. Since the War there was great revulsion to all regimentation and agency business. There was a breakaway to individuality wherever possible.²

*Broadcasting.*³—The witnesses representing the B.B.C. were the Deputy Director-General (Sir Noel Ashbridge) and the Director of the Secretariat (Mr. M. G. Farquharson), who, in the course of their evidence, said they were satisfied with the arrangements in the present (Lords) Chamber. At present the B.B.C. had 6 places in such a position that those who had to report Parliamentary matters could clearly see what was going on.⁴ In reply to a Q., the witness said that, in considering the acoustics of a chamber of that kind, there were 2 main facts to consider. First, the dimensions of the chamber—the ratio of length to width and height; and the second was the way in which the surfaces were finished—namely, how much hard in relation to soft surface. The material used for chairs, benches, etc., made a great difference; the way in which the panelling was fixed to the walls also made a difference. The kind of building to be avoided was anything which was a cube—a square section, which was always unsatisfactory. The design and shape of a gallery was very important.⁵ The broadcasting of the proceedings of the House of Commons began about 5 years before the War.⁶ The whole question of Parliament had come very much more into the people's minds in recent years than it was 15 years ago.⁷ The result to be arrived at was that a speaker in any part of the building could be easily heard by everyone in it with the minimum effort on the part of the speaker. Good acoustics depended on the "reverberation period" of the building, which depended upon the total amount of sound absorption caused by the interior finishing of the hall in its final condition. It was also important to study the design of projections, such as galleries or ornamental features. It was extremely difficult to correct the acoustics of a building if the results were far from satisfactory in the first instance.⁸

Evidence was also taken from representatives of the Foreign Press Association, represented by Mr. A. Rothstein (President) and others. Their memorandum stated that the foreign Press representatives were not admitted to the Press Gallery, but one bench was provided for them in the Strangers' Gallery after registration of their names in the Foreign

¹ Q. 911. ² Q. 931.
VIII, 120; IX, 23; XI-XII, 28.

³ See also JOURNAL, Vols. V, 80; VI, 30, 43;
⁴ Q. 997. ⁵ Qs 1025, 1037, 1038.

⁶ Q. 1034. ⁷ Q. 1035. ⁸ Memorandum put in, p. 99.

Office news division 24 hours in advance. They asked for their own Press Gallery with adequate writing accommodation before each seat in the shape of a ledge for 50 journalists, a permanent pass allotted on the authority on application by their Association, as in the case of their 6 Lobby passes, an adequate writing room, telephones (trunk) and telegraph office.¹

The next witnesses to be heard were Major Sir James Edmondson, M.P. (Treasurer of the Household), the Rt. Hon. J. Stuart, M.V.O., M.C., M.P., and the Rt. Hon. W. Whiteley, M.P. (Joint Parliamentary Secretaries to the Treasury).

In regard to alcoves at the back of the Chamber, Mr. Whiteley said they were not very effective as Members could not be seen by Mr. Speaker if they were putting Questions or wanted to make a speech. He would like to see the pillars supporting the galleries removed if that were possible, as they would improve vision. Better accommodation was asked for the Whips on either side of the Lobby.²

Representatives were also received from the Newspaper Proprietors' Association asking for better Press accommodation. The memorandum put in by it stated that there were 69 seats in the old Press Gallery, which, except for 1 recently given to the Empire Press Union, was confined to the Press of the United Kingdom and Eire. Each London paper required 2 seats. These seats should command a view of the Floor of the House (which could not be obtained from behind the Speaker's Chair) and give a good hearing, which could be ensured by amplification, the usefulness of which had been proved by the Commons since it sat in the Lords Chamber.³

The second seat was so that the Lobby correspondent should be able to inform himself of what was going on in the House and be available for the leader writer (which saved an enormous amount of time) who might come down for special occasions, or for the editor. Things had changed since the old days.⁴ The Lobby correspondent, who was a more or less permanent occupant of the second seat, was, in the nature of his duties, in and out of the House all through the day. He might spend an hour in the Lobby and then, hearing that a Debate was going on, go into the Press Gallery. Therefore, the second seat should be exclusively reserved for the member of the Press for the particular newspaper.⁵

The last witness was the Minister of Works (Rt. Hon. Lord Portal, D.S.O., M.V.O.), administering the department which advises H.M. Government on building. The amount of timber required for the reconstruction would be 17-20,000 cu. ft. and 15,000 cu. ft. of stone.⁶ A number of Q.s were concerned with the time it would take to complete the work and the question of the selection of an architect.

Appendices.—Fourteen appendices are attached to the Minutes of

¹ Memorandum put in, p. 100.
put in, p. 116, and Q. 1211.

² Q.s 1100, 1101.
⁴ Q.s 1227, 1229.

³ Memorandum
⁵ Q. 1230.

⁶ From the Memorandum put in.

Evidence. Appendix 3 was submitted on behalf of the "Friends of Hansard" by its hon. director (Cmdr. King-Hall, M.P.), in which it is suggested that one side Gallery should be enclosed in glass and be soundproof and that a feed be led from a microphone above the Chamber, so that what took place in the Chamber could be heard in this Gallery, but that conversation in the Gallery could not be heard in the Chamber. It would probably be necessary, said Cmdr. King-Hall, within 5 years after the War, to arrange for direct transmission from the Reporters' Gallery, on silently operating shorthand typewriters, of the debate to the printing works.¹

Appendix 4 is a statement by the Newspaper Society and the Scottish Daily Newspaper on behalf of Provincial and Scottish morning and evening newspapers upon Press Gallery accommodation and represents 31 morning, 76 evening, 5 Sunday and over 1,000 weekly newspapers published in the United Kingdom and Eire. Size for size, it was stated, the Provincial morning newspaper devoted, in normal times, more space to the reporting of Parliament than, with one exception, the London morning press. One of the most notable features of Provincial journalism in the last 25 years had been the rapid growth, development and influence of the evening newspaper.²

In Appendix 5 Captain J. G. Mounsey (of the Commons staff), the Deliverer of the Votes, suggested that the new store of the Vote Office should be large enough for the keeping of 4 Sessions' papers.³

In Appendix 8 Cable and Wireless Ltd. asked for accommodation in or adjoining the Press Gallery, a telegraph office for the despatch and receipt of overseas telegrams. It was not unusual for overseas Press telegrams emanating from the United Kingdom to comprise up to 90 p.c. of Parliamentary matter.⁴

Appendix 11 is a memorandum from official sources dealing with the methods of procedure and control used in the rebuilding of the Palace of Westminster after the fire of 1834 and the difficulties and delays encountered.⁵

The Report from the Director of the National Physical Laboratory on a preliminary examination of the acoustic features of a proposed new House of Commons forms Appendix 12. The general requirements for good acoustics in an auditorium are given as: (a) adequate loudness; (b) absence of echoes; (c) an acceptable period of reverberation; and (d) lack of interference from extraneous noise.

The first 2 criteria, the Report states, are bound up with the size and shape of the auditorium, the third with the volume and the nature of the furnishings and internal surface finishes, and the fourth with the nature of the external walls, etc.

The direct sound alone from an average speaker is normally sufficient to give adequate loudness at distances up to 50 ft., provided that the listener has a direct view of the speaker. For listeners at greater dis-

¹ H.C. Paper 109-1 of 1943-44, 139.

² *Ib.* 141.

³ *Ib.* 143.

⁴ *Ib.* 139.

⁵ *Ib.* 146.

tances, or outside the direct path of the sound, reinforcement by reflection from suitable surfaces is required. Such reflected sound must arrive within about $\frac{1}{20}$ sec. of the direct sound, corresponding to a path of difference of not more than 55 ft. in order to be of assistance. Strong reflections arriving at intervals greater than about $\frac{1}{16}$ sec., corresponding to path differences of more than 75 ft., tend to cause confusion, and in extreme cases may give separately perceptible echoes. The main source of strong reflections is the ceiling, but it is only in the neighbourhood of a speaker that reflections from the ceiling can be delayed by as much as $\frac{1}{18}$ sec. after the direct sound. Splay portions of the ceiling return the sound to the centre of the Floor. A better distribution of the reflected sound from the ceiling would be obtained if the slope of the splays were reduced. For speech in an auditorium of the volume concerned (about 160,000 cu. ft.) the period of reverberation should be about 1.1 sec. at a frequency of 500 cycles per sec., and rather more at low and high frequencies. The inherent difficulties in providing an effective sound-amplification system, in a Chamber in which speech may take place from any part of the Floor, are great, and serious consideration should be given to the possibility of reinforcing the direct sound by modifying the slope of the ceiling splays and tilting the panelling above the side galleries so as to improve the conditions for the unaided voice. Reduction in the overhang of the side galleries should also be considered.¹

In a later report, the Director said the need for some form of speech-amplifying system is not entirely obviated by the suggested modifications to the ceiling. "The inherent difficulties in providing effective speech amplification in the circumstances—difficulties which arise mainly from the fact that speech may come from any part of the Floor—are great, and we are strongly of opinion that all practical steps should be taken to improve the hearing conditions for the unaided voice, and reduce the need for such amplification."²

In a report from the B.B.C., on the possibilities of a sound-amplification system for the new House of Commons, it is stated that the ideal arrangement for any Chamber used for debates is for the acoustics to be made so good that it is unnecessary to provide any sound amplification or to make the Chamber so "dead" acoustically that a sound-amplification system becomes a necessity.

"The provision of a sound-amplification system in which only a few microphones are used, and these are not switched, presents considerable difficulties, and the amount of sound amplification which can be obtained is limited. The limit to the sound amplification possible occurs when the volume of sound from the loudspeakers reaching the microphones is sufficiently great to cause 'howling' or 'singing' to take place. Any such sounds are reamplified and again fed back to the microphones, and a vicious circle results when the whole system is self-regenerative. Some control of this phenomenon is obtainable

¹ *Ib.* 152.

² *Ib.* 155.

by a suitable choice of the characteristics of the system. The limit to the sound amplification obtainable also depends upon the distance from a speaker to the microphones and the distance from the loudspeaker to the listener. The greater these distances the greater will be the amplification required to reproduce a given intensity of sound at the listener's ear, and the more the amplification the greater will be the tendency to howl."

The microphones used for the House of Commons were the B.B.C. ribbon microphones, the bidirectional properties of which provided certain advantages. It was suggested that this type of microphone was the most suitable for the purpose. Two microphones would be suspended in the centre of the House, one over the Table near the Dispatch Box, and one situated midway between the benches at the south end of the Chamber. The direction of the pick-up of these microphones would be east and west, and Mr. Speaker's voice would not be amplified. Experience in the present (Lords) Chamber had shown that the directional type of microphone provided considerable advantages over the omnidirectional type. The type of microphone used might make all the difference. It was proposed, as in the present (Lords) Chamber, to provide a considerable number of loudspeakers, several loudspeakers being provided for each bench, and to arrange them in the main body of the Chamber in 4 groups, one for each group of benches. The loudspeakers in any one group would not amplify the sounds from the microphone above that group of benches.

The Report concludes by saying that, however well a sound-amplification system might work, it could not overcome the disability of deafness without "howling". To provide for deaf people the only solution was earphones. It was equally impossible to amplify satisfactorily the voice of a Member who mumbled or articulated very badly, particularly when a distance from the microphone. ". . . in any case the amount of amplification possible is not great, and it is questionable whether it is worth while installing such a system except to augment sounds in the remoter parts of the Chamber."¹

Questions.—On November 7,² the Chairman of the Select Committee asked Mr. Speaker—after *Private Notice*—whether it was possible to make arrangements for placing on view to hon. Members the exhibits mentioned in the Report of the Select Committee, to which Mr. Speaker replied: "Yes. The exhibits mentioned, including the model, are now on view in Committee Room 12."

On November 14,³ in reply to a *Q.* in the House of Commons, the Deputy Prime Minister (Rt. Hon. C. R. Attlee), said that *Q.s* involving policy or principle should be put to the Prime Minister. Technical questions arising out of the proposed rebuilding of the House of Commons should be put to the Parliamentary Secretary to the Ministry of Works.

¹ *Ib.* 156-8.

² 404 *Com. Hans.* 5, s. 1269.

³ *Ib.* 1824.

IV. HOUSE OF COMMONS: ELECTORAL REFORM AND REDISTRIBUTION OF SEATS

BY THE EDITOR

THE last issue of the JOURNAL contained an Article on War-time and Electoral Machinery.¹ This issue takes up the subject where it was left off in 1943, and an account will now be given of the subsequent proceedings in the 1943-44 Session, beginning with the introduction, for the sixth time, of the Local Elections and Register of Electors (Temporary Provisions) Bill,² and continuing with the debate on the Motion, in the House of Commons, to set up the Speaker's Conference on Electoral Reform and Redistribution of Seats,³ and the various matters dealt with in the Reports, or rather the letters from Mr. Speaker to the Prime Minister, in the recommendations from that Conference. Figures are also given of the number of Parliamentary Electors in Great Britain and their allocation among the various types of constituency.⁴

This Article concludes with a reference to the Parliamentary Electors (War-time Registration) Bill of 1944,⁵ the House of Commons (Redistribution of Seats) Bill,⁶ the Representation of the People Bill and the electoral figures for the 1945 General Election being left to be dealt with in the JOURNAL (Volume XIV) reviewing that year.

Local Elections and Register of Electors (Temporary Provisions) Bill.⁷—This is a Bill (1) to continue in force the Local Elections and Register of Electors (Temporary Provisions) Act, 1939,⁸ as amended by subsequent Acts and subject to certain further amendments, and to amend s. 2 of the Local Elections and Register of Electors (Temporary Provisions) Act, 1940.⁹

In moving 2 R. in the House of Commons on December 7, 1943,¹⁰ the Under-Secretary of the Home Department (Mr. Peake) said the Bill postponed the local elections until the end of 1944 and contained machinery following the passing of the Parliament (Election and Meetings) Act.¹¹ The Bill passed through its remaining stages without *amdt.*, was agreed to by the Lords and became 8 & 9 Geo. VI, c. 3.

The Speaker's Conference on Electoral Reform and Redistribution of Seats—Appointment.—The Speaker's Conference on Electoral Reform was set up by the following Resolution of the House, Motion for which was made on February 1¹² by the Secretary of State for Home Affairs (Rt. Hon. H. Morrison) as under:

That this House welcomes the proposal of His Majesty's Government to set up a Conference on Electoral Reform and Redistribution of Seats and to invite Mr. Speaker to preside.

¹ See JOURNAL, Vol. XI-XII; see also *ib.* Vol. X, 33.

² Cmd. 6534 and 6543.

³ 7 & 8 Geo. VI, c. 24.

JOURNAL, Vols. X, 33; XI-XII, 136.

Geo. VI, c. 49.

¹² 396 Com. Hans. 5, s. 1154.

⁴ 8 & 9 Geo. VI, c. 3.

⁵ H.C. Papers 10 and 21 of 1943-44.

⁶ 7 and 8 Geo. VI, c. 41.

⁷ Bill 2; see also

⁸ 2 & 3 Geo. VI, c. 115.

⁹ 4 & 5

Geo. VI, c. 49.

¹⁰ 395 Com. Hans. 5, s. 916.

¹¹ 6 & 7 Geo. VI, c. 48.

In moving the Motion, Mr. Morrison said that part of the purpose of the 2 days' debate was to enable all elements in the House to indicate their views on the various matters which would come before the Conference. He opened his remarks by giving a short summary of what happened in connection with the Speaker's Conference of 1916,¹ the first time the device of a Speaker's Conference had been used for matters of that sort. Everyone would agree that such Conference was eminently useful and a precedent which it would be well for the House to follow on this occasion. The terms of that Conference were:

To examine and if possible, submit agreed resolutions on the following matters: (a) reform of the franchise, (b) basis for redistribution of seats, (c) reform of the system of registration of electors, and (d) methods of elections and the manner in which the cost of the elections should be borne.

The Conference of 1916 consisted of 5 Peers and 27 M.P.s selected by Mr. Speaker Lowther. There had been no Franchise Act since 1884,² and female suffrage was then a dangerous subject. The Parliamentary franchise and the compilation of the electoral roll were complex and there had been no redistribution since 1885. The Conference reported its Resolutions to the House in January, 1917, which were embodied, almost without alteration, in the Representation of the People Act, 1918.³ They got thereby a recast of the electoral law on a comprehensive and considerable scale, and that Act was substantially their electoral law today. The qualifying period was reduced from 1 year to 6 months and fresh registers were produced each spring and autumn. Two franchises were established (other than the University franchise), the one based on residence and the other on occupation of business premises, which were substituted for all existing franchises; women over 30 were enfranchised; maximum limits to expenses of candidates were fixed at 6d. a head in counties and 5d. in boroughs; and the scheme of distribution was based on 2 main principles, each vote to have an equal share of representation and the number of M.P.s to remain substantially the same, apart from the Irish M.P.s, who brought up the total membership of the House of Commons from 670 to 707. Then followed the Boundary Commissioners. Representation was based on population, with 70,000 as the standard unit per Member, and counties or boroughs less than 50,000 were to cease to have separate representation as a general principle. Boroughs or urban districts with 70,000 or more were to become separate Parliamentary boroughs. Two-Membered constituencies remained undivided with a special saving for the ancient and historic City of London. The boundaries of constituencies were to coincide, as far as practicable, with those of administrative areas.⁴

Subsequent changes were the Economy (Miscellaneous Provisions) Act, 1926,⁵ leaving only the autumn register but reducing the qualifying period to 3 months. The Representation of the People (Equal Fran-

¹ Cmd. 8463.

² 48 & 49 Vict., c. 3.

³ 7 & 8 Geo. V, c. 64.

⁴ 396 *Com. Hans.* 5, s. 1155, 1156.

⁵ 16 & 17 Geo. V, c. 9.

chise) Act, 1928,¹ finally completed women's enfranchisement and reduced the age to 21.

In 1929 there was another Speaker's Conference,² consisting of 3 Peers and 18 M.P.s selected by Mr. Speaker in relation to Party representation in the Commons. The main issue was P.R. or the alternative vote, but the conclusions were abortive, as also was the question of the use of motor-cars. No legislative action therefore arose out of the Conference.

The Minister then referred to the Departmental Electoral Machinery Committee and the Parliament (Elections and Meetings) Act of 1943,³ and said that the question of the redistribution of seats would be dealt with under reference to its enabling Act. He did not, however, consider it advisable that the principles of redistribution should be settled either directly by the Government or individually by any Minister of the Crown, but the political parties should get round the table under Mr. Speaker and amicably settle the principles on which they would act.⁴

The Conference would also be faced with the alteration in electorates caused by movements of population in consequence of war service and industries as well as by the bomb-devastated areas.

In the course of his speech, Mr. Morrison referred to P.R. and quoted Mr. Gladstone's reply in the House of Commons in 1885, who confessed his inability to grasp the mathematics and essentials of the system.⁵

The procedure for setting up the Speaker's Conference would be by letter from the Prime Minister to Mr. Speaker asking him to preside over the Conference. In reply to an interjection, Mr. Morrison said that it would be appropriate that the House of Lords should have representation on the Conference as was the case both in 1929 by the Labour and in 1916 by the Coalition Government.

Debate on the Question continued during the day, but was interrupted by a Message summoning the House to attend the Lords Commissioners in the Lords to hear the Royal Assent to the Consolidated Fund (No. 1) Act of 1944, after which the Question under discussion in the Commons was resumed and continued throughout that day until the interruption of Business on the Adjournment, when the Debate stood adjourned⁶ to be resumed on February 2,⁷ when it was again continued until the interruption of Business on the Adjournment, the Question being then put and agreed to. Space, unfortunately, does not admit of reference to the many points brought forward by various speakers during this debate, but the footnotes hereto will afford easy reference to those wishing to follow the debate in detail.

On February 10,⁸ Mr. Morrison informed the House of Commons of Mr. Speaker's acceptance of the invitation of the Prime Minister to

¹ 18 & 19 Geo. V, c. 12.

² Cmd. 3636.

³ See JOURNAL, Vol. XI-XII, 130.

⁴ 396 Com. Hans. 5, s. 1160.

⁵ *Ib.* 1165.

⁶ *Ib.* 1154-1237.

⁷ *Ib.* 1288-1369.

⁸ *Ib.* 1912.

preside over the Conference on Electoral Reform and Redistribution of Seats, and, on behalf of the House, conveyed its unanimous thanks and those of the Government to Mr. Speaker for so doing.

Mr. Morrison then stated that, on consideration of the suggestions made in the course of the very useful debate, the terms of reference would be accordingly altered as follows:

To examine and, if possible, submit agreed resolutions on the following matters:

- (a) redistribution of seats;
- (b) reform of franchise (both Parliamentary and local government);
- (c) conduct and costs of Parliamentary elections, and expenses falling on candidates and Members of Parliament;
- (d) Methods of election.

In reply to Questions as to whether Members would be heard by the Conference, Mr. Speaker said that there would be secretaries to the Conference and any Members could write to them.

On February 15,¹ Mr. Speaker announced to the House the names of the 3 Peers and 29 M.P.s as those who had accepted his invitation to serve on the Conference, together with the names of the officials, one from the Cabinet Office and the other from the House of Commons staff, who would act as the Joint Secretaries to the Conference.

"*Interim*" Report.—The first Report² from the Speaker's Conference of 1944, which is in the form of a letter dated May 24 of that year and written from the Speaker's House, addressed "My dear Prime Minister" and subscribed "Yours very sincerely," was presented to Parliament by command of His Majesty in May 1944. The Report then gives, in full, the letter of February 8, 1944, similarly addressed and subscribed, written from 10, Downing Street, from the Prime Minister, inviting Mr. Speaker to set up the Conference.

The Prime Minister's letter repeats the terms of reference already given and states the various steps which the Government wishes to take in regard to legislation, including the question of whether the local government franchise is to be assimilated to the Parliamentary franchise, with the consequence that use could be made for local elections of the continuous registration system introduced for Parliamentary elections by the Parliament (Elections and Meeting) Act, 1943.³

The Report⁴ describes the steps taken by Mr. Speaker to invite a number of Peers and M.P.s to serve on the Conference, which invitations were issued, roughly in proportion to Party strength in the House of Commons, and were also intended to secure, as far as possible, representation of various shades of opinion, different types of constituency and all parts of the country. The names of the 32 Members and those of the 2 Secretaries to the Conference are then quoted.

The Conference first met on February 16 and held 14 meetings. The Report goes on to say, in reply to the request by the Prime Minister

¹ 397 *lb.* 32.

² *Cmd.* 6534.

³ See *JOURNAL*, Vol. XI-XII, 133.

⁴ *Cmd.* 6534, 3.

in his letter for early reports on (a) the redistribution of seats and (b) the assimilation of the Parliamentary and local government franchises, that the Conference was not able to reach firm conclusions on (a) until it had decided whether or not to recommend any change in the methods of election. In particular P.R. would have directly affected their proposals. The Conference also felt that early reports on both (a) and (b) would be affected by their decisions on the business premises qualification and on University representation.

The Conference therefore decided to complete their consideration of (b) and (d) of the terms of reference before submitting an interim report, and Mr. Speaker was able to report the decisions of the Conference on all except their third (c) terms of reference.

The conclusions reached by the Conference are given below, and where Resolutions are shown as having been passed by a majority the voting is given. Most of the other Resolutions were adopted unanimously. In the remaining cases there was a large majority in favour and the minority, accepting the conclusion, did not desire their disagreement to be recorded. In an Appendix to the Report are given the terms of the Resolutions rejected by the Conference, with the voting in each case.

The Conference was in favour of a general redistribution of seats as soon as practicable and, briefly summarized, the following are the decisions come to:

I. *Redistribution of Seats*

Temporary Rules.¹

Under this heading certain recommendations (Nos. 2-5) were made as to subdivision of "abnormally large" constituencies, the quoted words being defined; limitation on temporary increase of the House of Commons representation; contiguous constituencies treated as one area; and the date of the first complete redistribution.

Permanent Rules.²

The recommendations (Nos. 6-16) under this heading may be summarized as follows:

Total number of M.P.s for Great Britain to remain substantially as at present—*i.e.*, 591, excluding University seats.

No reduction in M.P.s for Scotland or Wales and Monmouthshire.

Redistribution to be based on qualified electorate.

Seat-quota for Great Britain, by dividing its total electorate by total seats therefor, other than for Universities.

Limits of toleration by Boundary Commissioners 25 p.c. + or - of quota.

Abolition of double-Membered constituencies except instances where Boundary Commissioners find such undesirable, but no county

¹ P. 4.

² Pp. 4, 5.

or borough to continue double-Membered if electorate short of double the quota by 15 p.c.

Boundaries to coincide with local government boundaries where convenient.

City of London to continue double-Membered (Ayes, 15; Noes, 13).

Northern Ireland: Instruction to Boundary Commissioners therefor, in applying the foregoing, that there shall be no change in present number of M.P.s (11) and quota to be total electorate + 12 (other than the Belfast University seat).

Boundary Commissioners may, if desirable, depart from rules in case of special geographical considerations (including area, shape and accessibility of a constituency).

No change in University representation.¹

Machinery of Redistribution.

The Conference made the following comments for consideration of the Government before legislating on the recommendations of the Departmental Committee on Electoral Machinery.²

Four separate Boundary Commissions: England; Scotland; Wales and Monmouthshire; and Northern Ireland—each with Mr. Speaker *ex officio* Chairman. (Nos. 17 and 18.)

Mr. Speaker to nominate a Boundary Commissioner as Deputy Chairman of each Commission. (No. 19.)

Each Boundary Commission (Deputy-Chairman presiding) to hear representations from the chief or national officers of Party organizations as to Commission's provisional proposals for redistribution. (No. 20.)

Periodic reviews of its part of the United Kingdom by Boundary Commissions at not less than 3- nor more than 7-year intervals. (No. 21.)

Special Reports from Boundary Commissions recommending changes in respect of any particular constituency or group of constituencies. (No. 22.)

Secretary of State concerned to table every Boundary Commission report together with respective draft Order-in-Council giving effect to any recommendation for redistribution (with or without modification) and providing for any consequential or individual matters, such to be subject to affirmative resolutions. First general reports upon Boundary Commissions in respect of the whole United Kingdom to be given effect to by Bill. (No. 23.)

II. *Reform of Franchise (both Parliamentary and Local Government)*

The following is a summary of the Conference's decisions under this head:

¹ England; Oxford, 2; Cambridge, 2; London, 1; Durham, Manchester, Liverpool, Leeds, Sheffield, Birmingham, Bristol and Reading combined, 2; Wales, 1; Scotland, 3; N. Ireland, 1.—[ED.]

² Cmd. 6408.

Local government and Parliamentary franchise to be assimilated and on same Register, but Peers not to lose the local government franchise. (No. 24.)

Retention of business premises qualification, but not to apply to husband or wife of such an elector. (No. 25.)

Retention of existing University representation, but everyone who receives a degree (or its equivalent) to be automatically registered and no registration expenses charged. (No. 26.)

No person to be registered as an elector in respect of more than one residence or one business qualification provided such arrangement administratively practicable. (Ayes, 21; Noes, 8.) (No. 27.)

III. *Methods of Election*

For non-University seats, the Conference rejected both P.R. and the Alternative Vote, and considered that any alteration in the method of voting at local government elections was outside the terms of reference.

The Appendix to the Report gives 6 Resolutions rejected by the Conference as given below, Nos. 1, 2 and 3 being summarized and 4, 5 and 6 given verbatim:

1. That the representation of the City of London be reduced to 1 Member. (Ayes, 13; Noes, 15.)
2. No person to vote more than once. (Ayes, 6; Noes, 15.)
3. Reduction of franchise to age of 18. (Ayes, 3; Noes, 16.)
4. The following comprehensive Resolution¹ on the subject of Proportional Representation was rejected by the Conference:
 - (i) That the Conference, reaffirming the Resolution of the Speaker's Conference of 1917, accepts as governing any scheme of redistribution the principle that each vote recorded shall, as far as possible, command an equal share of representation in the House of Commons.
 - (ii) That the Conference considers that this principle should apply to methods of elections equally with schemes of redistribution.
 - (iii) That the present method of election fails to produce results fully and truly representative of the views of the voters.
 - (iv) That the principal reason for this failure is the distribution of the country into single-member constituencies (or double-member constituencies in which each elector has 2 votes), under which it may be observed—
 - (a) there can be and has in fact been in the years 1922-3, 1924-9, and 1935 to date, a majority in the House of Commons of one party based on a minority of votes for that party in the country;
 - (b) coalition government has prevailed during the years 1918-22 and 1931 to date, and government by a single party, having no majority in the House of Commons, during the years 1923-4 and 1929-31;
 - (c) there has not been at any time since the Speaker's Conference of 1917 a Government formed by any one party supported by a majority of the voters.
 - (v) That the best remedy for the shortcomings of the present method of election is the adoption of some system of Proportional Representation whereunder each elector has a single transferable vote and constituencies return several members, a method which, in the words of the present

¹ Cmd. 6534, Appdx. § 4.

Prime Minister, "is incomparably the fairest, the most scientific, and on the whole the best in the public interest."

- (vi) That the Conference accepts the principle of Proportional Representation with the single transferable vote and recommends that it be applied to all constituencies save those affected by special geographical considerations. (Ayes, 4; Noes, 25.)

5. The following further Resolution¹ on the subject of Proportional Representation was rejected by the Conference:

"That the Conference recommend that some measure of Proportional Representation should be applied to the election of the next House of Commons by way of experiment." (Ayes, 5; Noes, 24.)

6. The following Resolution² on the subject of the Alternative Vote was rejected by the Conference:

"That the Conference recommends that at any election in a single-member constituency where there are more than 2 candidates (other than University constituencies) the election be held on the method of voting known as the Alternative Vote." (Ayes, 5; Noes, 20.)

In the conclusion to this first letter ("Interim Report" to the Prime Minister) Mr. Speaker remarks:

I should like as Chairman to render my personal thanks to every member of the Conference for the great help given me during our sittings, and to bear witness to the admirable temper and conciliatory disposition which have been shown by all and have enabled us to reach what, I trust, will be regarded as a substantial measure of general agreement.

I cannot conclude without expressing on behalf of all members of the Conference our warm appreciation of the great assistance given to us by our Secretaries, Mr. Philip Allen and Mr. A. C. Marples. Their unflinching courtesy and their care in the preparation of our material and agenda have eased our task enormously.

"*Second*" Report.—In his second letter³ dated July 20, 1944, to the Prime Minister from the Conference, on conclusion of its task, Mr. Speaker, as requested by the Prime Minister in his letter of February 8, in regard to the conduct and costs of Parliamentary Elections and expenses falling on candidates and Members of Parliament, reports the following recommendations:

ELECTION EXPENSES.⁴

Reduction of legal maximum scale of candidates' expenses.

1. The legal maximum scale of candidates' expenses in Great Britain should consist partly of a basic figure and partly of an allowance in respect of each elector. In the case of borough constituencies, the basic figure should be £450 and the allowance should be at the rate of 1*d.* in respect of each elector; and, in the case of county constituencies, the basic figure should be £450 and the allowance should be at the rate of 1½*d.* in respect of each elector.

No alteration in the scale of candidates' expenses in Northern Ireland is recommended, in view of the reduction made by the Government of Ireland Act, 1920.

As regard double-member constituencies, if any be retained, the existing provision should remain whereby, when there are 2 or more joint candidates at an election, the maximum amount of expenses for each of the joint candi-

¹ *Ib.* 5.

² *Ib.* 6.

³ *Cmd.* 6543.

⁴ *Ib.* 3.

dates is the amount produced by multiplying a single candidate's maximum by one and a half and dividing the result by the number of joint candidates.

The Conference agreed not to accept a proposal that the State should afford direct financial assistance to candidates.

*Agents' fees and candidates' personal expenses.*¹

2. The whole of the fees paid to Agents should be included in the legal permitted maximum of election expenses.

The Conference agreed not to recommend any change in the existing provision with regard to the personal expenses of candidates.

*Expenses incurred by Party organizations or by individuals other than the Candidate.*¹

3. Section 34 of the Representation of the People Act, 1918, should be amended so as to cover any expenses incurred by a political or other organization or by an individual for the purpose of promoting or procuring the election of a candidate or candidates; and particulars of all expenses so incurred by an organization or individual should be returned to an office of the Crown with a verifying declaration.

*Issue of poll cards by the Returning Officer.*¹

4. Poll cards should be issued to electors by the Returning Officer at public cost, in adequate time before an election, and no other poll cards should be issued, provided that no restrictions should be placed on candidates communicating the information given in poll cards otherwise than in the actual form of a poll card.

The Conference agreed that, apart from the issue of poll cards, no postal and printing facilities should be afforded to candidates by the State in addition to those already provided.

*Speaker's Expenses.*¹

5. The payment of speaker's expenses should be permitted. Such expenses should be included in the candidate's return of expenses.

*Relief in respect of venial errors.*²

6. Provision should be made to enable relief in respect of inadvertent or venial errors in returns of expenses to be sought through a County Court corresponding provision being made as regards Scotland.

*Use of Schools and Halls for election meetings.*²

7. All schools and halls maintained in whole or in part out of State or local funds should be made available to candidates for election meetings, and maximum charges should be regulated in respect of such schools and hall to take account only of expenses of lighting, cleaning and heating.

Premises exempted from the payment of rates should not lose entitlement to such exemption merely by reason of their being used for election meetings

SUBSCRIPTIONS TO CHARITIES AND CONTRIBUTIONS TO PARTY ORGANIZATIONS.

*Subscriptions to charities, social or sporting organizations.*²

8. The Conference agreed to place on record their view that it was to be deprecated that a prospective or adopted Parliamentary candidate or Member of Parliament should give any substantial donation or contribution to any charitable, social or sporting organization in the constituency or to any charitable fund specifically benefiting the constituents.

¹ *Ib.* 3.

² *Ib.* 4.

*Contributions to Party Funds.*¹

9. The Conference agreed to place on record the fact that they regarded with disapproval the direct or indirect payment or promise of payment of substantial contributions or annual subscriptions to party organizations (including local party organizations), designed to influence the action of such organizations in selecting any particular individual as a Parliamentary candidate.

*CANDIDATE'S DEPOSIT.**Forfeiture of Deposit.*¹

10. Where there are 2 or 3 candidates (or, in the case of a double-member constituency, not more than 6 candidates) the deposit should be returned, as at present, if a candidate polls one-eighth of the total votes cast; and where there are more than 3 candidates (or, in the case of a double-member constituency, more than 6 candidates) the deposit should be returned if a candidate polls one-tenth of the total votes cast.

11. Adjustments should be made in the provisions with regard to the forfeiture of the deposit in the case of University constituencies returning 2 or more Members to take account of the fact that in such constituencies each elector has only one vote.

The following Resolution was rejected:

"That the Conference recommend that the deposit by candidates at Parliamentary elections should be abolished." (Appdx. 1.)

The following Resolution was rejected on a division:

"That the Conference recommend that the deposit by candidates at Parliamentary elections should be reduced to £100." (Ayes, 4; Noes, 18.) (Appdx. 2.)

The following Resolution was rejected:

"That the Conference recommend that the deposit should in future be returned if a candidate polls one-tenth of the total votes cast." (Appdx. 3.)

The following further decisions were come to by the Conference:

*Acceptance of Deposit by Returning Officer.*¹

12. It should be made lawful for the deposit to be received by the Returning Officer at any time between the issue of the writ and nomination day; and, further, the deposit should in future be payable either by cash or by banker's draft drawn by a reputable bank.

*ACCEPTANCE OF NOMINATION PAPERS BY RETURNING OFFICER.*²

13. It should be made lawful for nomination papers to be lodged with the Returning Officer at any time between the issue of the writ and nomination day.

*POLLING FACILITIES.**Increase in polling facilities.*³

14. Increased polling facilities should be provided, particularly in rural areas. If necessary, these polling stations should be of a temporary character.

¹ *Ib.* 4.

² *Ib.* 5.

*Hours of polling.*¹

15. The hours of polling should be the same throughout the United Kingdom and should not be subject to local variation.

16. The fixed hours of polling should be 7 a.m. to 9 p.m.

The Conference agreed that there were overwhelming objections to the provision of travelling polling booths.

*USE OF CONVEYANCES.*¹

Particulars of a Resolution rejected by the Conference with regard to regulating the number of conveyances plying with voters to the polling booths are given in the Appendix, as follows:

"That some additional limitation and regulation be imposed on the number of conveyances plying with voters to the polling booths was rejected." (Ayes, 14; Noes, 15.) (Appdx. 4.)

The Conference agreed not to recommend the removal of the present restrictions on the hiring of conveyances.

*ABSENT VOTING BY PERSONS PHYSICALLY INCAPACITATED.*¹

17. The categories of persons entitled to be placed on the Absent Voters' List should be enlarged to cover persons who are physically incapacitated; and Registration Officers should be authorized to place an elector on the Absent Voters' List on being satisfied that on grounds of physical incapacity the elector is unlikely to be able to vote in person at a forthcoming election.

*BROADCASTING.*¹

18. It should be an offence for any British subject to promote or to aid in promoting any broadcast affecting Parliamentary elections from wireless stations outside the United Kingdom.

The Conference felt that, having regard to the impossibility of forecasting future developments, it would be out of place for them to make any recommendations with regard to the regulation of broadcasting within the United Kingdom for election purposes.

*SERVICE VOTERS.*¹

19. The Conference attached great importance to the exercise of the franchise by members of the Services and merchant seamen, and asked the Government to keep the whole matter under constant review (including the possibility of arranging for postal votes by Service voters overseas or for elections in the field).

20. Whilst aware that this was a matter outside their terms of reference, the Conference wished to place on record their opinion that the present method of registering Service voters should be improved by the introduction of automatic registration.

Mr. Speaker in his letter ("Second Report") of July 20 also stated that certain of the recommendations of the Conference, if accepted, would involve *amds.* of the Ballot Act, 1872,² and the Corrupt and Illegal Practices Act, 1883,³ and suggested that the provisions of these Acts be examined departmentally, possibly with the help of Party agents, with a view to the repeal or *amdt.* of those provisions no longer appropriate to modern conditions. The consolidation of Acts relating to Parliamentary elections was also put forward.

¹ *Ib.* 5.

² 35 & 36 Vict., c. 33.

³ 46 & 47 Vict., c. 51.

In conclusion the Report states that:

The Resolutions adopted by the Conference were in nearly all cases unanimous. Two Resolutions—namely, those dealing with substantial contributions to local charities and to party funds—were passed with the full knowledge that legislation could not deal effectively with these abuses; but all members agreed that the Resolutions of a Speaker's Conference on these subjects should be a definite help to candidates and to Members of Parliament exposed to unreasonable demands, and should also act as a deterrent to those party organizations inclined to put the financial contributions of a candidate or Member before considerations of merit and ability.

This Session of the Conference held 6 meetings, of which the last was on July 19.

Parliamentary Constituencies (Electors) (England and Wales).—A Return¹ to an Address of the Honourable the House of Commons shows the total number of electors for England and Wales on the then Register and according to the several categories, as follows:

	<i>Electors.</i>	<i>Double- Membered Constituencies.</i>
Parliamentary Boroughs:		
London	2,763,960	1
Rest of England, excluding Monmouthshire	9,947,846	10
Wales and Monmouthshire ...	461,018	0
Parliamentary Counties:		
England, excluding Monmouthshire	13,854,365	0
Wales and Monmouthshire ...	1,191,694	0
Universities: England and Wales ...	140,018	6
	28,358,901	

Double-Membered Constituencies:
London Borough: City of London.
Parliamentary Boroughs.

Parliamentary Constituencies (Electors) (Scotland).—A similar Return² for Scotland shows:

	<i>Electors.</i>	<i>Double- Membered Constituencies.</i>
Parliamentary Boroughs	1,508,640	1
Parliamentary Counties	1,660,976	0
Universities	61,932	(3 Members)
	3,231,548	

¹ H.C. Paper 10 of 1943-44.

² *Ib.* 21.

Parliamentary Electors (War-time Registration) Bill, 1944.—This is a Bill (No. 29) “to make temporary *amds.* to the Parliamentary Electors (War-time Registration) Act, 1943, as to the qualifying date of an election and the qualifications required for registration in the civilian residence and business premises registers, and to provide matters consequential thereon”. This was presented to the House of Commons on June 15.¹

It may here be noted that the Parliamentary Electors (War-time Registration) Act, 1943, although referred to as “The Principal Act” in the Parliamentary Electors (War-time Registration) Act, 1944, does not appear in the list of short titles in the Statute Volume of 1943, neither has it its own statute number. The explanation is that the Parliamentary Electors (War-time Registration) Act, 1943, is represented in Part I of the Parliament (Elections and Meeting) Act, 1943 (6 & 7 Geo. VI, c. 48), where, in s. 25 (1) thereof, the citation and duration of the Parliamentary Electors (War-time Registration) Act, 1943, will be found.

The Parliamentary Electors (War-time Registration) Act, 1943, is, however, included in the index to the Statutes of that year, but the citation is given as c. 48, s. 28.

In moving 2 R. on June 27,² the Secretary of State for the Home Department (Rt. Hon. H. Morrison) described the purpose of the Parliament (Elections and Meeting) Act.³ The Departmental Committee on Electoral Machinery⁴ had not contemplated that the system of continuous electoral registration would apply to by-elections (nor had it been asked to do so); it was concerned with both post-War and War-time General Elections. The Government was, however, anxious that by-elections should be fought on a representative and up-to-date register. Owing to War-time difficulties the electoral registration officers were unable to cope with the work. The “appointed day” could not therefore be fixed under the present arrangements, and the purpose of the Bill was to meet the difficult situation. The Bill therefore suspended the requirements of 2 months’ continuous residence and substituted a provision that a person should be entitled to be included on the electoral register for civilians if registered in the national register as residing in the constituency on the qualifying date, which the Bill makes one month earlier than it would have been under the Act. Thus by-elections would be able to be fought on an up-to-date register. The Bill being a temporary measure, provision was made therein that it shall have come to an end on December 31, 1945, unless a Resolution was passed by each House of Parliament extending the period of the operation. The Bill was read 2 R. on the same day and considered in *C.W.H.*, reported without *amdt.* and passed 3 R. on June 27,⁵ agreed to by the Lords and became 7 & 8 Geo. VI, c. 29.

House of Commons (Redistribution of Seats Bill).⁶—On August 3,⁷

¹ 400 *Com. Hans.* 5, s. 2167. ² 401 *Com. Hans.* 5, s. 609. ³ See JOURNAL, Vol. XI-XII, 133. ⁴ *Ib.* 131. ⁵ *Ib.* 751, 758. ⁶ See also JOURNAL, Vol. XI-XII, 130. ⁷ 402 *Com. Hans.* 5, s. 1645.

a Bill, "to make temporary provision for the division of abnormally large constituencies and permanent provision for the redistribution of seats at Parliamentary Elections,"¹ was presented, and on October 10,² the Secretary of State for the Home Department (Rt. Hon. H. Morrison), in moving 2 R., said that the object of the Bill was to provide standing machinery for adjusting constituencies to changes in the distribution of population, so as to prevent a position arising in which there would be a grave maldistribution of Parliamentary seats. The Bill was based upon a unanimous recommendation of the Committee on Electoral Machinery.³ In the last 100 years, redistribution had taken place in 1832, 1867, 1885 and 1918, in each case in connection with extensions of and alterations to the franchise. The principle was now accepted that, so far as practicable, each Member should represent an equal number of constituents. The Speaker's Conference of 1917 recommended toleration where the electorate was 30 p.c. below, or 70 p.c. above, the standard figure. It was far better to have standing machinery so as steadily to adjust as they went along. It was agreed there should be a standing Boundary Commission with Mr. Speaker as Chairman, charged with the duty of reviewing the state of constituencies periodically and preparing schemes of redistribution in accordance with certain principles approved by Parliament.

Continuing, the Minister said that Clause 1 provided for the setting up of the Boundary Commissions recommended by the Speaker's Conference of 1944. Parliament, in the first place, must give the Commissions guidance on the principles to be followed in deciding whether redistribution was necessary and how it was to be effected. Rules for that purpose were set out in Schedule 3 of the Bill. The Speaker's Conference recommended that those constituencies in which the 1939 electorate was not less than 190 p.c. of the quota (53,110) should be divided. That 190 p.c. of the quota produced a figure of 100,909, and there were 19 constituencies of not less than that number of electors.

Therefore, the Government had decided to limit the proposed scheme of immediate distribution to constituencies of over 100,000 electors, and 20 such constituencies (all in England) were named in Schedule 2 of the Bill. Schedule 1 of the Bill dealt with the constitution, officers, expenses and procedure of Boundary Commissions. There was a long debate on 2 R. of the Bill and an *amdt.*⁴ was moved by an hon. Member to the Q., "That the Bill be now read a Second Time"—namely, to leave out all words from the word "That" to the end of the Question and to add:

"this House, whilst welcoming this Bill as a step on the road to electoral reform, regrets that the Bill, by providing that each constituency shall return one or at the most two Members, gives no assurance of securing fair representation in this House of the electorate in proportion to the votes cast."

¹ This long title was amended in *C.W.H.* by the insertion after "constituencies" of the words "together in certain cases with the adjoining constituencies".—[ED.]

² 403 *Com. Hans.* 5, s. 1610-1706.

³ See JOURNAL, Vol. XI-XII, 131.

⁴ 403 *Com. Hans.* 5, s. 1642.

The debate was interrupted by a *Message to attend the Lords Commissioners. The House went; and, having returned, Mr. Speaker reported the Royal Assent to the Housing (Temporary Accommodation) Act, 1944.*¹

After the Q. before the House had been again proposed, debate was resumed. When the first part of the *amdt.* was put, namely—"That the words proposed to be left out stand part of the Question"—a division was claimed (Ayes, 202; Noes, 18),² after which the Main Question was put and agreed to and the Bill committed to *C.W.H.*

The Bill (44) had on its cover the following Financial Memorandum:

Clause 1 of this Bill provides for the appointment of permanent Boundary Commissions for England, Scotland, Wales, and Northern Ireland respectively, and the First Schedule contains provisions relating to the constitution, officers, expenses and procedure of these Commissions. In paragraph 3 of Part II of this Schedule it is provided that the expenses of each Commission, including travelling and other expenses of the members and the remuneration of assistant Commissioners, Secretary and other officers, shall be defrayed out of moneys provided by Parliament. It is not possible to estimate what the annual expenditure—which will fluctuate from year to year—will be, but the amount will not be substantial.

In consequence of the words printed below in italics in sub-clause (3) of Clause 3 (Establishment of Permanent Boundary Commissions) and the paragraph 3 of Part II of the First Schedule to the Bill:

(3) The Boundary Commissions shall be constituted in accordance with the provisions of Part I of the First Schedule to this Act, *their Assistant Commissioners and other officers shall be appointed and their expenses shall be defrayed in accordance with the provisions of Part II of that Schedule, and their procedure shall be regulated in accordance with Part II of that Schedule.*

Part II § 3 of Schedule I read :

3. *The expenses of each Commission, including the travelling and other expenses of the members thereof, and the remuneration and expenses of the Assistant Commissioners, Secretary and other officers, shall be defrayed out of moneys provided by Parliament.*

Before the Committee stage of the Bill could be taken, the following Motion had to be considered in *C.W.H.* under S.O. 69:³

That, for the purposes of any Act of the present Session to make temporary provision for the division of abnormally large constituencies, and permanent provision for the redistribution of seats at Parliamentary elections, it is expedient to authorize the payment out of moneys provided by Parliament of the expenses of the Boundary Commissions constituted by the said Act, including the travelling and other expenses of the members of the Commissions and the remuneration and expenses of the Assistant Commissioners, Secretaries and other officers.—(*King's Recommendation signified.*) (Mr. Peake.)

which was ordered to be reported to the House on Thursday (October 12), when it was agreed to,⁴ whereupon the House went into *C.W.H.* on the Bill.⁴

¹ *Ib.* 1686.

² *Ib.* 1706.

³ 403 *Ib.* 1709.

⁴ *Ib.* 1966.

Certain amendments were made in Clause 2 (immediate division of constituencies having electorates exceeding 100,000), which had the effect of substituting the words "abnormally large" for "existing" in regard to the division of constituencies with more than 100,000 electors.¹

An *amdt.*² was proposed in Clause 3 to remove the provision in the Bill fixing, for historic reasons, the special representation of the City of London at 2 Members, notwithstanding its small and largely business-holder electorate. When, however, the Question that the words "other than the City of London" stand part of the Clause was put, it was carried (Ayes, 113; Noes, 38), and the *amdt.* was consequently negatived.

There was considerable discussion on Clause 6 (Exception of University Constituencies) which certain Members wished to see deleted. One Member moved the deletion of the Clause but was ruled out by the Chairman of Committees, who reminded Members that it was not necessary to put down an *amdt.* to leave out Clause so-and-so, as it was the duty of the Chair on every Clause to put the *Q.*—"That the Clause stand part of the Bill." Clause 6 was carried (Ayes, 152; Noes, 16).³

Amendments were made to Schedule 2, and a consequential *amdt.* to the long title (already given), all of which together with the *amdt.*s in Clause 2 were then reported "(with amended title)" to the House, and the Bill passing 3 *R.* was transmitted to the Lords, agreed to and returned to the Commons, duly becoming 7 & 8 Geo. VI, c. 41.

The debates upon this Bill, both on 2 *R.* and in *C.W.H.*, are most interesting and can be referred to in detail through the footnotes. It is regretted that space does not admit of any further reference to them here.

¹ *Ib.* 1984.

² *Ib.* 1985.

³ *Ib.* 2150.

V. HOUSE OF COMMONS: NATIONAL EXPENDITURE

(SESSION 1943-44)

BY THE EDITOR

As remarked in previous issues,¹ when dealing with the Reports of the Select Committee of the House of Commons on this subject, national expenditure *per se* is not a matter coming within the orbit of this Society's investigations. Neither are we concerned in what is the policy of a government in any particular regard, except when it is necessary in order to make clear some Constitutional issue or point of Parliamentary procedure. What, however, is of interest to us as officials of Parliament is any action taken by it in regard to the supervision and investigation of expenditure defrayed out of moneys provided by Parliament, for whatever purpose, whether in peace or war. The subject of these Select Committee's Reports is therefore reviewed in the light of the procedure and methods employed in effecting a better system of supervision and investigation of public expenditure by Parliament, or through Committees appointed by, and responsible to, it.

Reports.—During the above-mentioned Session, this Committee, which was appointed by the House December 3, 1943² (its Orders of Reference are dealt with later), submitted 13 Reports, of which the following are the House of Commons Paper numbers for the 1943-44 Session, the respective subject being given in brackets after each number:—*First*.—5. (The Organization of the Committee.) *Second*.—28. (Production of Magnesium and Magnesia.) *Third*.—58. (Road and Rail Transport.) *Fourth*, *Fifth* and *Twelfth*.—66, 86 and 123 respectively. (Replies from Departments to Recommendations in Reports (of which later).) *Sixth*.—88. (Opencast Coal Production.) *Seventh*.—97. (Regional Organization of the Ministry of Production.) *Eighth*.—114. (The Chemical Controls.) *Ninth*.—120. (Departmental Organization for the Disposal of Surplus Government Stores.) *Tenth*.—121. (The Administration and Cost of the Home Guard.) *Eleventh*.—122. (The Examination of National Expenditure (of which later).) And *Thirteenth*.—124. (The Work of the Committee in Session 1943-44 (of which later).) H.C. Paper 125 of the same Session contains the Minutes of the Proceedings of the Committee and an Index to the Reports.

None of these thirteen Reports, although tabled in the House of Commons, has been considered or adopted by it, but what this Committee, with its constellation of Sub-Committees, has been able to perform in the supervision of and investigation into public expenditure in the Defence Services has to be read before the valuable work done by it can be realized. Without usurping the functions of Parliament, this Committee has been able to act administratively in checking ex-

¹ See JOURNAL, Vols. IX, 80; X, 112; XI-XII, 117. ² 395 Com. Hans. 5, s. 742

penditure or waste of money or man-power. Its recommendations and conclusions have been taken note of and replied to by Government Departments, as the Committee has issued them in its Reports. That these arduous and gratuitous labours have been performed by Members of a Parliament which is in session practically the whole year round reflects great credit upon the spirit of public service which pervades British Parliamentary life.

Work and Orders of Reference.—These thirteen Reports cover over 162 printed pages, and the *Thirteenth* Report, summarizing the work of the Session, states that the Committee and its 6 investigating Sub-Committees held 196 meetings, including 10 visits to establishments under Government control or private enterprise, and examined 306 witnesses. The Committee, in addition to issuing its Reports, has addressed a secret memorandum to the Prime Minister for the consideration of the War Cabinet. In addition to the Co-ordinating Sub-Committee, the Committee has been assisted by investigating Sub-Committees A to F inclusive, a summary of the work of which is given in the *Thirteenth* Report.

The 15 meetings of the Co-ordinating Sub-Committee were mainly concerned with reviewing, co-ordinating and directing the work of the investigating Sub-Committees. An allegation that a witness who had given evidence before a Sub-Committee in a previous Session had been victimized on that account was referred to the Co-ordinating Sub-Committee for inquiry, but it had not then been completed.

The investigating Sub-Committee also concluded inquiries into various other matters, which it was not considered necessary to report to the House, such as:—allegations that improper use was made of certain materials and labour; irregularities in certain administration; over-staffing; scale and wastage of man-power; wasteful expenditure; complaint as to deterioration of stores; uneconomical use of transport; provision of works canteens; waste labour; unduly high earnings in Government contracts; excessive British expenditure in Iceland; and the effect of negligence and inefficiency in administration.

The Committee itself held 21 meetings, and a Special Sub-Committee was appointed to make recommendations on the number, membership and Chairmen to be appointed.¹

The *Thirteenth* Report in Session 1943-44 makes the ninetieth in the series of Reports from the Select Committee originally set up in Session 1939-40.²

The Order of Reference for the Committee was the same as for Session 1942-43, and the Committee remained at 32 Members, with 7 as the quorum. The powers of the Committee were as before,² including the Order as to national security and the power of Sub-Committees, but the other Orders of Reference in regard to Sub-Committees followed those of the 1942-43 Session.

The *First* Report states that as the work of the Committee proceeded

¹ H.C. Paper 124, 5, 6.

² See JOURNAL, Vol. IX, 82.

from Session to Session, the nature of the matters calling for inquiry tended to change and the need for the Co-ordinating Sub-Committee to select the subjects for investigation grew. In order, therefore, to make the most of the investigating Sub-Committees, the Committee decided to abandon the old descriptive designations¹ and to describe such investigating Sub-Committees as "A, B, C, D, E, and F". The general terms of reference and instructions to such Sub-Committees were as follow:

The Sub-Committee shall examine, in relation to any inquiries referred to them, the current expenditure of Departments defrayed out of moneys provided by Parliament for services directly connected with the War, and shall report to the Committee what economies, if any, consistent with the execution of the policy decided by the Government may be effected in the expenditure of the Departments concerned.

The Sub-Committee shall sit in private.

The Sub-Committee shall report to the Committee from time to time whenever they consider it advisable so to do.

Any two or more Sub-Committees may, by mutual agreement, sit together and take evidence on any matter of joint interest.

The examination of officials shall be as brief as possible, and the compilation of statistical returns shall be asked for only when essential.

Replies from Department to Recommendations in Reports.—The *Fourth Report*² contains comments by the Admiralty, Air Ministry and War Office, in regard to the recommendations of the Committee in the *Eleventh* (War Office Claims Commission) by the Ministry of Supply; on the *Thirteenth* (An investigation into certain complaints about a factory near Glasgow); and by the Admiralty on the *Fifteenth* (The Salvage of Ships and Cargoes) Reports—all of Session 1942-43.³

The *Fifth Report* contains the comments by the Ministry of Production on the recommendations of the Committee in the *Eighteenth Report* of Session 1941-42 (Production—War Materials), by the Minister of Aircraft Production) in regard to those in the *Second Report* of Session 1943-44 (Production of Magnesium and Magnesia), and by the Minister of War Transport in respect of the Committee's recommendations in the *Third Report* of Session 1943-44 (Road and Rail Transport).

The *Twelfth Report* contains the comments by the Treasury on the Committee's recommendations in the *Fourteenth Report* of Session 1942-43 (War Production, Methods of Settling Prices for War Stores), and by the Ministry of Works in regard to those in the *Sixth Report* of Session 1943-44 (Opencast Coal Production).

The Examination of National Expenditure.—From a Parliamentary procedure and historical point of view, however, the *Eleventh Report* of the Select Committee for Session 1943-44 is the most interesting. It reviews the work of the Select Committee on National Expenditure, which had, up to that time, been appointed for 5 successive Sessions, during which it had presented to the House 92 Reports and 2 Special Reports,⁴ and under the special powers conferred 10 secret memoranda

¹ *Ib.* Vol. IX, 83, 84.
Vol. XI-XII, 117-23.

² H.C. Paper 66 of 1943-44.

³ See JOURNAL,

⁴ See JOURNAL, Vols. IX, 80; X, 112; XI-XII, 118.

had been addressed to the Prime Minister for the consideration of the War Cabinet. During these 5 years the successive Committees and their Sub-Committees held 1,681 meetings (including 230 visits), examined over 3,500 witnesses and visited many Government establishments, as well as private concerns engaged on Government work.

The Committee remarked in this Report¹ that:

it would seem timely that consideration should now be given to the questions whether this work should be continued, both during the transitional period when the country will be passing from a war to a peace footing and thereafter during normal peace conditions; and if so, what kind of body could most usefully be set up to achieve this purpose.

Then follows an Historical Retrospect of the scrutiny and control of public services by Parliament, which, in view of its usefulness and interest, will be given in full as it appears under that heading in such Report:

HISTORICAL RETROSPECT.²

3. Select Committees appointed to examine various aspects of public income and expenditure are no novelty; in the earlier decades of the nineteenth century they became a frequent feature of Parliamentary machinery. There was a growing concern to establish better checks and controls over the handling of public money and to extend Parliamentary scrutiny over the details of appropriation as well as over the demands for supply. The early history of Parliamentary grants and accounts was succinctly stated by the Select Committee on National Expenditure in 1918 (*Seventh Report*, para. 8, H.C. 98, 1918):

"After the Revolution of 1688 Parliament began to appropriate grants for specific objects and passed annual Votes for the Army, Navy and Ordnance. Early in the nineteenth century the charges for civil government were separated from the King's Civil List, but the annual grants passed out of Parliamentary control as soon as they were voted, that control consisting only in the stopping of supplies. It was only in 1832 that the Admiralty were required by Act of Parliament to present annual accounts of their expenditure. In 1846 the Army Votes were similarly accounted for, followed in 1851 by the Woods and Works Votes, and in 1861 by the Revenue Departments. Finally, by the Exchequer and Audit Act of 1866, Appropriation Accounts were required to be presented for all supply services."

The trend of this development may perhaps most easily be reviewed by setting out in their historical sequence some of the inquiries which were referred to Committees; but in doing this it must be remembered that such Committees were broadly of two kinds, (1) those charged with investigating and considering improvements in methods and machinery, and (2) those charged with the actual examination of accounts or estimates, though in certain instances both functions have been discharged by the same Committee.

4. In 1828 a Select Committee was appointed to consider what further regulations and checks should be adopted "for establishing an effectual control upon all charges incurred in the receipt, custody and application of the Public Money"; and this Committee was also required to consider measures for reducing public expenditure.

In 1831 another Select Committee was appointed to consider improvements "in keeping the Public Accounts, so as to provide for an efficient control over the expenditure of the Public Money".

In 1848, 3 Select Committees were appointed to consider various classes of

¹ P. 3.

² H.C. Paper 122 of 1943-44, 4-10.

Estimates. One dealt with Expenditure on Miscellaneous Services, and a second with Woods, Forests and Land Revenues of the Crown (including Works and Buildings). Both these Committees were required to report whether any reduction or improvements could be effected; and the former was directed to consider the mode of submitting this branch of expenditure to Parliament, while the latter was instructed to inquire into the management of the Departments concerned. The third Committee were merely required "to report their observations" on the Navy, Army and Ordnance expenditure—the difference in their terms of reference compared with those of the other two is interesting. This Committee reported on the Navy expenditure only in 1848 and were reappointed in each of the next two Sessions, when they reported on the expenditure of the Ordnance Departments and on Army expenditure respectively.

During the Crimean War the need was felt for another type of investigation, and in 1855 a Select Committee was set up to inquire into the condition of the army before Sebastopol and the conduct of the Departments supplying that army.

In the next year a Select Committee on Public Moneys was appointed, but it did not finally complete its work until 1857, when it recommended *inter alia* that the audited accounts should be annually submitted to the revision of a committee of the House of Commons. But this recommendation was not implemented till 4 years later.

In the meantime, in 1860, the House again appointed a Select Committee to inquire into "the Expenditure for Miscellaneous Services" and to consider economies in this branch of expenditure.

In 1861 a Select Committee on Public Accounts was first appointed, and in the next year a Motion was adopted to appoint a standing committee to be called the Committee of Public Accounts, and the resolution appointing this Committee was made a Standing Order (S.O. No. 74). By this body, which has ever since successfully and continuously carried out its work, the House secured a proper control over the appropriation accounts. There still remained, however, the problems of reviewing the Estimates and of securing due economy in public expenditure.

5. The voting of supplies and the criticism of the demands made by the executive is the function of the House itself and is exercised in Committee of Supply. But, with the steady growth of public expenditure, both in volume and complexity, and with the increasing pressure on Parliamentary time exerted by legislative proposals, the demand for some detailed scrutiny of the Estimates by a body better designed for this purpose than a Committee of the Whole House became more imperative.

During the Sessions of 1887 and 1888, in response to pressure in the House, several Select Committees were appointed to examine Estimates "and to report their observations thereon to the House". In 1887 the Army and Navy Estimates were together referred to a single Committee; while in 1888, 3 separate Committees dealt respectively with the Army, the Navy and the Revenue Departments.

While this experiment was still being tried, another Select Committee was appointed in 1888 to consider "the procedure by which the House annually grants the Supplies to Her Majesty". This Committee considered the question submitted to them in its bearing on the following points:

"(i) The extent to which economy and efficiency in the Public Service are secured by the examination of the Estimates in the Committee of Supply."

"(ii) The opportunity afforded by this review of the civil expenditure of the Government of bringing the administration of Home, Colonial and Foreign Affairs under the attention of the House of Commons."

"(iii) The amount of time and labour of the House of Commons devoted to the attainment of these objects."

Though the time spent in Committee of Supply was considerable and was increasing, the Select Committee had no doubt that this had a good effect in preventing increased expenditure, and that the opportunities thus provided were an important and valuable means of raising many questions of policy and administration which might otherwise escape notice. They did not, therefore, think it desirable to dispense with or to limit the functions of the Committee of Supply. Of the 3 proposals submitted to them, they did not favour an annual Select Committee nor a preliminary investigation before the Estimates were considered by the House; but thought that the experiment might be made with the less important Votes of sending them to one of the recently established Standing Committees. This solution would seem to be directed more to the saving of the time of the House than to providing a more effective examination of the Estimates. This proposal was not adopted, and the experiment then in progress of using Select Committees was not continued. The problem remained unsolved.

6. During the Boer War, as in the Crimean War, the need was again felt for an *ad hoc* inquiry into an aspect of war expenditure; and in 1900 a Select Committee was appointed "to consider and report upon allegations of fraud and irregularity in connection with War Office contracts during the last 12 months," but as this inquiry, from the nature of its terms of reference, would be quasi-judicial in nature, the Committee were empowered to hear counsel.

7. Perhaps the most important of the inquiries set up to investigate machinery for making an effective examination of the Estimates was the Select Committee on National Expenditure appointed in 1902 and reappointed in 1903, in which year they presented their Report to the House. Your Committee consider that one paragraph in particular from the 1903 Report is so apposite today that it is worth quoting *in extenso*:

"But we consider that the examination of Estimates by the House of Commons leaves much to be desired from the point of view of financial scrutiny. The colour of the discussions is unavoidably partisan. Few questions are discussed with adequate knowledge or settled on their financial merits. Six hundred and seventy Members of Parliament, influenced by party ties, occupied with other work and interests, frequently absent from the Chamber during the 20 to 23 Supply days, are hardly the instrument to achieve a close and exhaustive examination of the immense and complex Estimates now annually presented. They cannot effectively challenge the smallest item without supporting a Motion hostile to the Government of the day; and divisions are nearly always decided by a majority of members who have not listened to the discussion. Your Committee agree in thinking that the Estimates are used in practice—perhaps necessarily by the Committee of Supply—mainly to provide a series of convenient and useful opportunities for the debating of policy and administration, rather than to the criticism and review of financial method and of the details of expenditure. We are impressed with the advantages, for the purposes of detailed financial scrutiny, which are enjoyed by Select Committees, whose proceedings are usually devoid of party feeling, who may obtain accurate knowledge collected for them by trained officials, which may, if so desired, be checked or extended by the examination of witnesses or the production of documents; and we feel it is in this direction that the financial control of the House of Commons is most capable of being strengthened."

It is interesting the note that this paragraph was moved into the Chairman's draft report by the present Prime Minister, who was a member of the Committee.

The Committee considered four different proposals:

- (i) That the Estimates should be referred to a Grand Committee and should only be discussed in the whole House on the report of that Committee;
- (ii) that they should be referred to one or more Select Committees for examination and report precedent to their being discussed in Committee of Supply;

(iii) that a Select Committee should be appointed whose function would be to make a post-mortem examination of a class or portion of the Estimates, or of a particular item of expenditure of the nearest preceding year of which they could obtain an account, and after research and examination to issue a report thereon, pointing out any lessons of economical administration which might usefully be learned from the experiences of the past;

(iv) that at the beginning of each Session one class should be referred to a Select Committee for examination and report precedent to discussion in the Committee of Supply.

The Committee were not prepared to recommend any of the first three of these to the House; but they expressed themselves on the fourth in the following terms:

"We consider that if the portion of the Estimates selected were not unduly large the temporal difficulties incidental to their examination would be removed, and that as the Committee would have no power to disallow any expenditure, but only to report thereon, there could be no question of any interference either with ministerial responsibility or with Parliamentary control.

"Your Committee are therefore prepared to recommend that such a Select Committee be appointed; that it be called 'The Estimates Committee'; that it be appointed continuously in the same way and possess the same powers as the Public Accounts Committee; that in order to combine and unify the machinery of financial control, and as it were to dovetail the Estimates Committee on to the Public Accounts Committee, a proportion of members be appointed to sit on both Committees; that the Estimates Committee, with power to call for witnesses and papers, not of a secret character, should examine a class, portion or branch of the Estimates for the current year not exceeding one-fourth of the whole; that this class shall have been selected for them in the previous year by the Public Accounts Committee, who shall likewise notify the Departments concerned and the Treasury; that the Public Accounts Committee, while preserving full discretionary power in the selection of the class or portion of the Estimates to be referred to the Estimates Committee, shall endeavour to pass systematically in review each vote within a limited period of years; that to facilitate examination the selected class or portion shall be presented at the earliest possible date after the day of the meeting of Parliament, and that the consideration of this class by the House of Commons in Committee of Supply shall if convenient be deferred until the presentation of the Report of the Estimates Committee thereupon."

No immediate action was taken on these proposals.

8. In 1912, following at some distance upon this Report and more closely upon a memorial relating to the same subject addressed to the then Prime Minister by a considerable number of Members on both sides of the House, the Chancellor of the Exchequer moved in the House "That a Select Committee be appointed to examine and report on such of the Estimates presented to this House as may seem fit to the Committee." After considerable debate this Motion was amended to read as follows: "That a Select Committee be appointed to examine such of the Estimates presented to this House as may seem fit to the Committee and to report what, if any, economies consistent with the policy implied in those Estimates should be effected therein"; and was agreed to on a division.

The Committee were reappointed in 1913 and in 1914, but the terms of reference were allowed to revert to the form contained in the Motion as originally submitted to the House; that is to say, the words relating to economies consistent with policy were omitted.

9. The outbreak of War in 1914 brought to an end this not very successful experiment; and it was not till the end of July, 1917, when a Select Committee on National Expenditure was appointed, that any review of current expenditure was again undertaken. But this new body was also charged with the duty

of making recommendations on the form of public accounts and the means by which more effective control could be exercised by Parliament over public expenditure—in short, to review the financial procedure of the House. This Committee were appointed, with the same terms of reference, in 4 successive Sessions, 1917-20 (that is, for 2 Sessions after the end of active hostilities); and in this period presented some 26 reports which, as their inquiries were not restricted to considering “services directly connected with the War”, ranged over the whole field of current public expenditure. By August 1918¹ they were able to report to the House that they had already dealt with the expenditure of 48 Government Departments and Sub-Departments. They discharged the second and third parts of their terms of reference in their Seventh and Ninth Reports of 1918 (H.C. 98 and 121 of 1918).

10. These 2 Reports of 1918 make valuable contributions to the problems under consideration, and reveal that the experiences and difficulties of the National Expenditure Committee of the last War were in several respects very similar to those of their successors during the present War.

In their Seventh Report the Committee considered the form of Public Accounts and brought out clearly the inadequacy of the form of the Estimates and the Appropriation Accounts as a means through which any real control over expenditure could be exercised, whether by departmental or parliamentary machinery. In this criticism they were strengthened by the evidence of responsible Accounting Officers and other high officials. They pointed out (para. 24) that much criticism appeared to be based upon a misapprehension of what the Appropriation Accounts represented. “They are accounts of the actual receipts and payments of the year in respect of the subjects to which the sums voted by Parliament are appropriated, and differ from commercial accounts in this important respect—that all sums which have matured for payment in the year are, so far as physically practicable, actually paid. The basis of all transactions of Government Departments is a cash one dependent only on maturity of liability.” The Estimate, likewise, “is one of the probable cash requirements only, or, in other words, of the amount which it is anticipated will come in course of payment during the year and for which, therefore, provision must be made in the Budget.” As was explained by a witness before the National Expenditure Committee of 1939-40, the nation’s accounts are kept on the penny note-book system. This fact, coupled with the way in which expenditure is classed under Votes and sub-heads and distributed between the Departments, makes it impossible to determine from the Accounts or Estimates what the real total expenditure has been or will be on any particular object or project. With this difficulty clearly before their minds the Committee of 1918 recommended a scheme, worked out for them in complete detail, whereby Estimates and Accounts could be presented to Parliament which would set out the whole of the expenditure entailed by the operations of the Department concerned in an objective manner; thus also enabling those who were responsible for the control of expenditure within a Department to get a true knowledge of what the work of the Department was costing. The Committee stated (para. 20) that “except in the few cases where Departments compile manufacturing or commercial accounts no Department can render an account of its expenditure because no Department fully knows it”. Your Committee have dealt with this matter at some length because they themselves have experienced this difficulty on a number of occasions, and it seems to them that here lies one of the main reasons for the lack of success which has so far attended the work of Committees required to examine the Estimates.

11. In their Ninth Report of 1918 the Committee addressed themselves to the financial procedure of the House. Their general comments are not dissimilar from those quoted above from the 1903 Report. They accepted the principle that the Select Committee was the type of body best suited for the

¹ Eighth Report, H.C. 111 of 1918.

detailed examination of Estimates. But in reviewing the working of the Estimates Committees of 1912 to 1914 they recognized 3 causes which impaired the usefulness of these bodies:

(i) The task imposed was too large for one body working as a single unit to perform; when the estimates of a particular Department had been considered, a period of from some 7 to 10 years would probably elapse before those Estimates were again considered.

To remedy this they suggested that 2, and if necessary 3, "Standing Committees on Estimates" (comparable to the Standing Committee on Public Accounts) should be appointed each Session.

(ii) The handicap imposed by the form in which Estimates have been framed (see para. 10 above).

They considered this handicap might be removed by the proposals made in their Seventh Report.

(iii) The fact that the Estimates Committee had no professional assistance at its command.

In considering this problem they rejected proposals to extend the functions of the Comptroller and Auditor-General, and they also rejected the appointment of a Treasury officer. They recommended, however, that these Committees should be assisted by an officer of the House to be appointed for the purpose with the title of Examiner of Estimates.

In addition to these, they made a number of other recommendations.

12. The principal recommendations contained in these 2 Reports were not implemented.

13. In 1919, however, while the National Expenditure Committee was still pursuing its detailed examination of current expenditure, the Estimates for that Session were referred to Standing Committees of the type set up for the consideration of Bills. The procedure in these Standing Committees, unlike the procedure in a Select Committee, was to follow the customary procedure of the Committee of Supply. The relevant Orders made by the House governing this departure are set out in Appendix 2.¹ This was purely an expedient for saving the time of the House, which was not successful and has not been repeated in subsequent Sessions.

14. In 1921 the Select Committee on National Expenditure was not re-appointed and the Select Committee on Estimates was revived in its place. The terms of reference as proposed by the Government were identical with the terms finally given to the Estimates Committee of 1912. But after debate in the House these were expanded to include also consideration of the form in which Estimates should be presented; and the Committee was given power to appoint sub-committees—a power of which they only availed themselves on one occasion. This Committee was reappointed every year from 1921 to the outbreak of the present War and their terms of reference remained the same. No special officer of the House was appointed for their assistance, as recommended in 1918,² but in spite of the recommendation to the contrary they had the part-time help of a Treasury official.

For a variety of reasons, including those considered in 1918, it is not generally considered that this Committee provided a satisfactory solution to the main problems.

Present Considerations.—The Select Committee also in its *Eleventh* Report when dealing with the present considerations observed that it would appear from the above retrospect that the House had been

¹ For which see later.—[ED.]

² A proposal that the Committee should be assisted by an officer of the House especially appointed with the title of Examiner of Estimates was rejected on division by 218 to 16 (C.J. 1921, June 28, p. 229).

successful in setting up machinery capable of securing that money is spent only upon the objects for which it was voted, but had not succeeded in devising satisfactory permanent machinery to secure due economy in that expenditure, but the Committee was deeply convinced of the continuing need for the detailed investigation of current expenditure, not only during the period of transition from war to peace, but also thereafter. Further, that the Committee was in complete agreement with the National Expenditure Committees of 1903 and 1918, that a Select Committee is the best available instrument for such inquiry.¹

The Committee then went on to remark that any Select Committee, or indeed the House itself, whether inquiring into current estimates or past accounts, was greatly handicapped by the form in which such Estimates were presented to the House, but the need for the presentation of statements in an objective² form appeared to them essential if departmental officials, Ministers and the House itself were to keep an effective control over public expenditure. The need for collaboration between Committees which are separately examining current and past expenditure on the same subjects had long been recognized. There needs to be devised far closer bonds and a procedure by which at least joint programmes of work can be arranged.

The Committee furthermore considered that the procedure of working through Sub-Committees had proved a valuable development and that it was a more effective method, because it permitted a proper co-ordination of programmes than that of reviewing the Estimates upon several separate Committees. The Committee stated that the time had arrived when its examination of current expenditure should no longer be limited to "services directly connected with the War". The term "current expenditure" impeded a full and effective inquiry and the machinery for examining both Estimates and Accounts with the object of securing economical administration needed to be far more closely welded. Finally, the Committee considered that it should, if appointed in the forthcoming Session, in addition to their other work, present to the House a general and objective review of the distribution of national expenditure on War services during the past 5 years, the Order of Reference being extended accordingly.

With the above considerations in mind, the Committee in § 17 of the *Eleventh Report* put forward the following suggestions for the consideration of the House:

- (i) That in the forthcoming Session a Select Committee should be appointed to inquire into the means of securing the most effective examination and control by Parliament of public expenditure.
- (ii) Your Committee suggest that such an inquiry is better pursued by a body charged solely with this duty rather than by one of the existing bodies actually engaged in the examination of expenditure.

¹ H.C. Paper 112 of 1943-44, 10.

² The Committee here observed that the word "objective" is used in a sense similar to that discussed in §§ 15 and 16 of the Seventh Report of the Committee of 1918.—[ED.]

- (iii) That in the meanwhile Your Committee should be reappointed and that consideration should be given to the amendment of their terms of reference in respect of the matters dealt with in sub-para. (v) and (vi) of the preceding paragraph.¹

The Terms of Reference or other Orders governing the various Committees referred to in the text of the Eleventh Report. These Terms of Reference, etc., as appearing in Appendix 2, in view of their value as precedents to the *Eleventh Report* are given below, but for the size of the quorum and any powers conferred on each Committee members are referred to the Commons Journals:

Committee on Public Income and Expenditure (23 Members).—That a Select Committee be appointed to inquire into the state of the Public Income and Expenditure of the United Kingdom, and to consider and report to the House what further regulations and checks it may be proper, in their opinion, to adopt, for establishing an effectual control upon all charges incurred in the receipt, custody and application of the Public Money; and what further measures can be adopted for reducing any part of the Public Expenditure without detriment to the Public Service. (C.J. 1828, p. 76.)

Select Committee on Public Accounts (22 Members).—That a Select Committee be appointed to inquire into what improvements may be made in keeping the Public Accounts, so as to provide for an efficient control over the expenditure of the Public Money, and to report their observations thereupon to the House. (C.J. 1831, p. 262.)

Select Committee on Navy, Army and Ordnance Expenditure (15 Members).—That a Select Committee be appointed to inquire into the Expenditure on account of the Navy, Army and Ordnance, and to report their observations thereupon to the House. (C.J. 1848, p. 253.)

Select Committee on the Expenditure for Miscellaneous Services (15 Members).—That a Select Committee be appointed to inquire into the Expenditure for Miscellaneous Services, and to Report to the House whether any reductions can, in their opinion, be effected, or any improvement made in the mode of

¹ (v) The powers conferred on the National Expenditure Committees of the present War have been varied with the growth of experience, more particularly in regard to the development of the system of working through sub-committees; but the terms of reference have remained unchanged. By these the Committees have been required to examine current expenditure in respect only of "services directly connected with the War"—a phrase which will become increasingly difficult of any precise interpretation as the national economy moves towards structural changes which have been enforced on it by the impact of War. This restriction of their inquiry, which has not been imposed on any previous Committee, has not in fact been a source of much embarrassment to Your Committee in the past; but Your Committee submit that the time has arrived when this limitation should be removed.

Similarly, the term "current expenditure", if too rigidly interpreted, may impede the attainment of a full and effective inquiry. When expenditure is incurred on a project the payments for which extend over more than one financial year, it is manifestly absurd to consider those payments only which can strictly be called current. Moreover, it is frequently necessary to the understanding of items of expenditure to place them against the background of past expenditure from which they have arisen. Your Committee fully realize that the extension of inquiries behind the current year may result in overlapping the work of the Public Accounts Committee. But this fact merely strengthens the contention advanced under (ii) above that the machinery for examining both estimates and accounts with the object of securing economic administration needs to be far more closely welded.

(vi) Your Committee consider that, if they are reappointed in the forthcoming Session, they should, in addition to their other work, attempt to present to the House a general and objective review of the distribution of national expenditure on War services during the past 5 years; and, if such a review should be considered by the House to be outside the orders of reference to Your Committee, that the new Committee should be empowered to undertake this task.

submitting this branch of the Public Expenditure to the consideration of Parliament. (C.J. 1848, p. 253.)

Select Committee on the Woods, Forests and Land Revenues of the Crown (15 Members).—That a Select Committee be appointed to inquire into the Expenditure and Management of the Woods, Forests and Land Revenues of the Crown, and to report to the House whether any reductions, alterations or improvements may be made in that branch of the Public Revenue and Expenditure. (C.J. 1848, p. 368.)

Note.—On April 3 (C.J. 1848, p. 416), the following Instruction was given to the Committee:

To include in their inquiry the management of the Department of the Works and Buildings, and of any other Department over which the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings exercise control.

Select Committee on Army and Ordnance Expenditure (15 Members).—Reappointment with same terms (except for omission of "Navy" already reported on) as C.J. 1848, p. 253, above.)

Select Committee on Army and Ordnance Expenditure (15 Members).—Reappointment with same terms as 1849. (C.J. 1850, p. 54.)

Select Committee on the Army before Sebastopol (11 Members).—That a Select Committee be appointed to inquire into the condition of our army before Sebastopol, and into the conduct of those Departments of the Government whose duty it has been to minister to the wants of the army. (C.J. 1855, pp. 33 and 36.)

Select Committee on Public Moneys (15 Members).—That a Select Committee be appointed to inquire into the Receipt, Issue and Audit of Public Moneys in the Exchequer, the Pay Office, and the Audit Department. (C.J. 1856, p. 156.)

Select Committee on Public Moneys (12 Members).—Reappointed with the same terms as 1856. (C.J. 1857, p. 135.)

Select Committee on Miscellaneous Expenditure (15 Members).—That a Select Committee be appointed to inquire into the Expenditure for Miscellaneous Services, and to report to the House whether any reduction can, in their opinion, be effected in that branch of the Public Expenditure. (C.J. 1860, p. 169.)

Note.—On May 4 (C.J. 1860, p. 232), there were referred to this Committee the report of C.J. 1848, p. 253, above, the Report of a Select Committee on Official Salaries of 1850, the Civil Services Estimates for 1848, 1859-60 and 1860-61 and the Return "Supply", 508, 1858.

Select Committee on Public Accounts (9 Members).—That a Select Committee be appointed for the examination, from year to year, of the Audited Accounts of the Public Expenditure. (C.J. 1861, p. 130.)

The Committee of Public Accounts.—That there shall be a Standing Committee, to be designated "the Committee of Public Accounts", for the examination of the Accounts showing the appropriation of the sums granted by Parliament to meet the Public Expenditure, to consist of 9 Members, who shall be nominated at the commencement of every Session, and of whom 5 shall be the quorum.

That the said Resolution be a Standing Order of this House.

That the Committee have power to report their observations thereupon from time to time to the House.

That the Committee have power to report the Minutes of the Evidence taken before them from time to time to the House. (C.J. 1862, p. 134.)

Note.—S.O. (Public Business) No. 74 today reads as follows:

74. There shall be a committee, to be designated "the committee of public accounts", for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit, to consist of not more than 15 members, who shall be nominated at the commencement

of every Session, and of whom 5 shall be a quorum. The Committee shall have power to send for persons, papers and records, and to report from time to time.

Select Committee on Army and Navy Estimates (19 Members).—That a Select Committee be appointed to examine into the Army and Navy Estimates, and to report their observations thereon to the House. (C.J. 1887, pp. 162 and 232.)

Select Committee on Army Estimates (17 Members).—That a Select Committee be appointed to examine into the Army Estimates, and to report their observations thereon to the House. (C.J. 1888, p. 95.)

Select Committee on Navy Estimates.—(C.J. 1888, p. 95.)

Select Committee on Revenue Departments Estimates.—Both Committees had similar terms of reference (C.J. 1888, p. 95) and 17 members.

Select Committee on Estimates Procedure (Grant of Supplies) (17 Members).—That a Select Committee be appointed to consider the procedure by which the House annually grants the Supplies to Her Majesty. (C.J. 1888, p. 88.)

Note.—The Report of the Committee was referred to the Committee of Public Accounts.

Select Committee on War Office Contracts (15 Members).—That a Select Committee be appointed to consider and report upon allegations of fraud and irregularity in connection with War Office contracts during the last 12 months. (C.J. 1900, pp. 165, 166.)

Note.—Leave was given to hear counsel, and the Report and Minutes of Evidence of the Select Committee on Public Departments (Purchases, etc.), 1873-74, were referred to the Committee.

Select Committee on National Expenditure (15 Members).—That a Select Committee be appointed to inquire whether any plan can be advantageously adopted for enabling the House by Select Committee or otherwise more effectively to make an examination, not involving criticisms of policy, into the details of National Expenditure. (C.J. 1902, p. 245.)

Select Committee on National Expenditure (15 Members).—Reappointed with the same terms of reference as 1902. (C.J. 1903, p. 102.)

Select Committee on Estimates (15 Members).—That a Select Committee be appointed to examine such of the Estimates presented to this House as may seem fit to the Committee, and to report what, if any, economies consistent with the policy implied in those Estimates should be effected therein. (C.J. 1912, pp. 108-9.)

Select Committee on Estimates (15 Members).—That a Select Committee be appointed to examine and report on such of the Estimates presented to this House as may seem fit to the Committee. (C.J. 1913, p. 16.)

Select Committee on Estimates (15 Members).—Reappointed with same terms of reference as 1913. (C.J. 1914, p. 38.)

Select Committee on National Expenditure (26 Members).—That a Select Committee be appointed to examine the current Expenditure defrayed out of moneys provided by Parliament and to report what, if any, economies consistent with the execution of the policy decided by the Government may be effected therein; to make recommendations in regard to the form of Public Accounts, the system of control within the Departments and by the Treasury, and the procedure of this House in relation to Supply and Appropriation, so as to secure more effective control by Parliament over Public Expenditure; and to have power to appoint from outside its own body such additional persons as it may think fit to serve on any Sub-Committee which it may appoint with the view to the preparation of such recommendations. (C.J. 1917, p. 170.)

Select Committee on National Expenditure.—Reappointed with the same terms of reference as 1917. (C.J. 1918, p. 13; C.J. 1919, p. 98.)

The relevant parts of the Order of the House relating to the reference of Estimates to Standing Committees.—All Estimates, including supplementary and addi-

tional Estimates, for the Army and Navy, Air Force, Civil Services and Revenue Departments, but not including Votes A and I of the Army, Navy, and Air Force Estimates, shall be referred to a Standing Committee instead of to the Committee of Supply;

The Estimates shall be allotted for consideration to the Standing Committees of the House in such manner as Mr. Speaker shall determine, and shall be considered by the Standing Committee in accordance with the customary form of procedure of the Committee of Supply.

A Standing Committee to which any Estimates are referred may report from time to time any Resolutions to which they have agreed. All Resolutions which have been considered by a Standing Committee shall, when reported to the House, be proceeded with as if they had been reported from the Committee of Supply. (C.J. 1919, pp. 39-40.)

Select Committee on National Expenditure.—Reappointed with the same terms of reference as 1917. (C.J. 1920, p. 94.)

Select Committee on Estimates (24 Members).—That a Select Committee be appointed to examine such of the Estimates presented to this House as may seem fit to the Committee and to suggest the form in which the Estimates shall be presented for examination, and to report what, if any, economies consistent with the policy implied in those Estimates may be effected therein. (C.J. 1921, pp. 217-18, 229.)

Note.—The Committee were given power to appoint Sub-Committees.

Select Committee on Estimates, 1922 to 1939. (*Increased to 28 Members in 1924.*)—During these 18 years the Estimates Committee was regularly appointed each Session with the same terms of reference as 1921.

Select Committee on National Expenditure, December 12, 1939. (*28 Members, increased to 32.*)—That a Select Committee be appointed to examine the current expenditure defrayed out of moneys provided by Parliament for the Defence Services, for Civil Defence, and for other services directly connected with the War, and to report what, if any, economies, consistent with the execution of the policy decided by the Government, may be effected therein. (C.J. 1939, p. 17.)

Note.—The Committee were given power to appoint Sub-Committees.

Select Committee on National Expenditure, 1940-43.—During these 4 years the National Expenditure Committee was regularly appointed each Session with the same terms of reference as 1939 (b); but the powers given to the Committee have been varied in accordance with circumstances.

Questions.

Member of Select Committee directly interested.—On December 14, 1943,¹ a Q. was asked the hon. Member for Kidderminster, as Chairman of the Select Committee on National Expenditure, whether he would give an assurance that when any investigations were carried out into the organization or activities of any private or public company, firm or corporation, no member of the Select Committee who is directly interested in that concern or in any competitive business sat as member of the Committee or Sub-Committee that is charged with the task.

Sir John Wardlaw Milne (the Chairman of the Select Committee) replied: "Yes, Sir, to the limited extent to which the Question applies to the inquiries of the Select Committee, it is our practice that a member would not so take part."

Select Committee's Memorandum to Prime Minister.—On March 16, 1944,² a Q. was asked for Mr. Speaker's guidance on a matter of which

¹ 395 *Com. Hans.* 5, s. 1402.

² 398 *ib.* 408.

the hon. Member had given notice. It concerned a Notice on the Paper yesterday reading:

Sir John Wardlaw M. I. ne reported from the Select Committee on National Expenditure pursuant to the Order of the House (December 3) that they had addressed a memorandum to the Prime Minister for the consideration of the Cabinet.

The hon. Member asked what useful purpose this Notice served unless there was some indication as to what it was about.

Mr. Speaker replied that the whole procedure was governed by a decision of the House and the Committee was entitled to make a secret memorandum to the Prime Minister. Therefore no indication need be made as to what it was about.

In reply to a Q. by another hon. Member, Mr. Speaker said that they knew nothing about the document. It was not permissible to quote from a document which had not been laid before the House. By Order of the House, the Committee was entitled to submit a secret memorandum to the Prime Minister, to which no one has access but the Prime Minister.

VI. HOUSE OF COMMONS: PUBLICATIONS AND DEBATES REPORTS, 1943-44¹

BY THE EDITOR

In the 1943-44 Session considerable attention was given, both in debate and by Q. and Answer in the House of Commons, to the subject of inquiry covered by the Order of Reference of the Select Committee on the above-mentioned subject. Recommendations on grounds of economy were made by the Select Committee in regard to the Notice Paper, stationery and the printing of the House. The main interest, however, was centred upon *Hansard*. In the first place, resentment was expressed in regard to the continued non-supply of a free copy of each bound volume to the Member; a wider distribution of *Hansard* was advocated especially on account of the restricted reports of the proceedings of Parliament in the Press owing to paper shortage; interest was also taken in the sales of both the daily parts and the bound volumes; the correction of speeches by Members was also commented upon, as well as reprints, misprints, etc. The following is a brief outline of what took place.

Select Committee's Report.—On October 19,² the Report³ from the Select Committee on Publications and Debates, 1943-44, was brought up, read, tabled and ordered to be printed, together with the Minutes of Proceedings. The Order of Reference differed from that of previous Sessions and read:

That a Select Committee be appointed to assist Mr. Speaker in arrangements for the reporting and publishing of Debates, and in regard to the form and distribution of the Notice Paper issued in connection with the Business of the House; and to inquire into the expenditure on stationery and printing for this House and the public services generally.

The Committee adopted the plan of holding meetings at regular intervals, and the result of its deliberations was summed up under the following heads:

Reporting and Publishing of Hansard.—The Committee examined a proposal to increase the maximum available production of copies of *Hansard* by enforcing a more rigid time-table for the supply of typescript to the printers, but it was found, after taking evidence from the Controller of H.M.S.O. and the editor of *Hansard*, that the proposal would curtail the time allowed M.P.s for making alterations to their speeches in the typescript report, which the Committee did not feel justified in recommending at present.

It was decided to insert the word "Prayers" above the words "Mr. Speaker in the Chair" and to make a slight improvement in the format of the title-page of *Hansard*. The Committee was of opinion that the editor should continue to exercise his discretion with regard to minor matters of grammar and spelling in Members' speeches.

¹ See also JOURNAL, Vols. I, 45; II, 18; VI, 157; VII, 36; IX, 89; X, 23, 24; XI-XII, 30, 33.

² 403 Com. Hans. 5, s. 2545.

³ H.C. Paper 110 of 1943-44.

The Committee also considered the proposal to renew the privilege of bound volumes of *Hansard*, without charge, being available to M.P.s. No evidence had been submitted that the shortage of paper had been sufficiently alleviated, and the Committee did not advise that such privilege should be restored. Members could therefore purchase such volumes in the ordinary way.

The Notice Papers of the House.—The Committee had considered the suggestion by certain M.P.s that Notices of Motion for which no day had been fixed should be published once a month in full, together with the wants of all M.P.s supporting them; but the Committee were of opinion that the files of such Notices kept in the Table Office and the Library, as well as the index now published in the "VOTE" every Saturday during sittings of the House, should meet the needs of M.P.s until a full circulation of Notice Papers was again restored.

All the above opinions of the Committee had been conveyed to Mr. Speaker.

Stationery and Printing.—It was also recommended that the crest of the House of Commons, changed on the House of Commons envelopes last year, should be printed instead of die-stamped, with violet ink for the crest, also that some of the notepaper should be headed lengthwise for typing. The Serjeant-at-Arms was informed of these resolutions and had given orders to H.M.S.O. accordingly. These "horrible little mauve crests" were, however, in subsequent debate, criticized in the House as being "extremely shoddy and unworthy of the dignity of the House of Commons notepaper".¹

Hansard.—The attention of the House given to its *Hansard* may be grouped under the following headings: (1) free supply of bound volumes to M.P.s; (2) distribution; (3) sales and output; (4) corrections; (5) reprints; and (6) misprints, etc. In the debates which took place on the Adjournment on March 1, June 30 and November 7, 1944,² the following were the main points brought forward:

Free supply of bound volumes to M.P.s.—The above-mentioned debates revealed certain dissatisfaction in regard to the availability of a free supply of a copy of each bound volume to Members, a privilege taken away on grounds of War economy by the Select Committee in 1940.³

In reply to a Q. on November 7, 1944, the Government said that the discontinuance of the free supply of bound volumes of *Hansard* to M.P.s was a recommendation of the Select Committee, which was approved by Mr. Speaker and announced by him in the House on June 26, 1940. The Select Committee again considered the matter on October 12, 1944, and did not (on a minority of 1) advise a reversal of the decision. In those circumstances it would seem rather absurd, said the Minister, for the Treasury to ignore the recommendations of the Select Committee.⁴ It was urged, however, that this free service

¹ 404 *Com. Hans.* 5, s. 1313.

² 404 *Ib.* 1309.

³ 397 *Ib.* 1537; 401 *Ib.* 969; 404 *Ib.* 1309.

⁴ *Ib.* 1258.

be restored, *Hansard* being a book of reference and, in fact, part of an M.P.'s stock-in-trade.¹ Only some 60 Members were in the habit of buying bound volumes. Previous to 1940, 294 Members were taking bound volumes. Today there were only 62 taking such volumes on payment (at about 9s. to 10s. a volume).² The restoration of this free service, it was stated, would mean the use of 3 tons of paper p.a., at a cost of about £1,000. The Minister suggested that those M.P.s wishing for reversion to the old procedure should notify the authorities, the question being purely one for the House of Commons.³

Commander King-Hall, a Member who has taken a keen interest in *Hansard*⁴ and its wider distribution, in the course of the debate remarked that it would be interesting to posterity if a "sound record" were taken—namely, that on a small cylinder of thin wire a complete report of a full day's debate be made automatically without anyone in the Chamber even knowing that it was taking place.⁴

Whips.—Upon the House proceeding to a division, an hon. Member (seated and covered) drew the attention of Mr. Speaker to the fact that the Minister, in his speech, asked for a free vote, in order to find out the feeling of the House, and that now the Government had put on the Whips. To which Mr. Deputy-Speaker replied that the hon. Member could not raise the point now. After a discussion, the Adjournment was moved (Ayes, 121; Noes, 51); the House adjourned at 2.24 p.m.⁵

Distribution.—Opinion was expressed in the debate that *Hansard* should have a wider distribution and that copies should be supplied to the libraries and discussion centres of the Armed Forces of the Crown at public expense.⁶ Reference was made to a non-profit-making movement which had been started among Members, calling itself the "Friends of *Hansard*", described as:

A body of persons united in the resolve to take such action as may be expedient to increase the circulation and study of *Hansard* in order that a larger number of persons in Britain, the Empire overseas, the United States and foreign countries may become acquainted with, and interested in, the proceedings of Parliament and thus be better informed about the day-to-day workings of the democratic method, as exemplified by the proceedings of Parliament.

It was stated as doubtful whether 50 p.c. of the public libraries of the country had copies of *Hansard*, although they could be obtained at a reduced rate.⁷ The Government was asked to look into the whole question of the public relations of Parliament.⁸ The Government remarked that there was a definite physical limit to the number of copies which could be produced, which was perhaps 2,000 copies above the present edition. If it was desired to produce, say, 40,000 copies, it would have to be produced in quite a different way.⁹ It was not a

¹ 404 *Ib.* 1308, 1312. ² *Ib.* 1327; *Ib.* 629. Members of the House of Lords receive copies of their *Hansard* free (399 *Ib.* 629). ³ 404 *Ib.* 1326.
⁴ 401 *Ib.* 976. ⁶ 404 *Ib.* 1334. ⁵ 397 *Ib.* 1533. ⁷ *Ib.* 1536.
⁸ *Ib.* 1541. ⁹ *Ib.* 1544, 1546.

question of paper, but one of printing. 'There was plenty of paper, continued the Minister, and, whatever the Ministry of Information might have to go without, he could assure hon. Members that they would have their *Hansard*.¹

The distribution and official issue of *Hansard* was also the subject of several Questions in the House. In reply to these, the Government said that no copies of *Hansard* were distributed to the 1,190 permanent libraries controlled by the Army Council;² that some of the 20 Embassies and 29 Legations abroad were already supplied with *Hansard* and that the Minister was considering such supply to all of them;³ that about 56 p.c. of the public libraries subscribed to *Hansard*; that the amount of paper saved in not supplying bound volumes to M.P.s was 3 tons p.a., out of 350,000 tons used p.a. for newspapers, books and periodicals;⁴ and that the distribution to secondary schools at reduced prices could not be accepted.⁵

On February 3,⁶ during debate on the Business of the House, Commander King-Hall referred to the following Notice of Motion standing on the Paper in his name and that of 248 other Members:

[That, in the opinion of this House copies of *Hansard* should be provided at public expense to Navy, Army and Air Force Libraries, information centres and news rooms.⁷]

In reply to a Q. on December 7, 1943, the number of official issues of *Hansard* during the months of June and November of that year was given as: *Lords*, 1,095 and 1,115; and *Commons*, 2,365 and 2,400 respectively.⁸

Sales and Output.—In reply to the above-mentioned Q., the Minister also gave the sales during those 2 months as: *Lords*, 675 and 725; and *Commons*, 2,450 and 2,955 respectively.⁹

In reply to a Q. on April 4, the sales and official issues of the *Commons Hansard* pamphlets during February 1944 were given as 4,140 and 2,590, and for Part 40 (for March 2, 1944) 4,330 and 2,615 respectively. In another reply on November 14, 1944, the average daily figures for the issue of the *Commons Hansard* for October 1943 and October 1944 were given as 5,420 and 8,200 respectively, the daily output in November 1944 being 10,000.¹⁰

It was also remarked in the debate on March 1 that during the War the sales of *Hansard* had increased threefold.¹¹

Corrections.—One or two minor corrections in *Hansard* were brought up in the House during the 1943-44 Session, but considerable reference was made to the subject in the House of Commons on May 9,¹² when the Chairman of its Publications and Debates Select Committee by *Private Notice* asked Mr. Speaker to indicate the limits within which it was permissible for hon. Members to correct the reports of their speeches for the daily issue as well as for the bound volumes of *Hansard*.

¹ 395 *Ib.* 175.

² *Ib.* 175.

³ *Ib.* 944.

⁴ 404 *Ib.* 2428.

⁵ *Ib.* 637.

⁶ 396 *Ib.* 1411.

⁷ *Ib.* 1411.

⁸ 395 *Ib.* 788.

⁹ 398 *Ib.* 1821.

¹⁰ 404 *Ib.* 1797.

¹¹ 397 *Ib.* 1544.

¹² 399 *Ib.* 1718.

Mr. Speaker, in reply, read a Ruling given by Mr. Speaker Lowther on April 6, 1914,¹ as follows:

I have consulted the editor of the Official Report on this matter, and he tells me that, although hon. Members make corrections, he revises those corrections, and it does not follow that because an hon. Member makes a correction in the proof that the correction is always accepted. I asked the editor on what principles he went, and he said that the chief principle which guided him was to obtain an absolutely correct report of what was said. . . . He is very careful not to allow any corrections which would in any way alter the general sense of the speech made, but that he does accept corrections, for instance, of faults of grammar, split infinitives, or incorrect dates and I have told the editor that in my opinion he is in that way acting quite correctly.

Mr. Speaker Clifton Brown then added that he thought they were getting a little farther away from split infinitives, which were not so much commented upon nowadays. In reply to a *Q.* by another Member, Mr. Speaker said that, in reference to Ministers being treated differently from other Members, as far as he (Mr. Speaker) was concerned, it would be wrong. If Ministers exercised any undue pressure on *Hansard*, it would not have his support in any way whatsoever.

In reply to a further *Q.* as to the printing of Mr. Speaker Lowther's Ruling as above being rather *infra dig.*, Mr. Speaker Clifton Brown remarked that he thought it would be for the convenience of hon. Members and a gentle reminder to those who were rather in the habit, he might almost say, of rewriting their speeches.

In reply to another *Q.*, Mr. Speaker said that for a Member to alter the sense of a speech was entirely wrong and that some Members did not know what might or might not go into *Hansard*. Mr. Speaker added that a correction was submitted to him the other day of a sentence which an hon. Member had put into his speech—namely, he wanted inserted, "Loud Cheers by hon. Members."²

Reprints.—On May 9,³ an hon. Member read the following sentence which appeared on the inner cover of each *Hansard* pamphlet:

Members may obtain excerpts of their speeches from the Official Report (within one month from the date of publication) on application to the Controller of H.M. Stationery Office, c/o the Editor,

and the hon. Member understood that there seemed to be some difficulty in tracing how that privilege—which they had enjoyed for some time—was granted to hon. Members. He had on several occasions given orders for speeches other than his own, which sometimes were Ministerial speeches. Owing to the shortage of Parliamentary reporting by the Press on account of small amount of space there had been an important debate last week which did not appear in any of the national Press, and he thought he would like to have 10,000 copies of a speech of another Member and duly gave an order for it, but he was told that

¹ 60 *Com. Hans.* 4, s. 1633. ² 399 *Com. Hans.* 5, s. 1717, 1720. ³ *Ib.* 1719.

he could not sign the order form as it would have to be signed by the Member himself, when the hon. Member asking for the reprint was prepared to bear the cost.¹

Mr. Speaker replied that some weeks ago the editor of *Hansard* had said that he had received an order for 10,000 reprints of a speech, and Mr. Speaker said to the editor: "I do not want to interfere with what Members are doing. It is unusual, but please let me know if further orders of this character come in later on and then I will see what can be done."

Last week, continued Mr. Speaker, orders came in for 55,000 reprints. The whole amount in the year before the War was 63,000. The average number of copies asked for in the first 3 years of the War was 200-300 at a time. From January to May 1, 1944, the number of reprints was 117,000. Therefore, in 4 months they were asking for over 3 times what was asked for in the years before the War, which was a very serious situation from a labour point of view. These reprints were executed below production cost and hon. Members were asking for copies on this scale, which could not be merely for private circulation among a limited number of constituents, but for propaganda, which meant that hon. Members were to be subsidized by the taxpayer. Therefore, Mr. Speaker said, he had to cancel these large orders for the time being until he could inquire whether it was a right or privilege, and he found that, when the private firm which printed *Hansard* was taken over by the Government in 1909, hon. Members were allowed to have reprints of their speeches. Therefore, there was no privilege of any kind; it was merely a convenience given to hon. Members by a private firm which was continued when the work was taken over by a Government department. If there were any complaints about that, it was not a matter for him (Mr. Speaker), because there was no privilege involved; it was a matter for the Financial Secretary to the Treasury.²

Later, Mr. Speaker remarked it was not so much a question of paper as something which did not come within his jurisdiction.

It was pointed out by hon. Members in the discussion that, of course, a Member could always go to a private printer and have copies printed of a speech. Some of the difficulty arose owing to the shortage of paper for the Press, and consequently the shorter reports of the debates in the Press.

Mr. Speaker further remarked that the Financial Secretary, no doubt, would lay down some rules, but the House could ask questions about them or reject them. The matter really remained in the hands of the House in the end. The practice of reprints was not a usual practice 20 years ago.

The Financial Secretary remarked that there was no intention of withdrawing the convenience, but that obviously there must be some need to consider the number of copies which could be made available under present circumstances for many reasons. There must be a limit

¹ *Ib.* 1720, 1721.

² *Ib.* 1722.

put to this, and he would be happy to answer a Q. if his friend would put it down.¹

On May 10, a Q. was asked by *Private Notice* for a Government statement as to Members' reprints of their and other Members' speeches; to which the Financial Secretary replied that there had been for many years an arrangement by which M.P.s could obtain reprints of their speeches from the type used by H.M.S.O. for *Hansard*. In pre-War years these numbered 50-60 p.a., generally a few hundred copies, very seldom exceeding 500, and it was possible to meet those from standing type, afterwards used for production of the bound volumes with some economy to M.P.s and without dislocation in production of the volume. These demands in 1943 were 112. Last week 55,000 came at a time when the demand for *Hansard* itself was increasing, the sales having doubled during the last 12 months. Therefore, reprints at present had to be limited to 1,000 copies of any particular speech, and the charge for those reprints did not now cover the cost.

M.P.s could always get copies produced by a private printer, but doubtless War restrictions had made difficulties. Printing for public business must naturally always have precedence over the convenience of individual M.P.s. It was not the practice for M.P.s thus to obtain copies of *other* M.P. speeches. The law of libel, Mr. Speaker said, might be involved, but the matter was for H.M.S.O.²

Misprints, etc.—In the *Hansard* debate on the Adjournment on June 30,³ attention was drawn to certain misprints and slips in the reports. An hon. Member remarked that he supposed the only remedy was that they should all learn to speak more audibly or that all Members should read the typescripts of their speeches in the *Hansard* office for the benefit of them all. Other reasons may be due to man-power shortage and labour difficulties at the printers, shortness of staff, etc.

A number of amusing instances were given of colloquialisms, which the hon. Member hoped would not be ironed out but allowed to remain as human touches to debates.

One hon. Member pointed out a definition adopted by the Select Committee on Parliamentary Debates of 1907, by which the editor of *Hansard* was guided—namely:

... a full report . . . which, though not strictly verbatim, is substantially the verbatim report, with repetitions and redundancies omitted and with obvious mistakes corrected, but which, on the other hand, leaves out nothing that adds to the meaning of the speech or illustrates the argument.

¹ *Ib.* 1723, 1726.

² *Ib.* 1914, 1918.

³ 401 *Ib.* 970, 975.

VII. HOUSE OF COMMONS: DELEGATED LEGISLATION¹

BY THE EDITOR

A REVIEW of the happenings in the House of Commons during the 1943-44 Session by the writer would have come more appropriately in the form of an Editorial Note, but it was found that, to do anything like justice to such happenings, even a long Editorial Note would have been insufficient. Therefore, it is hoped that the abbreviated form of treating the subject adopted in this Article will be pardoned and the writer allowed to confine himself to statements of fact, thus also effecting economy in space.

As will have been seen from previous issues of the JOURNAL, the subject of delegated legislation has also received consideration in Dominion Parliaments, which, as at Westminster, have been stirred by the attention drawn to the subject by two such authorities as the late Lord Chief Justice Hewart in *The New Despotism* and by Dr. (now Sir Cecil) Carr (recently appointed Mr. Speaker's counsel at Westminster) in his *Delegated Legislation*,² as well as in one of his six lectures delivered upon the Carpenter foundation at Columbia University in the fall of 1940 and reproduced in his *Concerning English Administrative Law*³ published in the following year.

The attention given to the subject by the House of Commons during the Session under review in this issue formed the object of Questions proper, Questions raised under "Business of the House" and also on the "Motion for the Adjournment". Upon one of these last-mentioned occasions it was given by the Government a full-dress debate which brought about the appointment of the Select Committee on Statutory Rules and Orders so long desired by many Members of that House.

Questions.—On February 3,⁴ under "Business of the House", an hon. Member asked if the Government would consider giving time to the following Motion standing on the O.P.:

[*That this House desires the setting up now of a Standing Committee of all parties to examine the delegated legislative powers conferred upon the Executive for War purposes and to report which of these powers should be terminated when hostilities with Germany cease.*]

On March 9,⁵ the Prime Minister was asked, under oral answers at Q. time, whether he could now make some pronouncement as to the steps he proposed to take to reduce the volume of departmental legislation; to which Mr. Winston Churchill replied that the matter was kept under constant review by departments whose duty it was to secure the repeal of any subordinate legislation, obsolete or redundant, and that no special action was called for on his part.

¹ See also JOURNAL, Vols. IX, 64; X, 25, 27, 83-91; XI-XII, 15; see also 389 Com. Hans. 5, s. 1231, 1593-1694.

² See JOURNAL, Vol. VIII, 162-9.

³ See *Ib.* Vol. X, 191.

⁴ 396 Com. Hans. 5, s. 1412.

⁵ 397 *Ib.* 2184.

Another hon. Member then asked by Supplementary if they were to understand that this departmental legislation, which they had endured with some misgivings as a War expedient, was to be carried on in perpetuity.

A Supplementary by another hon. Member asked the Prime Minister if he was aware that since some of them had taken an interest in delegated legislation the number of Statutory Rules and Orders had been reduced one-third.

On March 16,¹ a Q. was asked, under "Business of the House", as to whether an opportunity would be given in the near future to discuss the Motion standing on the O.P. in the name of various hon. Members—namely:

[That this House is of opinion that the time has come for reconsideration of Regulation 18B² and of the practicability of bringing to trial those now in detention on the sole responsibility of the Home Secretary.]

On May 11,³ it was announced by the Deputy Prime Minister, under "Business of the House", that the Government would, on May 17, consider the following Motion standing in the name of the hon. Member for High Peak (Mr. Molson) and many other hon. Members:

[That this House would welcome the setting up of a Select Committee, without power to send for persons, papers, or records, whose duty it should be to carry on a continuous examination of all Statutory Rules and Orders and other instruments of delegated legislation presented to Parliament; and to report from week to week whether in the opinion of the Committee any such instrument is obscure or contains matter of a controversial nature or should for any other reason be brought to the special attention of the House.]

Motion.—On May 17,⁴ the Motion given above was moved by the hon. Member in question, immediately after some formal business had been taken under "Orders of the Day". Ninety-seven columns of *Hansard* are devoted to this debate, upon which an Order of the House was subsequently made (to be given later, but its main points will be given in abbreviated form; for those who wish to study the debate in detail, the footnotes will guide).

In introducing the Motion, the mover said that it had been a feature of the history of the House that, while it had been conservative in maintaining its authority and consistent in defending the liberties of the people, it had always seen that it should be ready to adapt its methods and to amend its procedure to meet new conditions. For example, in the XIXth century, when there was a great increase in legislation, the procedure of the House was altered, and the number of Qs put on the passage of a Bill was reduced from 14 to 4. Again, when the Irish Party developed the policy of obstruction at Westminster, the Closure was introduced which only a short time before would have been regarded as subversive of the rights of the House. Just as Parliament had been willing in the past to restrict its activities

¹ 398 *Ib.* 405.

² See JOURNAL, Vols. IX, 64; X, 25, 27, 191.

³ 399 *Com. Hans.* 5, s. 2093.

⁴ 400 *Ib.* 202.

in order to facilitate the passage of business, so there were now new conditions arising which required it, in some degree, to extend its activities. The Motion called for the new machinery needed, if they were to retain the old control over legislation which was necessary in the new conditions of today. It was no new thing for the House to delegate rule-making powers to the Executive. As early as 1337, the Statute of the 11th year of Edward III, Chapter 1, provided for the banning of the export of wool "till the King and his Council do otherwise provide". In the passing of the Education Bill last week, Part III would come into operation when an Order-in-Council was issued by His Majesty.¹

There were a number of reasons why delegated legislation was not only desirable but necessary. It economized the time of the House, and words from Lord Thring—the first holder of the office of Parliamentary Counsel to the Treasury—were quoted in support of the practice of delegating powers to Government departments.²

Delegated legislation was flexible. It could limit the application of legislation by time, location, membership, age or otherwise, all of which could be changed at short notice.

The value of delegated legislation was that, in a sudden emergency, it enabled the Legislature to dispense with long deliberation and armed the Executive with the special powers needed.³

S.O. 212 of the House of Lords, which dealt with the proceedings in regard to certain Special Orders laid in draft before that House, provided that, where an affirmative Resolution was required before the Order could be effective, such Orders had to be referred to a Standing Committee of that House, to which petitions could be presented praying to be heard upon the merits against any such Order.

The hon. Member went on to say that the House of Lords S.O., in one important respect, was misconceived in that it applied to those Orders laid before the House. What they, in the Commons, were concerned with were those Orders which came into effect automatically without being laid before the House, unless a Prayer was carried, in which case they were annulled. Therefore, the Motion before the House had been so drafted that all those measures which under the present system were apt to slip through without being scrutinized by anyone in particular would now be scrutinized by the Select Committee.⁴

What hon. Members were primarily concerned about were Orders and Regulations issued by the Executive which were perfectly lucid and legal, but which were bureaucratic, vexatious, embarrassing and harassing to the subject.⁵ They did not ask for the Committee to have any executive or delaying power, but that it should report to the House what it considered to be any Order or Regulation which was deserving of the special attention of the House of Commons; they did

¹ *Ib.* 204.

² 400 *Com. Hans.* 5, s. 205.

³ *Practical Legislation*, 1902, pp. 44, 45.

⁴ *Ib.* 207, 208.

⁵ *Ib.* 209.

not propose that the Committee should have the power to send for persons or papers. It was difficult to draw a clear distinction between the merits of an Order and its form, but there might well be Orders issued by the Government, perfectly legal and lucid, but which were, in the opinion of the Committee, of such importance that the attention of the House should be drawn to them.¹ The hon. Member, in conclusion, said:

We must, indeed, speak for the toad under the administrative harrow and be on the lookout for Regulations which, highly convenient to the bureaucrats, can be regarded as intolerably burdensome to the people. This is a case, in my submission, where we require to have a new piece of machinery in order to maintain the effective control of the House of Commons over what is taking place. . . . We now have 2 fat Volumes of these Orders and Regulations issued year by year, and it is really impossible for this House, with all its other duties, to scrutinize every one of these Orders. It is only a piece of machinery to appoint a Select Committee of this House to scrutinize them before they are allowed to become permanent legislation. . . . It is desirable that this House should retain its control over legislation. It is desirable that we should share with the Executive the responsibility for what is being done . . . in these proposals we are not weakening, but rather strengthening, the Executive because we hope thereby to make sure that it never gets out of touch with public opinion and with the feeling of this House.²

Points made in other speeches during the debate will now be given in abbreviated form, quoting the footnote reference in each case.

The debate reflected the opinion, which was becoming very widely held all over the country, that the matter required looking into; the Motion, with over 140 signatories, was supported by Members of all Parties. At first it was no easy task for those who shouldered the burden of looking at Regulations such as 18A, under which political organizations could be banned; 18B, under which the Habeas Corpus Act was, to all intents and purposes, suspended; and 2(d), that sword of Damocles which hung over the heads of their independent Press; their contention was that, whereas the process of "laying" Orders was a right, proper and adequate safeguard in days when delegated legislation was the exception rather than the rule, today, with such a mass of Orders, it was physically impossible for the average M.P. to carry out what was his plain duty; the process of government by Rule had developed, without any logical system, with the result that delegated powers now took the form of Rules, Regulations, Orders, Warrants, Minutes, Schemes, By-laws—the essential difference between these instruments, if any, being nowhere exactly specified;³ if the nation was to swing over rapidly, without disruption, from war to peace, their democratic system must work fast;⁴ too much detail in a Bill created such congestion in Parliament that it stifled, rather than expanded, the power of discussion and control; it was congestion that led to the Guillotine, a far more deadly instrument for crushing out

¹ *Ib.* 210.

² *Ib.* 211, 212.

³ *Ib.* 213, 214.

Ib. 219.

Parliamentary discussion than the proper delegation of detail to executive authority;¹ the Defence Regulations could be annulled by a Prayer of either House, and such a Prayer was exempted business; that in order to make the Committee effective it should, within proper limits, be given power to obtain evidence from responsible persons and obtain relevant information; the Committee should be free to give special attention to those Orders which affected the liberty of the subject;² it was thought that the Special Orders Committee in "another place" had a very useful function and, although that body had 36 members, hon. Members felt that a small Committee was the body that should concern itself with Rules and Orders, a Standing Committee would be too big; the House of Lords Committee had worked well for a considerable time. The counsel to Mr. Speaker and the counsel to the Lord Chancellor should assist in the same way they did with Private Bills;³ the Select Committee on Procedure on Public Business of 1931;⁴ the Rt. Hon. Member for Caernarvon Borough (Mr. Lloyd George), in giving evidence before such Committee, said that, speaking with 40 years' experience in the House, he had come to the conclusion that the House of Commons had no real control whatsoever over the administrative action of the Executive;⁵ if the growing tendency to give the Executive greater and greater power over the individual was to be proceeded with, then the nation had to be aware where they were going;⁶ where a man's livelihood or liberty was at stake, most minute examination of the legislation and the Regulations should be made;⁷ there should be differentiation as to what was a Rule, what a Regulation, what an Order, or what a scheme; a Regulation should be subject to a positive Resolution of the House; an Order, being a still more minor thing, should go to a Standing Committee; a scheme might lie on the Table for 40 days; Regulations should be subject to positive rather than negative procedure; there should be a Standing Joint Committee of both Houses to investigate such Regulations as were tabled in either House,⁸ with power to call for persons, papers and records;⁹ if the House were to insist on retaining its legislative functions in every detail of the application of every principle, the result would be that the House would stultify itself completely and it would have control of nothing;¹⁰ the Committee on Ministers' Powers¹¹ recommended a Standing Committee, but there was little difference between that and a Select Committee, except that a Standing Committee was automatically appointed each Session without the intervention of the Whips; it would be an advantage to have a Standing Committee, whose functions it would be to examine and report on any proposal for delegated legislation and also to examine Rules and Regulations as they were published by various departments; the Donoughmore Committee (as the Ministers' Powers Committee is commonly

¹ *Ib.* 219-21.² *Ib.* 225.³ *Ib.* 227.⁴ H.C. Paper 161⁵ 400 *Com. Hans.* 5, s. 233.⁶ *Ib.* 236.⁷ *Ib.* 237.⁸ *Ib.* 241⁹ *Ib.* 242.¹⁰ *Ib.* 244.¹¹ *Cmd.* 4060.

called) suggested that there should be precise limits set on the law-making power which Parliament intended to confer on a Minister and that it should be specially defined in clear language by Statute; and that what was called the Henry VIII Clause, conferring powers on the Minister to modify Acts of Parliament, and Clauses designed to exclude the jurisdiction of Courts over the legality of a Regulation, or Order, should both be abandoned in all except the most exceptional cases; the Standing Orders of both Houses should require that any Bill which proposed to confer a law-making power should be accompanied by a memorandum drawing attention to the power and explaining why such power was needed and how it would be exercised.¹

In the course of the debate, the Secretary of State for the Home Department (Rt. Hon. H. Morrison) considered that, in the ordinary way, in peace-time as distinct from war-time the subject-matter of Regulations was less important than the subject-matter of Bills. The Government was anxious that delegated legislation should be subject to effective Parliamentary checks, and wherever necessary effective Parliamentary control;² delegated legislation, within limits which were disputable, was necessary and inevitable. The amount of necessary legislation had increased, and was likely to continue to increase. The amount of legislation that could be got through in a Session had been limited. Would such limitation satisfy the needs and demands of the country in future? The character of modern legislation was changing. He did not think there was a Minister on the Treasury Bench, certainly not one in charge of an administrative department, who could not name 12 matters coming under his department, on which the law was wrong, but he could not change unjust or clumsy legislation as he would like to do. Instead, he had to wait until the time arrived when he could introduce a Bill. Some of the powers in some Defence Regulations were so substantial that in peace-time the House, and quite rightly, would not permit them to be considered Regulations at all. He did not think that the House meant that every conceivable Rule and Order should go to the Committee, as it would congest it, and make its operation difficult. The Minister suggested some classification—namely, 2 important classes of Orders.³ First, a group of Regulations or Orders which Parliament had stipulated could not be effective unless approved by an affirmative Resolution. The Government proposed that the whole of these should go to the Committee. The second, and still larger number, those against which hon. Members had the right of raising either a Prayer or a negative Resolution, it was suggested should go to the Committee as well. There was a large number of subordinate Orders under the main Orders-in-Council, which had to be laid before Parliament, but about which there was no provision for Parliament to do anything as they did not raise issues of principle. The phrase "laid before Parliament" used in Statutes came from the Rules Publication Act, 1893, the purpose of which Act was for the

¹ 400 *Com. Hans.* 5, s. 256.

² *Ib.* 262.

Ib. 266.

public, not Parliament, to know about these things. He suggested that if the Government went as far as that, the House would have its rights. It was of course a matter for the House to determine, but he thought the number of the Committee ought to be limited, otherwise it would inevitably tend to become a debating assembly and it would not be easy for it to maintain that high judicial spirit which everybody urged it should endeavour to do. It would clearly be an impossible situation if the merits of an Act of Parliament were to be re-debated in the Select Committee.¹ The function of the scrutinizing Committee was therefore to protect the authority of Parliament and not the interests of a particular party or group. They should not give the Committee the power to send for persons or papers. The Committee should not have the power to send for Ministers. The place for them to argue was "at this Box", and, moreover, subject to this House. They had to have the last word on the Floor of the House, if the matter came to an issue. If they had been upstairs, everybody might be embarrassed. But it was important that there should be at the service of the scrutinizing Committee officers from the departments who could give them information, technical or otherwise, give them the background and answer questions. It would be undesirable for the Committee to draw the special attention of the House to any Regulation unless it had either heard an officer of the department or seen a memorandum put in by it. The Committee should have the right to send for an officer from the department or ask for a memorandum, and the department should have the right to send an officer or a memorandum. By "information" he meant factual information, not files of the department, or the advice of the civil servant to the Minister. Much of the value of the advice of civil servants to Ministers came from the fact that it was meant for his eye alone. If it were seen by somebody else they would cease to be as frank and direct as they often were in their minutes, much to the public advantage.²

The right of a Member to put down a Prayer would remain. The Committee would have these Orders before them. They would examine them in the way indicated and decide upon which it was to comment and to which they would draw the attention of the House. The Committee reported to the House for the reason that it was difficult for Members to keep on the track of all these Orders; it was for the aid and assistance of the House as a whole. Meanwhile, the Order operated. There was a Report. Then the responsibility on the Floor of the House, either by moving a negative Resolution or putting down a Prayer, passed to where it was already—to the individual M.P. All this, from the first consideration of the Regulation, or Order, to the presentation of the Report and action by any individual Member, could be arranged to take place within the allotted span of time.³ There was no obligation on a Member to wait for the Report of the Committee to make a Prayer. He should use his own judgment.

¹ 400 *Com. Hans.* 5, s 267, 268.

² *Ib.* 269.

³ *Ib.* 270.

Continuing, the Minister said that in regard to whether the Committee should be a Commons Committee or a Joint Committee of both Houses, there was this case for a Joint Committee. At present "another place" had a Committee on Special Orders in a restricted field—gas, electricity, water Orders, etc. He understood it worked quite well, and the opinion of their Lordships was that it had been very judicial and effective. He did not know whether "another place" would wish to set up a similar Committee to that now proposed by the Commons. In that case, there would be the disadvantage that civil servants might be summoned to appear at 2 Committees instead of one. Memoranda, of course, could go to 2 Committees just as easily as to one. It might also be inconvenient if a Committee reported one way to one House and another way to another, and it had also to be remembered that, apart from financial matters, "another place" had just as much power to upset Regulations as had the House of Commons. Both Houses were on a basis of complete equality except in regard to financial matters. Therefore, from that point of view, there was a case to be made for a Joint Committee. It might simplify the situation and work very well. On the other hand, it occurred to the Government that, at any rate at the beginning, the House of Commons would sooner have its own separate Committee, subject to reconsideration later on, if the House wished. If the House preferred to have its own Committee, the Government was perfectly willing to abide by whatever was the general opinion of the House.¹ It had been asked whether there could not be some assistance for the Committee other than, and in addition to, the House of Commons Committee Clerk, who would of course be provided. The House of Commons Committee Clerks were, of course, an admirable body of men, to whom all hon. Members owed much. Their duties were the keeping of records and minutes, advice to Chairmen of Committees on Standing Orders, and certain other technical points, but they were essentially recording angels; they did not deal, and quite rightly so, with matters which might verge upon policy. Those would be outside their sphere. The Government had therefore considered whether an independent officer could be present at Committee meetings as adviser to the Committee, not a Government man, but there for the purpose of advising the Chairman and to give information to Members on facts, legal background, technical considerations and so on. It had been suggested that, in view of his unique experience and special ability, which was known to a large number of Members of the House, if Mr. Speaker were willing, then Mr. Speaker's counsel might be a most valuable person to act as adviser to the Committee over the field indicated.² The Minister said he had, in anticipation of that being the wish of the House, seen Mr. Speaker, who was agreeable to Sir Cecil Carr being placed at the disposal of the Committee on the lines he (the Minister) had indicated.³

For those who might not know, continued the Minister, Sir Cecil

¹ *Ib.* 271.

² *Ib.* 272.

Carr was editor of *Revised Statutes* and editor of *Statutory Rules and Orders*—which was very relevant to the matter—from 1923 to 1942; he had been counsel to Mr. Speaker since 1943 and Chairman of the Statute Law Committee for the same time. His qualifications were thus admirable for the purpose, apart from the fact that they knew he was personally acceptable to them all in that capacity. The Minister then suggested that the House should avoid getting terms of reference under which the issues of the principal Statute could be argued over again. Some of the terms would have to be specific and they would be driven in the end to an omnibus clause, to cover a fair variety of other matters which they could not foresee.¹

[The Minister then made 12 specific suggestions which are contained in paras. (i) and (ii) of the Order of Reference given later.]

The Minister said that a regulation like para. (ii) (in the Order of Reference) was clearly one which ought to be looked at with care, because, if the Courts could not intervene, Parliament must be careful before it finally let the matter out of its grip. The terms of reference must be such that the Committee did not try to do the work of the courts of law. It was not for the Committee to decide—indeed, it was not for Parliament to decide—what was the proper, legal interpretation of a Statute, or whether Regulations were within the legal terms of a Statute. That was for the Courts, and it was constitutionally of the greatest importance that the independence and freedom from Parliamentary interference of the Courts, even to the extent of Parliament not trying to interpret the law, should be guarded. There was also the question whether subordinate legislation contained any matter so foreign to the intention of Parliament in conferring the enabling power that the attention of Parliament ought to be called to it.²

In conclusion, the Minister said:³

- May I say that the working, the operation of the British Constitution and the British Parliamentary system is one of the most fascinating subjects of study that one can find. It is our capacity for adapting our Parliamentary institutions, even our Constitution, as we go along, it is our adaptability which has saved our democracy on more than one occasion; it is the power to give up part of our democracy in times of war and crisis which has saved our democracy for the time when the war or the crisis is finished. Here we are today in a friendly way arguing out and discussing how we can contemplate the development of delegated legislation with greater happiness by providing additional Parliamentary checks and Parliamentary information and publicity and light upon the subject. I think the discussion has been admirable in spirit, and we shall bring forward the appropriate Motion as early as possible. The Committee will be set up and its members must be selected with care. It is necessary that the Committee itself should take a high view of its duties; it should build up a good tradition. I feel certain that, if that be done, we shall have added not a brake upon the working of our Parliamentary and legislative institutions, but a device and an additional safeguard, which will serve the nation and Parliament in good stead for the future. I thank the House for the good spirit in which the subject

¹ *Ib.* 273.

² *Ib.* 274.

³ *Ib.* 274, 275.

has been discussed, and in view of the assurance which I have given and the fact that there is general agreement, I hope that in due course my hon. friend will see his way to withdraw the Motion which is the subject of our debate.

In continuance of the abbreviated form of giving points from the debate, it was remarked that, on the basis that Prayers were the touchstone of the interest of the House in Regulations and Orders, during the 1942-43 Session there had been 10 Prayers; among other things, they dealt with shipping and personal restrictions; road traffic, with particular regard to the speed of agricultural vehicles; billeting; the Government's nomination of directors to control factories; fuel consumption and inspection; the B.O.A. Corporation and its constitution; trespass on agricultural crops; and fireguard duties; apart from the Committee, Ministers responsible for delegated legislation should make far wider use of the power that they have, to make explanatory statements when introducing Regulations of importance, and that on the major Regulations they should publish White Papers, so that Members were alive to their import;¹ it was asked whether it would not be possible, instead of bringing a Regulation into force as soon as it was signed by the Minister, to prevent it coming into force until it was confirmed by the House;² they had had very long experience of the collaboration of Lords and Commons on a Committee dealing with delegated legislation—namely, on the Ecclesiastical Committee, which consisted of 15 Members from each House, working together year after year, examining the "Measures" brought before them and reporting to their respective Houses.³

Another hon. Member said:⁴

There are 2 or 3 dangers of bureaucratic drafting which this Select Committee should watch. The first is legislation by reference, which is not less objectionable in Statutory Rules and Orders than it is in Bills. By legislation by reference I mean, of course, legislating by altering an existing Act or Order, the Section of which you specify but do not explain or quote. Sir Cecil Carr quotes a Statutory Rule which reads:

"The provision of the Regulations of 1914 and of the corresponding Regulations of 1916 shall, so far as is inconsistent with these Regulations, cease to have effect."

Such a Rule asks a citizen to attempt feats of interpretation which are really quite beyond him. There was also a Statutory Rule which read:

"The Minister by virtue of Section . . . and all other powers him enabling

Such a phrase is far too vague and indefinite, and should not ever be employed in delegated legislation. Lastly, the Donoughmore Committee itself draws attention to the departmental practice of appending to a Regulation or Rule a note explaining it, and it suggested that this practice should be more general. A Committee with which I have the honour to be associated, which is presided over by the hon. Member for South Croydon (Sir H. Williams), and which calls itself the A.B.B.s, or Active Back Benchers' Committee, has endeavoured to make several Ministers sit up on this question, and I hope that the Select Committee will now take over our burden.

¹ *Ib.* 278.

² *Ib.* 284, 285.

³ *Ib.* 286.

⁴ *Ib.* 288.

It was also remarked later in the debate that, in discussing Bills and delegated legislation, they had stood up for the rights of the individual, whether those rights were infringed in the form of taxes, or his liberty as a subject, his freedom from arrest without due trial, or a tax upon his property; that was the sole function of Parliament and long might it remain so.¹

Another hon. Member observed that:²

It has been suggested that Ministers can amend Rules. In my view, they cannot. I shall be glad if my right hon. and learned friend can inform the House whether a Minister can or not. The other question is whether the Executive can hand back their authority. That is an amazing suggestion and indicative of the fact that one Member at least thinks that the Executive rules Parliament and that Parliament does not rule the Executive. These Rules and Regulations and Instructions, call them what you will, are, in effect, the law of the land. They are prepared by the Executive, interpreted by the Executive and enforced by the Executive. The vast majority of the people of this country, since they cannot afford to defend an action brought by the Executive, are in a position of defencelessness.

I object to this encroachment upon civil liberty, and I would remind the House that the beginning of the Nazi and Fascist Parties was the transference of power from the governing body to the Executive. . . . I hope that an occasion will arise when I may give the House the result of my own experience in regard to specific cases, particularly in connection with the Inland Revenue, which has not been referred to today. I have in my hand a document, 8 pp. of it, containing from 10 to 20,000 words and figures. The House knows nothing about it; these rules may be interpreted in any way that the Inland Revenue may choose. The victims can do nothing. I do not expect my right hon. and learned friend to refer to the Inland Revenue, because the target has been the Home Secretary—the most powerful man in the country. He is the only man who can release prisoners or who can make a Member of this House, or any civilian, a prisoner and keep him in prison without trial. This affects not only the Habeas Corpus Act, but Magna Charta. These rights have gone and it is the duty of this House to see that we recover these rights for the citizens of this country.

The Attorney-General, in winding up the debate, said:³

The existence of this Committee will, on the whole, make the House, whatever its complexion, more ready to accept a Clause under which there can be delegated legislation than is the case under the present, as I think it, unsatisfactory position.

The criticisms of the present position are really to the effect that, although it is the duty of the House to scrutinize all Orders which require affirmative Resolutions or against which a Prayer can be moved, it is also the duty of the House today to consider those Orders, and, if something is wrong, to ventilate the position. As it is, the ordinary Private Member of this House, with the heavy commitments which the House itself makes upon him, and with possibly other duties and obligations outside his actual duties and obligations in this House and in his constituency, can possibly look through all these various Orders to decide which ought to receive special attention or which might be objectionable. In so far as that is the criticism—and I think everybody agrees that it is the criticism—that criticism will grow as the legislation, which my hon. and learned friend has in mind, is brought

¹ *Ib.* 291.

² *Ib.* 293, 294.

³ *Ib.* 295.

before the House, and in every case where there was a power of delegation that criticism would be voiced with increasing strength as the process went on. The existence of this Committee will provide an answer.

The mover of the Motion then stated:¹

The Home Secretary, in his speech, has gone more than half-way to meet us, and I should like to say, on behalf of my hon. friends and myself, that we very much appreciate the attitude which the Government have adopted. In expressing our deep gratitude to them, I beg to ask leave to withdraw the Motion.

The Motion was then, by leave, withdrawn.

Select Committee.—On June 21,² the following Orders were made setting up the Select Committee on Statutory Rules and Orders:³

“That a Select Committee be appointed to consider every Statutory Rule or Order (including any Provisional Rule made under s. 2 of the Rules Publication Act, 1893) laid, or laid in draft, before the House, being a Rule, Order, or Draft upon which proceedings may be taken in either House in pursuance of any Act of Parliament, with a view to determining whether the special attention of the House should be drawn to it on any of the following grounds:

- (i) that it imposes a charge on the public revenues or contains provisions requiring payment to be made to the Exchequer or any Government Department or to any local or public authority in consideration of any licence or consent, or of any services to be rendered, or prescribes the amount of any such charge or payments;
- (ii) that it is made in pursuance of an enactment containing specific provisions excluding it from challenge in the courts, either at all times or after the expiration of a specified period;
- (iii) that it appears to make some unusual or unexpected use of the powers conferred by the Statute under which it is made;
- (iv) that there appears to have been unjustifiable delay in the publication of it;
- (v) that for any special reason, its form or purport calls for elucidation.”

Ordered:⁴ That the Committee shall have the assistance of the counsel to Mr. Speaker.

Ordered: That the Committee have power to sit notwithstanding any Adjournment of the House, and to report from time to time.

Ordered: That the Committee have power to require any Government Department concerned to submit a memorandum explaining any Rule, Order, or Draft which may be under their consideration or to depute a representative to appear before them as a witness for the purpose of explaining any such Rule, Order, or Draft.

Ordered: That five be the quorum.

Ordered: That it be an Instruction to the Committee that before reporting that the special attention of the House should be drawn to any Rule, Order, or Draft the Committee do afford to any Government Department concerned therewith an opportunity of furnishing orally or in writing such explanations as the Department think fit.

The Committee consisted of 11 Members—*i.e.*, Captain Crowder, Mr. Denman, Mr. Owen Evans, Mr. Fraser, Sir Herbert Holdsworth, Mr. Moelwyn Hughes, Colonel Sir Charles MacAndrew, Mr. Molson, Mr. Petherick, Mr. Ellis Smith and Mr. E. P. Smith.⁵

¹ *Ib.* 299.

² 401 *Ib.* 310.

³ *Ib.* 310.

⁴ 401 *Ib.* 311.

⁵ *Ib.* 310.

Report.—On July 18,¹ the Report² of the Select Committee was brought up, read and ordered to lie on the Table. The Report read:

The Committee have considered the Utility Apparel and Utility Cloth Orders (Amendment) Order, 1944 (S. R. & O., 1944, No. 703), dated June 20, 1944, which was presented to the House on July 5, 1944, and are of the opinion that the attention of the House should be drawn to it, on the grounds that it appears to make some unusual and unexpected use of the powers conferred by the Statute under which it is made, and that its form calls for elucidation.

Special Report.—On October 31,³ leave was given the Select Committee to make a Special Report,⁴ which was brought up, read, tabled and ordered to be printed. Paragraphs 1 to 9 of this Report read:

1. While their scrutiny has by no means covered the whole field of delegated legislation, Your Committee have taken note of certain anomalies in the machinery of Parliamentary control and of rules publication to which it may be useful to draw attention.

2. In the first place, Your Committee have been impressed by the apparently illogical diversity of the periods during which action is to be taken in respect of regulations, rules or orders, laid before the House. They have noticed that the various periods include 20, 21, 28, 30 and 40 sitting days, 40 days excluding prorogation or adjournment over 4 days, and one month with no requirement that any part of it shall be a time when Parliament is sitting. In present-day statutes the period is presumably standardized, but Your Committee consider it might with advantage be made uniform with retrospective effect; in their view the period should not be one which can run its course at a time when the House is not in Session.

3. In the second place, having had to consider the National Fire Service Regulations with which the House dealt last July, Your Committee suggest that the vague formula in an enabling statute whereby regulations thereunder are required to be laid before the House "as soon as may be" might be replaced by a requirement that they be laid within a definite number of days. In their opinion the arrangements for laying regulations should be as automatic as the arrangements for printing.

4. In the third place, Your Committee note the apparent absence of any principle determining the choice between the procedure by affirmative resolution and the procedure for the annulment of rules and orders by adverse Prayer. Rules and orders imposing taxation or modifying the terms of a statute should in their view require the authority of an affirmative resolution, but they are not convinced that orders such as those for the local opening of cinemas under the Sunday Entertainments Act, 1932, should be in the same category.

5. In the fourth place, Your Committee suggest that there are needless technicalities in the provisions and the operation of the Rules Publication Act. It seems to them, for instance, an unfortunate complication that regulations are sometimes described as "Provisional Rules" as regards England and "Statutory Rules" as regards Scotland. They are aware that this difference of label is due to the non-application of s. 1 of the Act to Scotland. Under that section an English rule-making authority must normally give 40 days' notice of its intention to make rules, and cannot make them until the 40 days have expired; but under s. 2 of the Act the rule-making authority can make its rules forthwith as Provisional Rules if it

¹ 402 *Ib.* 34.

² 404 *Com. Hans.* 5, s. 638.

³ H.C. Paper 113 of 1943-44.

⁴ H.C. Paper 113 of 1943-44.

certifies urgency. Because s. 1 does not apply to Scotland, a Scottish rule-making authority can make Statutory Rules forthwith without any 40 days' delay. If there be any safeguard in the requirement of prior notice, Your Committee do not see why the obligation upon Departments under s. 1 should not apply in both countries.

6. It seems plain that Parliament, in sanctioning the making of Provisional Rules forthwith in cases of urgency, contemplated that the rule-making authority would, when it found itself obliged to make Provisional Rules in haste, at once give the 40 days' notice prescribed by s. 1 of the Act and would, at the end of that period, convert its Provisional Rules into Statutory Rules. The Act, however, does not specifically require this to be done; the unconverted Provisional Rules remain valid for an unlimited period. Your Committee think that Parliament might limit the duration of the validity, so as to compel Departments to lose no time in giving the notice which it is assumed that Parliament intended to require.

7. In this connection a point of practice seems never to have been settled. A rule-making authority, exercising a power under some statute, may make a set of rules as Provisional Rules on a particular date and subsequently (after the 40 days' interval) make them as Statutory Rules. The statute under which the rules are made requires them to be laid before Parliament and enacts that they shall be annulled if within a time-limit there is a successful Prayer against them. The making of the Provisional Rules and the making of the Statutory Rules are separate exercises of the power on separate dates, but the 2 sets of rules are identical. The question then arises whether, the rules having been laid before Parliament when made as Provisional Rules, they need be laid again before Parliament when made as Statutory Rules. If, as Your Committee understand, different Departments take different views, it would seem that the doubt should be authoritatively removed.

8. Finally, the description of rules as "Provisional" is a possible source of confusion. Provisional Rules have nothing to do with the Provisional Orders which are confirmed by a Provisional Order Confirmation Act. If the proposal to limit the period of validity of Provisional Rules were accepted, some description emphasizing that they were temporary rules might be preferred. On the general question of the differences of terminology the Report of the Committee on Ministers' Powers and recent debates in Parliament have emphasized the confusion in respect of the various instruments of delegated legislation. For example, an "order" may denote one type of legislation in one case and quite another type elsewhere. Your Committee believe that, for the convenience of Parliament and the public, the different classes of delegated legislation should be classified under separate designations. Thus all concerned would know when, in future, discussing an Order in Council, for example, that such an Order would relate to matters of high constitutional and imperial importance and that "rules" would apply only to rules of procedure, etc. Your Committee do not at this stage suggest any definite classification, but they would again invite the attention of the House to the need for reform.

9. Your Committee have drawn attention to matters arising out of the Rules Publication Act because its provisions, having been in operation unchanged for 50 years, may be deemed ripe for review. Their recommendations are the result of the practical experience which they have gained in the course of their scrutiny of the matters referred to them.

Minutes of Proceedings.—On November 14,¹ the Minutes² of Proceedings of the Committee for the Session were tabled, and showed that the Committee had held 10 meetings, at which Sir Cecil Carr, Mr.

¹ 404 *Com. Hans.* 5, s. 1802.

² H.C. Paper 118 of 1943-44.

Speaker's counsel, was also in attendance. Ninety-six Regulations, etc., were considered.

The Committee decided to meet every Tuesday at 2.30 o'clock. Sir Stephen Low and Mr. L. E. Hudson of the Board of Trade were examined.

Only in regard to the following Order was a resolution passed by the Committee—namely: "That unless otherwise resolved, the Orders made under the Sunday Entertainments Act, 1932, be not in future considered."

It was resolved at the second meeting: "That, until the Committee otherwise order, strangers be not admitted."

The number of S. R. & O.s made in 1942 was 1,953 and in 1943 was 1,379,¹ and the number of Questions asked in the House in regard to S.R. & O.s during the 1943-44 Session was 79.²

¹ 396 *Com. Hans.* 5, s. 31.

² 405 *Ib.* 5, s. 577.

VIII. HOUSE OF COMMONS: WORKING OF MEMBERS' PENSIONS FUND, 1943-44

BY THE EDITOR

THE non-public money pensions scheme for ex-Members of the House of Commons and their widows or orphans qualifying therefor has been dealt with in previous issues of the JOURNAL,¹ beginning with Questions in the House to the Prime Minister (Rt. Hon. Neville Chamberlain) in 1936 and 1937, developed by the inquiry and report of a non-political Departmental Committee in 1937, approved by Resolution of the Commons in 1939 and confirmed by legislation which came into force on October 1 of that year. Under this scheme the contributions are compulsory but the qualifying pensions are optional.

Another proposal was made in the last-mentioned year in the Union House of Assembly which included compulsory contribution by Members of both Houses but involved contributions out of public moneys. This proposal,² however, did not proceed farther than the tabling of the Report of the Select Committee (with draft Bill attached) of the House of Assembly, the Order of the Day for consideration of the Report becoming lapsed on prorogation of Parliament.

In the last issue of the JOURNAL,³ information was given as to the working of the House of Commons Fund, Reports by the Comptroller and Auditor-General thereon, since its inauguration, as well as Questions and debate in the House of Commons on the subject. The proceedings on this subject in the 1943-44 Session were as follows:

Question.—On March 15,⁴ Mr. Glenvil Hall asked the Prime Minister if he would give the House an opportunity to consider increasing the maximum allowance payable under the House of Commons Members' Pensions Fund Act, 1939, at present limited to £150 p.a. for an ex-Member and £75 for his widow and children, in view of the fact that, as no grants from the National Exchequer were involved, the matter could not be raised on any Vote in Supply.

Mr. Winston Churchill replied that further experience was desirable before consideration of amending such legislation. No confident estimate could yet be made of Members who would retire or would fail to secure re-election at the next General Election. At the end of a Parliament of unusual duration a large proportion of M.P.s would be qualified by length of service to apply for pensions. Mr. Churchill said that matters concerning the Fund were discussed on June 10, 1943,⁵ and he regretted that, owing to the present state of business, he could not afford a special opportunity for debate.

In reply to a Supplementary, Mr. Churchill said that this Fund rested on the basis decided by the House. An exceptional strain may

¹ See Vols. V, 28; VI, 139; VII, 138; VIII, 103.

² *Ib.* VIII, 128.

³ Vol. XI-XII, 124.

⁴ 398 *Com. Hans.* 5, s. 237.

⁵ See JOURNAL, Vol. XI-XII, 126.

fall upon it, and no provision had been made yet to meet such an exceptional strain.

Government Actuary's Report.—On July 12, 1944, the House of Commons ordered the printing of the Report¹ of the Government Actuary on the general financial position of the Fund as at March 31, 1944, presented pursuant to 2 & 3 Geo. VI, c. 49, s. 3 (5), and also made in compliance with the request of the Trustees (*vide* Secretary's letter of March 6, 1944). The Report (dated July 4, 1944), which is addressed to the Chairman of the Trustees, House of Commons Members' Fund, Fees Office, House of Commons, shows the general and financial position of the Fund as at March 31, 1944.

The Report states that the Fund, which was started on October 1, 1939, had, on March 31, 1944, therefore been in force 4½ years. The balance of the Fund on such date amounted to £31,944, and the following is a summary of accounts for that period:

Income:						£
Members' contributions	..	..	..	..	..	32,891
Interest receipts	..	..	..	..	..	1,851
Profit on realization of investments	..	..	..	..	..	573
						<hr/>
Total receipts	..	..	..	..	..	35,315
Expenditure:						£
Pension payments	..	..	..	..	..	2,651
Non-recurrent grants	..	..	..	..	..
Administration ..	..	..	..	..	..	720
						<hr/>
Total expenditure	..	..	..	..	..	3,371
Balance of Fund at 31st March, 1944	..	..	..	..	..	31,944

The Report states that the profit from realization of investments arose in the year ending September 30, 1942, otherwise the income of the Fund consisted solely of Members' normal contributions and interest receipts. Such contributions have been constant at about £7,300, but there had been a steady growth both in interest receipts and expenditures shown in the following table:

Period.	Interest Receipts.	Pension Payments.
	£	£
Year ending September 30, 1940	31	204
" " " 1941	195	427
" " " 1942	554	661
" " " 1943	671	953
Six months ending March 31, 1944	400	406
	<hr/>	<hr/>
Total	1,851	2,651

Paragraph 3 of the Report states that the number of Members of the House of Commons whose membership terminated between October 1, 1939, and March 31, 1944, was 118, analysed as follows:

¹ H.C. Paper 93 of 1943-44.

Cause.	Total termina- tions.	Terminations after 10 or more years' total service in the House.
Death	58	41
Peerage, Judgeship, Governorship, etc. ..	31	19
Other causes	29	23
Total	118	83

The last column shows the maximum number of terminations in respect of whom, by virtue of para. 5 of the First Schedule to the Act,¹ payments may normally be made out of the Fund. The total number of pensions awarded during the 4½ years was 16 (of which 12 were to widows), out of 41 deaths shown above, and 4 were to ex-Members, out of 23 terminations due to "other causes".

The numbers on the books at March 31, 1944, were 9 widows with pensions of various amounts aggregating £600 p.a. and 2 ex-M.P.s each receiving £150 p.a. Paragraphs 5 and 6 of the Report read as follow:

On reasonable assumptions regarding the ages of the widows, the actual ages of whom are not known, it is estimated that the capital liability at March 31, 1944, in respect of the surviving pensioners was between £9,000 and £10,000, or rather less than one-third of the existing fund of £31,944. Had a dissolution then taken place, the balance of the fund would have been sufficient to provide 15 pensions of £150 a year to ex-Members.

On the basis of the experience of the fund up to date, it appears that each year's income has provided immediate pensions for rather less than 3 widows and one ex-Member on the average each year, leaving in reserve an amount sufficient to provide about 3 pensions to ex-Members at the dissolution of Parliament.

Any increase in the scale of pensions will naturally reduce the number of ex-M.P.s and widows to be pensioned. Pensions to ex-M.P.s are largely because of physical disability. Two out of the 4 ex-M.P.s pensioned died within a year of the grant. On the other hand, at a dissolution there would be included ex-M.P.s of sound health who have not been returned to Parliament.²

The Report further states³ that on July 30, 1937, out of 614 Members, there were 234, or 38 p.c., including 100 aged 60 or over, who had served for 10 years or more. On March 31, 1944, out of 614 M.P.s, the number who had served for 11 years or more was 342, or 56 p.c.

The number who had served for 10 years on March 31, 1944, was 368 (*vide* table below). Of these the ages of 26 were not stated, and 1169 were aged 60 or over. The Government Actuary concludes his Report by saying that the field from which beneficiaries of the scheme may emerge has thus extended very considerably since the Depart-

¹ See JOURNAL, Vol. VIII, 116.

² Rep. § 10.

³ Rep. (H.C. Paper 93 of 1943-44), § 8.

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 mental Committee reported and the observations in paras. 14 and 16
 of that Committee's Report¹ have acquired increased cogency.

*COMPOSITION OF HOUSE OF COMMONS ON MARCH 31, 1944,
 By Age and Parliamentary Service.*

<i>Age.</i>	<i>Total Members.</i>	<i>Members whose service in Parliament was—</i>	
		<i>Less than 10 years.</i>	<i>10 Years and over.</i>
Under 40	46	40	6
40-49	134	55	79
50-59	155	67	88
60-64	81	21	60
65-69	65	12	53
70 and over	67	11	56
Not stated	66	40	26
Totals	614*	246	368

* One bye-election pending.

¹ See JOURNAL, Vol. VI, 145, 146.

IX. AUSTRALIA: COMMONWEALTH JOINT COMMITTEE ON WAR EXPENDITURE¹

BY W. I. EMERTON,²

Secretary of the Joint Committee on War Expenditure

A JOINT Committee, which comprised 12 Members of both the Senate and the House of Representatives, was appointed by the Commonwealth Parliament, July 31, 1941:

to examine current expenditure defrayed out of moneys voted by Parliament for the Defence Services and other Services directly connected with the War and to report what, if any, economies consistent with the execution of the policy decided on by the Government may be effected therein.

The powers with which this Joint Committee was clothed have already been noted in the JOURNAL.³

As the number of Government and Opposition Members on the Committee was equal, the Chairman was appointed by both Houses of the Parliament at the time the Committee was constituted.

The Committee continued to function until the close of the XVI Parliament, which was dissolved July 7, 1943. During that period 127 meetings of the full Committee and 14 meetings of Sub-Committees were held. In all 139 witnesses were examined. Members of the Committee also visited various types of establishments engaged on Defence activities, under both Government and private control.

At the commencement of its activities, Members of Parliament and the general public, by circular and public advertisement respectively, were invited by the Committee to submit cases of alleged waste of war expenditure. Cases submitted were investigated by the Committee, and, when found necessary, appropriate action was taken.

When the Committee was reappointed during the First Session of the XVII Parliament, on October 14, 1943, the personnel was reduced to 7—4 Government and 3 Opposition—Members. Although the former terms of reference remained, the powers and rules governing procedure were altered as follows:

- (a) the election of Chairman was left in the hands of the Committee;
- (b) 3 or more Members to form Sub-Committees instead of 4 or more, and the quorum of such Sub-Committees was reduced to 2;
- (c) the quorum of the full Committee was reduced from 5 to 3 Members;
- (d) no reference was made to the voting powers of the Chairman.

This Committee continued to function until Parliament was prorogued July 5, 1944. Thirty-one meetings of the full Committee and 8 meetings of sub-committees were held, and the total number of witnesses examined was 36.

¹ See also JOURNAL, Vols. X, 45; XI-XII, 45.

² Mr. Emerton is Usher of the Black Rod and Clerk of Committees of the Senate.—
[Ed.] ³ Vol. X, 45. Representatives' Message No. 59, § 3 (a) to (f).

The Committee was again reappointed during the Second Session of the XVII Parliament, on July 20, 1944, under the same terms and with similar powers to that of the second Committee. However, it functioned for only 6½ months as Parliament was again prorogued, February 8, 1945. Only 11 meetings of the full Committee were held and 5 witnesses were examined.

Although the Third Session of the XVII Parliament had been in progress since February 21, 1945, the Committee's reappointment did not take place until May 11, 1945. Its terms of reference, powers and personnel were the same as the previous Committee.

Since the Committee was first appointed July 3, 1941, 7 public reports have been presented to Parliament and 25 confidential memorandums addressed to the Prime Minister for the consideration of the War Cabinet.

In view of the interpretation given by the then Prime Minister (Rt. Hon. R. G. Menzies), on the Motion for setting up the Committee, of the words "current expenditure defrayed out of moneys voted by the Parliament", the Committee considered it was competent for it to examine expenditure previously incurred, where such formed the basis of, or had bearing on, current expenditure.¹

First Progress Report.—The Committee gave special consideration to the protection of witnesses called before the Committee and of other persons who tendered information. After fortifying itself with an opinion from the Commonwealth Solicitor-General, the Committee was satisfied that it had power to give sufficient protection in all cases.²

The Heads and other senior officers of the various Commonwealth Departments were examined, and from this general survey the Committee obtained a knowledge of the machinery controlling the Commonwealth War Programme and the system of financial control. On broad principles the Committee was satisfied that the system of Australian financial control of War organization was well conceived and provided machinery which should be adequate for keeping under review the various stages of War expenditure. The Committee found that the advisory work of the Business Managers in the Service Departments and of the Central Board of Business Administration in the Department of Defence Co-ordination had done much to check extravagant expenditure. It also considered that the interests of the Commonwealth demanded that greater powers be given to the Business Board, to be exercised in a direct manner between the Board and the originating Department, when a proposal placed before it could not be supported on general business principles.³

In regard to land acquisition, the Committee was of opinion that no land should be acquired unless the advice of the Commonwealth Property Officer, or that of the State Business Committee, supported the selected site, after consideration of all the relevant factors and

¹ First Progress Report, § 2. (These Reports are hereinafter referred to as P.R. 1, 2, and so on.)

² *Ib.* § 5.

³ *Ib.* §§ 9, 10, 12, 13.

possible competitive sites, the Business Board to have power to withhold its endorsement of a proposal until such advice was forthcoming.¹

The Committee felt that a strong system of audit control by the Commonwealth Auditor-General and his staff, within each War Department and operating as part of a unified system under his supervision, would provide a valuable check on expenditure.²

Second Progress Report.—This Report, which was tabled December 17, 1941, was an interim report on Cost-plus Contracts.

Third Progress Report.—This Report, which was also tabled December 17, 1941, followed an inquiry into the possible greater use of calculating machines in Commonwealth Departments. The following is a summary of the Committee's conclusions:³

- (1) The Committee recommended that a survey of accounting work in Commonwealth Government Departments be carried out by a panel consisting of two commercial specialists in accounting machine practice and an officer of the Public Service Board. This panel, after examining in every Department the opportunities of machine methods in replacement of mental calculation services, should recommend the type of machine suitable for each class of work, and what revision of departmental organization would be necessary to make the mechanical equipment most effective.
- (2) Probably special training of staff would be required for efficiency in machine work, and this phase should be dealt with in the panel's report, with particular reference to any types of operators located during the survey who would be specially suitable for supervision duties in the reorganized programme.
- (3) The Committee was hopeful that not only would substantial economy in expenditure be achieved when the full use of mechanical equipment was made, but that, in addition, man-power, now partially wasted in tedious mental drudgery, could be transferred to more important phases of Commonwealth work.

Fourth Progress Report.—This Report, dated May 7, 1942, dealt with the Committee's inquiries into Annexe Contracts under the Cost-plus System, and contained the following recommendations:⁴

- (a) That a panel of 3 Members be appointed by the Government to review all Annexe contracts, and to determine conditions of new contracts, such panel to include a competent cost accountant, a highly qualified engineer and an experienced business man. In submitting this recommendation, the Committee realized that no hard-and-fast rule could be laid down to meet every case. Each should be considered on its merits, taking into consideration, the varying factors which apply in the production of various types of war requirements.
- (b) That, wherever possible, the system of payment to Annexe contractors of a percentage of cost of production be discontinued in cases of established production, and that arrangements be made for either the fixation of a contract price or the payment of a Management Fee.
- (c) That in the fixation of a Management Fee provision be made for a reduction of such fee in the event of costs of production or output being unsatisfactory.
- (d) That, in the case of Annexes being established, a fee to cover the preliminary establishment work prior to production be paid in appropriate

¹ *Ib.* § 15.

² *Ib.* § 18.

³ *P.R.* 3, § 40.

⁴ *P.R.* 4, § 40.

cases, and that the payment of a Management Fee should date from the commencement of production.

- (e) That further efforts be made to augment the Cost Investigation staffs in the various States to facilitate the checking of contractors' and sub-contractors' costs.

Fifth Progress Report.—This Report is dated November 4, 1942, and was brought up and ordered to be printed December 10, 1942, the subject of its investigations being Military Hospitals. In this Report the Committee advised that, in the event of further military hospital accommodation being required, consideration should be given to the existing general hospital accommodation available in the neighbourhood. Having regard to its use after the War, the Board of Business Administration had recorded that where a country hospital was within reasonable distance of an air station or military camp it would be preferable to provide an annexe to that institution rather than to build a new hospital.¹

Sixth Progress Report.—The subject of this Report, dated November 5, 1942, is "Petrol Consumption by Armed Forces" and contains the following observations:²

The Committee was satisfied that many of the abuses complained of in the past are likely to be overcome if the regulations recently drawn up are followed. To this end they should be widely disseminated and every responsible officer induced to familiarize himself with them; then the regulations should be rigidly enforced. Furthermore, there should be an awakening of the conscience of those within whose power it is to stop any abuse, and the meting out of drastic punishment to those convicted of wastage of petrol or the misuse of vehicles. Greater co-ordination should be aimed at to avoid the running of several cars or trucks to destinations where a smaller number would suffice; and the use of cars when another method of transport was available should be prohibited. It should also be borne in mind that the conservation of petrol means a less expenditure of rubber, which is one of our major problems.

Seventh Progress Report.—The Committee, actuated mainly by certain evidence given before it concerning the construction of two large projects in the Northern Territory—a seaplane base and an air depot—in which allegations of waste, mismanagement and over-staffing were made against the Allied Works Council, considered that as complete a survey as possible be made by members of the expenditure incurred in the construction of Defence projects in Queensland and the Northern Territory. Accordingly, a tour of Queensland and Northern Territory was carried out during the month of October, 1944, when an inspection of a greater part of the Defence installations in those States was made.

Following this inspection, the Committee presented its Seventh Progress Report, dated November 22, 1944, which contained, *inter alia*, the undermentioned observations and recommendations:³

¹ P.R. 5, § 24. ² P.R. 6, §§ 18 and 19. ³ P.R. 7, §§ 375, 378, 379, 383 and 387.

- (a) While the Committee was not in a position to express any definite opinion as to whether construction costs were unnecessarily high, it reached the conclusion that, for the reasons enumerated in the Report, costs very much in excess of pre-war standards were inevitable. It realized that, during the period when a great deal of the Defence construction was carried out, the extreme urgency of the required work was of paramount importance and over-rode all other considerations. If some confusion did exist, and public money was wasted as a result, it was of minor consequence when compared with the gigantic task so successfully carried out by all the constructing authorities concerned.
- (b) The Committee noted that many facilities established to meet war-time needs will have a great peace-time value. It recommended, therefore, that these facilities, when no longer required for Defence purposes, be preserved and utilized for the further development of our country.
- (c) It considered that the use of prefabricated materials for Defence accommodation should be adopted wherever practicable. Further, that their use be employed in connection with post-war planning.
- (d) The Committee was satisfied that the allegations of over-staffing of the Allied Works Council at Alice Springs were made without knowledge of the existing conditions.
- (e) It strongly recommended that the future reconstruction of Darwin be carried out in accordance with a definite prearranged modern town plan.

X. SOUTH AUSTRALIA: FINANCIAL PROCEDURE IN THE HOUSE OF ASSEMBLY

BY CAPTAIN F. L. PARKER, F.R.G.S.A.,
Clerk of the House of Assembly and Clerk of the Parliaments

THE financial procedure of the House of Assembly is based upon the original provision in the Constitution Act of 1855-56 and subsequent statutory definitions and Standing Orders to complete the regular course which is followed from year to year.

Section 59 of the Constitution Act, 1934-43 (s. 40 of the original Act No. 2/1855/(6)) reads as follows, namely:

59. It shall not be lawful for either House of the Parliament to pass any vote, resolution, or bill for the appropriation of any part of the revenue, or of any tax, rate, duty or impost, for any purpose which has not been first recommended by the Governor to the House of Assembly during the Session in which such vote, resolution or bill is passed.

S.O. 283 reads:

Every Bill which imposes a charge upon the people or authorizes the borrowing or expenditure of money shall be founded upon Resolution of a Committee of the Whole House, submitted by a Minister, and agreed to by the House.

S.O. 410 reads:

All Motions which may impose a charge upon the people, or authorize the borrowing or expenditure of money, shall be first discussed in a Committee of the Whole House.

The machinery which gives effect to the financial requirements of the Government is the Governor's Speech, the Committees of Supply and Ways and Means, and Committees for financial resolutions in connection with Bills. That paragraph of the Speech which informs Members of the House of Assembly that the Estimates of Expenditure for the financial year will be duly placed before them starts the year's financial business.

As Parliament usually meets during July of each year and the Estimates are not presented until about September, the Standing Orders are suspended to set up the Committee of Supply and to enable a Supply Bill to be put through before the Address-in-Reply is agreed to. The Order—Supply in Committee—lies dormant on the Notice Paper until a Message is received from the Governor recommending a further Supply Bill or the Estimates of Expenditure.

The early Supply Bills are accepted by the House without criticism, a condition being that no expenditure is to be increased over the previous year's Estimates. The right of Members to debate the Motion on going into Committee of Supply is retained but is seldom availed of.

The Constitution Act of 1855-56 placed limitations on the power of

the Legislative Council to initiate certain financial measures, but none upon its power to amend them. Consequently, in the First Session after the first elections a dispute on this very point arose. Finally, by a compromise, a question which contained the seeds of serious constitutional complications found a practical solution known thereafter as the Compact of 1857. The gist of the "Compact" was that the Legislative Council should refrain from amending Money Bills, but might *suggest* to the Assembly what amendment it desired. In 1913 statutory effect was given to this voluntary agreement.

The Estimates of Expenditure on being received from the Governor are referred to the Committee of Supply. The Treasurer, in moving the first line, makes a general statement of the finances—his Budget Speech—and this is followed by a comprehensive debate pending the passage of the first line, after which debate is restricted to the Department on item before the Committee. Reductions may be moved for in any line or Department, but increases cannot be accepted unless a further Message recommending the amounts is received from the Governor.

The Appropriation Bill sets out the amounts voted by the House for all Departments and Services, and when passed by both Houses and assented to by the Governor is the statutory authority for the payment out of general revenue of the year's requirements.

Under s. 72 of the Constitution Act expenditure not provided for may be incurred up to £300,000 (increased to £400,000 during Wartime).¹ This covers payments at the beginning of the financial year until the passing of a Supply Act, from which the Governor's Appropriation Fund is automatically reimbursed, and also excesses after the Appropriation Act is passed. If unforeseen expenditure involving an excess of more than £300,000 becomes necessary, it can only be authorized by a further Appropriation Act founded on Supplementary Estimates. When Parliament has been prorogued this necessitates a special Session.

The Loan Estimates are dealt with in Committee of the Whole House. On moving the total amount the Treasurer takes the opportunity of reviewing the Loan position and pending the putting of the lines separately a comprehensive debate is allowed.

Excesses on the previous year's Loan Estimates are shown in a statement of the Loan Expenditure for that year and form the subject of a special Resolution of approval by the House.

The Public Purposes Loan Bill (now an annual measure, but not necessarily so) is founded on the normal resolution for a Money Bill. The amount does not coincide with the Loan Estimates, as provision for raising the money required for some of the year's loan works may have been made in previous years, while in regard to others the Bill may authorize borrowing money for more than 12 months ahead.

¹ See JOURNAL, Vol. XI-XII, 48.

XI. SOUTH AUSTRALIA: SUBORDINATE LEGISLATION

BY CAPTAIN F. L. PARKER, F.R.G.S.A.,
Clerk of the House of Assembly and Clerk of the Parliaments

FOR several years previous to 1935, the subject of legislation by regulation was frequently in the Press, and before public bodies, etc., and the question of more effective Parliamentary control was being brought up in the Parliament in Questions and in debates on Bills involving regulation-making powers. It was not until 1935 that the matter was referred to an honorary Committee appointed by the Government on March 13 of that year.

In the Report (No. 52) from this Committee, presented to the House of Assembly August 27, 1935, it was stated that the main defects of the system as applied to South Australia were:¹

- (a) There is usually a lack of publicity associated with the framing of subordinate legislation.
- (b) Unless vigilance is exercised by Parliament, there may develop a tendency to frame legislation drafted merely from a departmental point of view.
- (c) In certain few instances—to be mentioned later—there is a lack of complete Parliamentary control over subordinate legislation.
- (d) There is no convenient method provided whereby the public at large may object to the policy of any regulations.

It was also recommended:²

that a system be instituted to provide that before the Governor's approval be given to any regulations to be made hereafter, the Parliamentary draftsman, or a Law Officer of the Crown, be required to certify that they are correctly drafted, and in his opinion are not *ultra vires*.

The Committee also recommended that:³

In the framing of regulations dealing with any section of the business community, the Committee considers that there should, whenever possible, be consultation with that section. This practice has been followed in some instances with advantage, and should be availed of whenever practicable.

The Committee in this Report recommended that, in order to remedy the lack of publicity when regulations were made, legislation similar to the Imperial Rules Publication Act of the United Kingdom should be enacted in South Australia.

In para. 16 the Committee observed that:

The general rule, as laid down in s. 38 of the Acts Interpretation Act, 1915, is that regulations must, within 14 days after their making, or, if Parliament is not in Session, within 14 days after the commencement of the Session, be laid before Parliament. The regulations are then subject to disallowance by Resolution of either House on Motion moved within 14 sitting days after the tabling. The regulations may come into force upon the making thereof, with the result that Parliamentary control may in many

¹ *Rep.* § 10.

² *Ib.* § 13.

³ *Ib.* § 14.

instances be exercised only after the regulations have become law. However, the Committee is of opinion that this system is, perhaps, the most convenient one which is practicable. Many regulations deal with minor administrative methods, or are necessary to supplement a statute. It is, therefore, necessary that power should be given whereby they can be brought into operation before Parliament has an opportunity to disallow them. A number of the enabling statutes provide that regulations are to be tabled within and for periods different from those above mentioned. The Committee is of opinion that there should be uniformity so far as possible, and that the necessary legislation should be passed to achieve this end. In a limited number of cases, the enabling statutes make no provision at all for the tabling of regulations, which are, therefore, not subject to any Parliamentary control. The Committee feels strongly that all subordinate legislation should be subject to the control of Parliament, and recommends that the law be altered to provide accordingly.

The Committee was also of opinion that the Joint Committee should report to both Houses as to the following matters in respect of any regulations:

- (a) That they are in accord with the general objects of the statute;
- (b) That they do not trespass unduly on personal rights and liberties;
- (c) That they do not unduly make the rights and liberties of citizens dependent upon administrative and not upon judicial decisions;
- (d) That they are concerned with administrative detail, and do not amount to substantive legislation, which should be a matter for Parliamentary enactment.

The functions of this Joint Committee should not be limited merely to regulations then under consideration by Parliament, but should extend to any regulation whatever, which, in the opinion of such Committee, calls for a report to Parliament. If at any time when Parliament is not in Session the Joint Committee is of the opinion that any regulation should be reconsidered by the promulgating authority, it should have power to make recommendations direct to such authority, and, if necessary, to publish the same. It is recommended that the necessary provisions for the establishment of a Joint Committee should be made by amendment of the Standing Orders.

The Committee therefore recommended:

That legislation be enacted—

- (a) to provide that the period within which and for which regulations are tabled be uniform, and conform to the practice laid down in s. 38 of the Acts Interpretation Act, 1915;
- (b) to provide that all regulations not now subject to disallowance by Parliament should be made so subject;
- (c) to provide for the revocation of any regulation upon Resolution of both Houses of Parliament after the time for disallowance upon tabling has expired;
- (d) to provide that every regulation promulgated under any Act of Parliament must be certified to by the Parliamentary draftsman, or some duly qualified legal practitioner in the Crown Law Office, as being in his opinion correctly drafted, and not *ultra vires*;
- (e) to provide for giving notice of the intention to make regulations in the manner provided by the Imperial Rules Publication Act, 1893.

Following this Report, the Constitution Act Amendment Act, No. 2381 of 1937, enacted an additional paragraph in s. 55 (Standing Rules and Orders) of the Constitution, providing for "the establishment of a Joint Standing Committee of both Houses to examine and report to the Council and the Assembly upon all regulations, rules, by-laws and orders (not being orders made in judicial proceedings) made pursuant to any Act of Parliament". The Royal Assent to this Act was proclaimed on March 30, 1938, and on July 12, 1938, the Standing Orders Committees of the two Houses, having conferred together, reported recommending the adoption of new Joint Standing Orders, Nos. 19 to 31,¹ dealing with the appointment, powers and procedure of the Joint Committee on Subordinate Legislation. These were adopted in each House shortly afterwards and approved by the Governor on August 16. The 3 Assembly Members of the first Committee were appointed on September 7, the 3 Council Members on September 21, and the Committee met for the first time on September 29, 1938.

Mr. R. J. Rudall (House of Assembly) was elected Chairman, but he became a member of the Ministry about 5 weeks later, and was succeeded by the Hon. J. McInnes (House of Assembly), who was Chairman of the second Committee. The Hon. F. Anthoney (Legislative Council) was last Session (1944) elected Chairman of the third Committee.

No provision was made at the outset for any emolument, but the Constitution Act Amendment Act, No. 48 of 1939, provided that as from January 1, 1939, the Chairman should be paid at the rate of £100 p.a. and other Members at the rate of £50 p.a. The same Act declared that these and certain other payments, etc., shall not disqualify Members from holding their seats in Parliament.²

The first Committee met on 69 occasions, and the second on 57, while the third Committee has so far met 23 times. In some years meetings have been held fairly regularly throughout the 12 months, in others fewer have been held in Recess than in Session. As the term of a Committee ends with the expiration or dissolution of the House of Assembly, there is a period every 3 years when there is no Committee functioning and therefore an accumulation of regulations, etc., for the newly appointed Committee to deal with.

In all (up to July 1, 1945), 686 regulations, by-laws, rules, etc. (treating any number made by the one authority at the one time as a single unit), have been referred to the Committee. Where no action is deemed necessary, the Committee does not make any report. If it reports to each House recommending that a regulation be disallowed, notice of Motion for disallowance is also given in each House by a Member of the Committee. When this has been agreed to in one place, the Order of the Day (as it has usually become) in the other is read and discharged, although it has happened that Resolutions have

¹ See JOURNAL, Vol. VII, 59.

² *Ib.* Vol. VIII, 52.

been agreed to almost simultaneously. Following are particulars of cases where action was considered advisable (up to end of 1944 Session).

	<i>Disallowance recommended.</i>	<i>Resolution passed.</i>	<i>Amendments tabled before Resolution passed; Orders of Day discharged.</i>	<i>Motion of disallowance negatived in one House; not proceeded with in another.</i>
First Committee (1938-40) ..	20	17	3	—
Second Committee (1941-43) ..	6	6	—	—
Third Committee (1944-) ..	6	3	2	1

In addition, one by-law was disallowed on the Motion of a Member of the second Committee without any Report having been presented, on the ground that insufficient time remained for its consideration. It was subsequently again made and laid before Parliament, and after an amendment had also been tabled it was not further challenged. Apart from those regulations amended after a Report by the Committee, there have been one or two cases where, following evidence by and suggestions to the regulation-making authority, the necessity for a report has been obviated by amendments being tabled before it has been presented.

As regards disallowance by Parliament, when it has not been recommended by the Committee, this has occurred in connection with two by-laws (both during the term of the second Committee), one being disallowed in the Council and one in the Assembly. These instances, together with the one last year when the Committee's recommendation was not given effect to, make 3 occasions only on which the Committee's opinion was not endorsed by Parliament.

It is generally agreed that the Committee is doing valuable work and that its creation has resulted in closer scrutiny and more effective consideration of subordinate legislation. In the Legislative Council there was for several years previously an unofficial Party Committee which examined regulations laid before that House, while in the House of Assembly the task devolved on individual Members. The unofficial Committee has, of course, ceased to function and Private Members are now to a great extent relieved of responsibility in the matter, without being deprived of their right to move for disallowance in any case they think fit. Since the appointment of the Committee, however, action independent of the Committee's recommendations has not often been taken and, except in the two cases quoted above (where Members of the Committee themselves were not unanimous), has not gained much support.

XII. TASMANIA: HISTORICAL SKETCH OF FINANCIAL POWERS OF THE LEGISLATIVE COUNCIL

BY C. H. D. CHEPMELL,
Clerk of the Legislative Council

THE Constitution Act of 1854 (18 Vict., No. 17), which established the bicameral system in Tasmania, contained the following Section dealing with the origination of Money Bills:

33. All Bills for appropriating any part of the Revenue or for imposing any tax, rate, duty or impost shall originate in the said House of Assembly and it shall not be lawful for the said House of Assembly to originate or pass any Vote, Resolution or Bill for the appropriation of any part of the Revenue or of any tax, rate, duty or impost for any purpose which shall not have been first recommended by the Governor to the said House of Assembly during the Session in which such Vote, Resolution or Bill shall be passed.

For many years the Legislative Council, under this Section, claimed and exercised the right to amend Money Bills, including Appropriation Bills, but not, of course, to increase or originate appropriations or taxes. The power of the Council to amend such Bills was not seriously questioned by the House of Assembly until 1899, although from time to time disputes arose between the two Houses as to whether particular amendments made by the Council were in conflict with the provisions of this Section of the Act. (Mr. E. C. Nowell's *History of the Relations between the Two Houses of Parliament in Tasmania and South Australia in regard to Amendments to Bills containing provisions relating to the Public Revenue or Expenditure*, 1890, contains an account of these disputes up to the year 1889.)

In 1899 the Government of the day prepared a case on which they desired to have the opinion of the Judicial Committee of the Privy Council in regard to questions which had arisen with reference to the right of the Legislative Council to alter or amend Money Bills and taxing measures which had passed the House of Assembly. The Secretary of State for the Colonies (Rt. Hon. J. Chamberlain), in reply, stated that the only occasion upon which a reference of such a nature had been made was in the case of the difference between the two Houses of the Queensland Legislature in 1885, and on that occasion a Joint Address had been agreed to by the two Houses of that Legislature praying that the question at issue between them should be referred for the opinion of Her Majesty's Privy Council; and stating that he would be prepared to advise Her Majesty to follow the course adopted in the Queensland case if the two Houses of the Parliament of Tasmania desired to obtain a similar decision on the points of difference between them and prepared a Joint Address setting forth their several claims and the grounds upon which they were based.

No further action was taken by the Tasmanian Government in the matter.

During the Session of 1924-25 a dispute took place between the two Houses on the Appropriation Bill, 1924-25 (No. 67). With the object of compelling the Lyons Government to curtail expenditure, the Council made many amendments to this Bill in the direction of reducing Votes, particularly Votes containing increments to public servants. The Assembly disagreed to the amendments, on which the Council insisted, and, a Free Conference having failed to bring about an agreement, the Assembly agreed to the following Resolution:

Resolved.—That having, by means of a Free Conference, endeavoured without success to induce the Legislative Council to withdraw its Amendments to the Appropriation Bill, and having exhausted all constitutional means of inducing the Council to abandon its action, in order to obtain an authoritative decision as to the powers of the Legislative Council in regard to Money Bills, this House directs Mr. Speaker to present the said Bill in the form in which it passed this House on the 29th day of October, 1924, to His Excellency the Administrator of the Government for the Royal Assent.

The Bill, in the form in which it was passed by the Assembly, was, accordingly, presented by the Speaker to the Administrator of the Government, Sir Herbert Nicholls, and a Message notifying the Royal Assent to the Bill was presented to both Houses on the next sitting day.

Similar action was taken in the same Session in respect of the Land and Income Taxation Bill (No. 2), and in the Session of 1925-26 in respect of the Appropriation Bill, 1925-26, on its amendments to which Bills the Council had insisted. As doubts existed as to the legality of the action of the Assembly in regard to these Bills, a Joint Committee of both Houses was appointed in December, 1925, for the purpose of bringing up a Report proposing recommendations for the amendment of the Constitution—(1) defining the respective powers of the two Houses over Money Bills; and (2) providing for the settlement of any differences that may arise between them in the future in relation thereto—to the mutual satisfaction of both Houses.

The Committee brought up its Report in March 1926. The recommendations contained in the Report were embodied in the Constitution Amendment Act, 1926, which received the Royal Assent in August 1926. Under the provisions of this Act, the Council may not amend a Bill for an Appropriation Act, a Bill for an Income Tax Rating Act or a Bill for a Land Tax Rating Act, but may, at any stage of such Bill, return such Bill to the Assembly requesting, by Message, the amendment of the Bill. The Council may amend all Bills other than those above mentioned, provided that it may not by any amendment to such Bill—(i) insert any provision therein for the appropriation of moneys, or (ii) impose or increase any burden on the people. The Act affirmed the right of the Council to reject any Vote, Resolution or Bill.¹

¹ For the proceedings and legal opinions relating to this dispute see Journals of Legislative Council and House of Assembly for the Sessions 1924-25 and 1925-26; also see Parliamentary Papers Nos. 15 and 40 of Session 1925-26, Paper No. 21 of Session 1928-29 and Paper No. 7 of 1929-30.—[C.H.D.C.]

The compromise brought about by this Act has so far worked fairly well, the chief difficulty being due to doubt as to whether the inclusion of certain non-recurring items in the Schedule of Appropriation Bills does not conflict with s. 3 of the Act—now s. 36 of the Consolidating Act of 1934 (25 Geo. V, No. 94)—which defines “Appropriation Act” as “An Act which authorizes the issue and application of any part of the revenue for the purpose of meeting the ordinary annual services of the Government”.

The present position is that, so long as no attempt is made by the Assembly to include items which are obviously not for “the ordinary annual services of the Government” in the Appropriation Bill, a reasonable view will be taken by the Council in the matter.

In the Second Session of 1937,¹ the Ogilvie Government (Labour) brought in a Constitution Amendment Bill which was passed by the House of Assembly and sent up to the Council. The provisions of this Bill were substantially on the lines of the British Parliament Act of 1911, and the Bill was rejected by the Council on 2 R. Similar Bills were passed by the Assembly in the Sessions of 1938, 1939, 1942-43 and 1943-44, and were rejected by the Council.

¹ See JOURNAL, Vol. VI, 57.—[C.H.D.C.]

XIII. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE UNION HOUSE OF ASSEMBLY

BY RALPH KILPIN, J.P.,
Clerk of the House of Assembly.

THE following unusual points of procedure occurred during the 1944 Session:

Curtailment of Opening Proceedings.—Much of the time occupied in reading the customary letters and the Judge's commission to administer the oath to Members prior to the election of a Speaker was saved by the Clerk of the House briefly announcing that he had received these documents and laying them on the Table.¹

Executive Matters.—On the Motion setting up the Select Committee on Public Accounts an amendment was moved which sought to give Sessional Committees "a controlling power over the (government) departments concerned". The Minister of Finance in his reply reminded the House² that it is a fundamental principle of Parliamentary government recognized by the provisions of the South Africa Act that Parliament should not directly interfere with the details of administration,³ and the amendment was negated without a division.⁴

Rule of Anticipation.—Early in the Session several Members gave Notices of Motion dealing with social and economic questions. Later in the Session, on a Motion dealing with the question of "social security", a Member moved an amendment of a comprehensive character, certain paragraphs of which anticipated the Notices of Motion. On drawing attention to the fact, Mr. Speaker said that, strictly speaking, those paragraphs of the amendments were blocked by the Notices of Motion and should be disallowed, but he suggested that under the circumstances the best course to follow would be to allow the amendment and as far as possible to avoid discussion on the matters dealt with in the Notices of Motion.⁵

Consolidation Bill.—Advantage was taken of the procedure adopted in 1942 in connection with the Electoral Quota Consolidation Bill⁶ to introduce the Land Bank Bill as a purely consolidating Bill. The same procedure was adopted as in 1942 except that the members of the Select Committee to which the Bill was referred after 2 R. were nominated by Mr. Speaker instead of by the S. R. and O. Committee.⁷

Leave to be represented by Counsel.—The petitioner, E. J. E. Lange,⁸ again presented a petition praying for leave to be represented by counsel before the Select Committee on Pensions. Leave was granted, but the petitioner appeared before the Committee without counsel.⁹

Leave given to Select Committee to sit after Adjournment of House.—

¹ 1944 VOTES, 1. ² 47 *Assem. Hans.* 45, 46. ³ For references to constitutional authorities on the subject, see Durell's *Parliamentary Grants*, 19-22.

⁴ 1944 VOTES, 30. ⁵ *Ib.* 101, 102. ⁶ See JOURNAL, Vol. XI-XII, 212, 217.

⁷ 1944 VOTES, 111, 118. ⁸ See also JOURNAL, Vol. XI-XII, 213.

⁹ 1944 VOTES, 192, and *Pensions Com. Rep.* 28.

Owing to morning sittings of the House, leave was given to all Select Committees to sit during the sittings of the House. Members of the Public Accounts Committee, however, desired to attend the sittings of the House, and owing to pressure of work the Committee, in a special report, asked for leave to sit after the adjournment of the House on two evenings a week until 9.30. Leave was granted, and the Committee made use of it on 6 occasions.¹

Select Committee appointed with Power to call for Papers but not to take Evidence.—In appointing a Select Committee on the subject of the Volunteers Employment Bill, the House, with a view to expediting the inquiry, gave the Committee power to call for papers but not to take evidence.² The only previous occasion on which this was done was during the 1931-32 Session,³ when a Committee was appointed to consider the subject of the Liquor (Amendment) Bill.

Ways and Means Resolutions.—The Customs Bill, amending and consolidating the law relating to customs, was introduced early in the Session and read a Second Time. The Committee stage, however, was held over for the purpose of incorporating in the consolidating measure certain taxation proposals increasing the customs duties on a number of articles. This was effected by referring the resolutions of the Committee of Ways and Means on customs duties, after they had been adopted by the House, to the *C.W.H.* on the Customs Bill instead of following the usual procedure of appointing a Committee to bring up a Bill (Customs Duties Amendment Bill) to give effect to the proposals. This procedure was based upon that followed in 1942 in connection with the Excise Bill.⁴

Adjournment of House on definite matter of Urgent Public Importance.—S.O. 26 provides that at the time fixed for the automatic adjournment of the House dilatory Motions shall lapse; and S.O. 36, which deals with dilatory Motions, includes Motions for the adjournment of the House during a debate but does not include substantive Motions for the adjournment of the House. May⁵ makes it quite clear, however, that at the time fixed for an automatic adjournment any Motion for the adjournment of the House lapses without question put. Consequently, the Motion for the adjournment of the House on a definite matter of urgent public importance which was under consideration at the time fixed for automatic adjournment lapsed when business was interrupted.⁶

Irregular Amendment to 2 R. of Bill.—On 2 R. of the Pension Laws Amendment Bill a Member moved as a reasoned negative that the House decline to pass the 2 R. unless certain provisions were omitted. Mr. Speaker, however, drew attention to S.O. 161 and to the fact that it was not in order to move amendments at that stage which anticipated amendments which might be moved in Committee.⁷ Had the amendment been allowed and agreed to it would obviously have defeated the

¹ 1944 VOTES, 245, 275.

² 1944 VOTES, 421.

³ 1931-32 VOTES, 101.

⁴ 1944 VOTES, 584, 649; see also JOURNAL, Vol. XI-XII, 215.

⁵ 11th Ed., 216 and 282.

⁶ 1944 VOTES, 722.

⁷ May, 11th Ed., 473.

object of the mover of the amendment, as the whole Bill would have dropped although he was in favour of most of the general provisions.¹

Distinctions between Public and Private Bills.—The Nursing Bill was introduced by the Government as a Public Bill. Part III of the Bill dealt with the private interests and constitution of the South African 'Trained Nurses' Association, which was registered under the Companies Act. Before 2 R. Mr. Speaker said that the question had arisen as to whether this part could properly be included in a Public Bill. He drew attention to the fact that the principle which the House has observed is that a Bill dealing with the right to practise a public profession should be a Public Bill, but that a Bill dealing with the property, interests or constitution of an association of professional persons should be a Private Bill. There was nothing, he said, to prevent the Government from including Part III in the Bill, but he felt it his duty to point out that what might be done by the Government by means of a Public Bill might in future also be done by Private Members in Public Bills introduced at the instance of other professions, trades and callings. The Government decided to continue with the Bill in the form in which it was introduced, and it was passed with only two amendments arising from the point at issue—namely, an amendment excluding the imposition of penalties in connection with Part III and an amendment under which regulations made under Part III were subject to approval by the Government.²

Questions to Ministers.—In reply to a Question, a Minister said that he declined to answer Questions that bore the sting of innuendo. Mr. Speaker pointed out that the reply was tantamount to a reflection on the Chair, since under S.O. 48 all Questions were scrutinized before they appeared on the O.P., and care was taken that they did not contain any unbecoming expressions or offend against any Standing Order of the House. The Minister then expressed his regret to Mr. Speaker.³

Amendments in Committee of Ways and Means.—In Committee of Ways and Means when a proposed tax on income derived from mining for gold was under consideration, a Member moved to reduce it by £1 with a view to discussing the administrative action of the Government in connection with the sale of gold. The Leader of the Opposition pointed out that similar amendments had been allowed in Committee of Supply on a Minister's salary, but the Chairman, in disallowing the amendment and the discussion, said that the rules governing proceedings in Committee of Ways and Means were far more restrictive than the rules governing proceedings in Committee of Supply. The amendment, he said, must be regarded as "frivolous" and could not be put from the Chair.⁴

Quotations from Papers not before the House.—During the debate on dual language medium in schools a Minister quoted from a document not before the House. Mr. Speaker, on being questioned as to whether

¹ 1944 VOTES, 842.

² *Ib.* 846.

³ 48 *Assem. Hans.* 4459.

⁴ 1944 VOTES, 551; 49 *Assem. Hans.* 5330-32.

the document should not be laid on the Table, reminded the Minister of the Rule that a Minister ought not to read or quote from a State paper not before the House unless he was prepared to lay it on the Table. He added that when such a document had been quoted from it ought to be laid on the Table if it could be done without injury to the public interest, but that Mr. Speaker had no authority to order the paper to be laid on the Table.¹

Control of Parliamentary Accounts.—In his Report on the Finance Accounts, 1942-43, the Controller and Auditor-General referred to the fees of assessors appointed in connection with a Senate election being paid from the Votes of the Senate and House of Assembly instead of, as for some time previously, from the Vote of the Department of the Interior. He stated that, in view of the provisions of s. 31 of the Powers and Privileges of Parliament Act, 1911, he could not, nor had he any desire to, question the validity of the payments but reported the matter because of the difference of opinion that existed between the departments concerned in the matter and "because the point involves an important principle".² Before considering the point, the Public Accounts Committee, on the suggestion of the Chairman, decided to ask Mr. Speaker—

- (1) whether the control of the accounts vested in Mr. Speaker under s. 31 of the Powers and Privileges of Parliament Act (Act No. 19 of 1911) is open to question by the Controller and Auditor-General or any Government Department, and
- (2) how far the exercise of Mr. Speaker's authority can be considered by the Public Accounts Committee.

Mr. Speaker's reply to both questions was that the control which Parliament has vested in Mr. Speaker is absolute and that his discretion, conduct and decisions as Speaker can only be questioned in the House itself by means of a substantive Motion moved by a Member of the House.³

Judges invited to give Evidence.—The Select Committee on the subject of the Children's Guardianship Bill resolved to invite the opinions of the Chief Justice and the several Judges-President on certain legal aspects of the Bill. At the next meeting the Chairman intimated that he had been informed by Mr. Speaker that it was undesirable for a Select Committee to ask Judges to give opinions upon matters which they may be required at a later date to determine in their judicial capacity and which opinions could be criticized in the House when the Committee's report was presented. The Chairman suggested that under the circumstances the desired information should be called for from the Government Law Advisers, and it was resolved accordingly. The Committee, however, reported without waiting for the information.⁴

Obligation of Members to fulfil duties imposed on them.—In Volume X of the JOURNAL,⁵ a summary was given of precedents, with references,

¹ 49 *Assem. Hans.* 6143-6.

² U.G. 24-43, 56-7.

³ S.C. 1-44, xliv-vi.

⁴ S.C. 7-44, vi-vii.

⁵ P. 163.

illustrating the obligation of Members to fulfil the duties imposed on them. These comprised (i) Obligation of Members to serve on Select Committees, (ii) Request by Deputy-Chairman to be relieved of duties, and (iii) Obligation of Members to accept election to chairmanship of Select Committees. During the present Session the question again arose when the Chairman of the Select Committee on the subject of the Volunteers Employment Bill sought to be relieved of his duties as Chairman and to sit as an ordinary member. He was informed of the principle which precluded him from "resigning" the chairmanship, and as he did not wish to be discharged from the Committee or to absent himself he continued as Chairman.

Register of Members' Attendance.—The register of Members' attendance which is kept by the Serjeant-at-Arms in connection with the payment of Members' allowances was used to prove an *alibi* in a charge of fraud brought against Mr. de Bruyn when Member for Heidelberg. Mr. de Bruyn was found guilty by the magistrate at Heidelberg in 1942. On appeal to the Transvaal Division of the Supreme Court, Mr. de Bruyn produced an affidavit by the Serjeant-at-Arms, who was indisposed and unable to travel, stating that the register of Members' attendance showed that Mr. de Bruyn attended a sitting of the House in Cape Town on February 27, 1942, when the alleged offence was reported to have been committed in Johannesburg. The Court remitted the case to the magistrate for further evidence on the *alibi*. Mr. de Bruyn was again found guilty and again appealed. In upholding the appeal on June 9, 1944, the Court indicated that the magistrate might have come to a different conclusion if he had taken into account the value of the evidence of the Serjeant-at-Arms in comparison with the documentary evidence relied upon by witnesses called by the prosecutor.

Time from which Customs Duties payable.—Under s. 9 of the Excise Act (No. 45 of 1942) and s. 79 of the Customs Act (No. 35 of 1944), customs and excise duties are payable from the time when Notice of Motion is given to go into Committee of Ways and Means. In the Customs Act the following provision has been made in s. 79 (6) in order to avoid the necessity of the Clerk of the House being subpoenaed to produce a copy of the Votes and Proceedings containing the Notice—namely:

- (6) Whenever in any legal proceedings any question arises as to whether the Minister has in fact given a Notice of Motion as described in this section, or as to the time when such notice was given or to the particulars contained in such Notice, a copy of the Votes and Proceedings of the House of Assembly, containing such Notice and certified by the Clerk of the House to be a true copy, shall be accepted as sufficient evidence that such Notice was given and of the time when it was given and of the particulars contained therein.

As the actual time which the Notice of Motion is given is not at present evident from the Notice Paper, the following footnote will in future be inserted to all Notices of Motion on Customs duties: "Notice given at . . . p.m. on (day of month), 194 . . ."

XIV. THE JAMAICA CONSTITUTION¹

BY THE EDITOR

AFTER many postal disappointments in recent war years—not one of 4 letters between the writer and Jamaica having got through—the letter bringing the long-looked-for information in regard to the new Constitution for the Island of Jamaica and her Dependencies arrived; its transit, notwithstanding the considerable air postage, took over 4 months. The only drawback is that, for the purpose of expedition, the review of the subject has now to be made by the writer instead of being in the able hands of “the man on the spot”, Mr. Clinton Hart, the Clerk of the former Legislative Council, and now the Clerk to the two Houses of the new Legislature. The writer, however, pleads for “the most favoured nation treatment” from his colleague.

Accompanying Mr. Clinton Hart's letter is an advance copy of the *Handbook of the Legislative Council and House of Representatives of Jamaica, including the Constitution and the Instructions regulating the same and the Standing Rules and Orders of the Chambers*, all arranged and indexed by him. It is not proposed to give any description of the Standing Rules and Orders. They will duly experience the acid test of trial and error under the new Constitution, than which there is no surer way of arriving at a sound procedure suited to local needs and constitutional conditions. It is in such matters that an able “Clerk of the House” can prove of the utmost value to his Parliament, his Members and his country.

Attempt will now be made to give a brief description of the constitutional documents, which reveal in many respects some interesting checks and balances as well as new vistas on the path of constitutional development in colonies where changing conditions require more advanced forms of government.

The Constitution² itself, with the title of “The Jamaica (Constitution) Order in Council, 1944”, opens with a Preamble citing the various enactments passed in connection with the government of the Island of Jamaica³ and its Dependencies, the Cayman Islands, the Turks and Caicos Islands, and the Morant Cays and the Pedro Cays, as well as the Letters Patent of October 27, 1944, revoking and replacing the Letters Patent of July 29, 1887,⁴ constituting the office of Captain-General and Governor-in-Chief of Jamaica, the Privy, or Advising; Council of the Governor previously established now ceasing to exist.

The enactment words of the Order read:

Now, therefore, His Majesty, in the exercise of the powers aforesaid, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:

¹ See also JOURNAL, Vols. IX, 62; X, 81; XI-XII, 77.

² S. R. & O. 1944,

No. 1215 of October 27, 1944.

³ The Island of Jamaica, its native name, “Xaymaca,” meaning “well washed and wooded,” has been a British possession since the days of Cromwell.—[ED.]

⁴ *Ib.* 4.

The Constitution, which came into force November 20, 1944, is divided into 7 Parts with 2 Schedules. Part I deals with interpretation, and the Interpretation Act, 1889,¹ is to apply for the interpretation of the Constitution as it applies for the interpretation of an Act of Parliament.² Under Part I a Legislature is established, existing Orders are revoked and the Governor is empowered, before the date of the Constitution coming into force, to modify existing laws in consequence of the issue of the Order-in-Council.

Privy Council.—Under Part II (and the Royal Instructions, which see later) a Privy Council is created in and for Jamaica (to take the place of the old Privy Council) consisting of such persons as are appointed by Royal Instructions, the members to hold their places during His Majesty's pleasure and subject to such Instructions as may be given. The functions of this Privy Council are to advise the Governor in relation to the exercise of any powers and the performance of any duties conferred or imposed upon him by any Letters Patent and such other functions as may be prescribed by any other enactment or instrument having the force of law in Jamaica.³

Executive Council.—Part III deals with the Executive Council (hereinafter referred to as "the Executive"), which is the principal instrument of policy and performs such functions as may be assigned to it, including the duty of preparing the Annual and Supplemental Estimates of Expenditure.⁴ This Council consists of the Governor (as Chairman); 3 Official Members—namely, the Colonial Secretary, Attorney-General and the Financial Secretary and Treasurer; 2 persons not holding office under the Crown in Jamaica who (save as is otherwise provided) are Members of the Legislative Council and who are styled "Nominated Members" (appointed by the Governor, holding their seats during His Majesty's pleasure); and 5 persons who are Members of the House of Representatives, styled "Elected Members", elected by such House for the duration of each House of Representatives, vacancies being filled in like manner. The House of Representatives may, however, by Resolution revoke any such appointment by it on a $\frac{2}{3}$ vote of all its Members. The seat of any Executive Councillor (other than the 3 *ex officio* Members) becomes vacant—should he cease to be an M.L.C. or M.H.R.; by resignation; or if absent from Jamaica without written permission of the Governor. Both types of Member of the Executive, in case of dissolution, continue membership until the first meeting of the new Chamber. The Nominated Members are appointed by the King or by the Governor by Instrument "under the Broad Seal of Jamaica". The Governor may suspend a Nominated Member of the Executive, but must report such suspension to the Crown, and provision is made for provisional appointments.

Section 17 lays down the precedence of all Members of the Executive and ss. 32 and 42 that of M.L.C.s and M.H.R.s respectively.

¹ 52 & 53 Vict., c. 63.

² *Ib.* s. 6-8.

³ S. R. & O. 1944, No. 1215, s. 1 (3).

⁴ *Ib.* 9-14.

The Executive is summoned by the Governor, but it may also be summoned on the written request of 5 of its Members; 4 is the quorum. The Governor may exercise a casting vote only in case of an equality of votes, but the senior Member presiding in the Governor's absence has both a deliberative and a casting vote.¹

Legislature.—The Legislature consists of a nominated Legislative Council and a directly elected House of Representatives (hereinafter referred to respectively as “the Council” and “the House” and the respective Members thereof as “M.L.C.s and M.H.R.s”). The Legislature is summoned, prorogued and dissolved by the Governor, who must dissolve both Chambers at the expiration of 5 years from the date of return of the first writ at the last preceding general election, if they shall not have been sooner dissolved. General elections for the House must be held within 3 months after every dissolution of the House, as the Governor by Proclamation appoints.²

Legislative Council.—Part IV deals with the Legislative Council, which includes the 3 *ex officio* Members of the Executive Council above mentioned, and not more than 2 Official, and not less than 10 Unofficial, Members appointed by the Crown.³

Unofficial Members must be British subjects not less than 21 years of age and registered voters for the House of Representatives. Disqualifications are insanity, bankruptcy, criminal conviction exceeding 12 months,⁴ with reservations, to be dealt with later, in regard to Government contracts and “offices of emolument under the Crown in Jamaica”. Seats of both Official and Unofficial Members are held during His Majesty's pleasure, but they cease to be Members at the next dissolution of the Legislative Council, or in case of absence, without previous leave of the Governor, from meetings for a continuous period of 1 month during Session, or subject to any of the disqualifications given in the Constitution. Resignations are addressed to Mr. President and reported by him in writing to the Governor.

The Governor may suspend any Official or Unofficial M.L.C. by Instrument under the Broad Seal, reporting such suspension to the Secretary of State. The Governor may also in certain instances make provisional appointments, reporting them in like manner.⁵

President.—The President of the Legislative Council must be an Unofficial Member elected by such Council who is not a Member of the Executive and the appointment continues until the next dissolution of the Council. In event of the President's absence, the Member first in the order of precedence, who is not a Member of the Executive, presides; 5 Members, excluding the Presiding Member, constitute a quorum.⁶

House of Representatives.—The House consists of 32 Members elected on the universal adult suffrage by 4 parishes each divided into 3 constituencies and 9 parishes each divided into 2 constituencies,

¹ *Ib.* ss. 19, 20.

⁴ *Ib.* ss. 26, 27.

² *Ib.* ss. 3, 56, 57, 58.

⁵ *Ib.* ss. 29, 30.

³ *Ib.* ss. 22-25.

⁶ *Ib.* s. 33.

each returning one Member. For the first election the boundaries of constituencies were defined by Resolution of the Legislative Council and thereafter will be defined as the House may by law provide.¹

Qualifications and disqualifications for membership are similar to those for M.L.C.s (already referred to), but an M.H.R. must have been for the 12 months immediately preceding his election ordinarily resident in the parish in which his constituency is comprised.²

Section 38 deals with Election Laws and s. 39 lays down similar provisions to those in respect of the Legislative Council, as to the vacation of seats; resignation is addressed to Mr. Speaker, who reports the vacancy to the Governor.

Questions as to right of membership are subject to decision by the Supreme Court (s. 40).

Speaker.—Only M.H.R.s, not being Members of the Executive Council, are eligible for election to this office, and the usual provisions are made as to its duration, etc., but resignation of office is to the Governor. The same provision is made as to appointment of the M.H.R. first in order of precedence in the case of absence on vacation of office of the Speaker, as in the case of the President of the Council.

Section 42 deals with the precedence of the M.H.R.s; 10, excluding the Presiding Member, constitute a quorum (s. 43).

Legislation.—Laws are made by the Governor, "with the advice and consent" of the 2 Chambers. In case of disagreement between the 2 Chambers upon any Bill passed by the Representatives in 2 successive Sessions and transmitted to the Council not less than 1 month before the end of the Session, but rejected by the Council in each of those Sessions, the Bill on second rejection by the Council is, unless the House otherwise resolves, presented to the Governor for assent, who, if he consents, reserves the Bill for His Majesty's pleasure, which sanction granted, the Bill becomes law. One year, however, must elapse between 2 R. in the House in the first of the 2 Sessions and the date on which it passes the House in the second of those 2 Sessions. Such Bills only require certification by Mr. Speaker. A Bill is rejected if not passed by the Council, either with or without *amdt.* or with such *amds.* only as may be agreed to by both Chambers.

Sub-section (4) of s. 45 reads:

A Bill shall be deemed to be the same Bill as a former Bill sent to the Legislative Council in the preceding Session if, when it is sent to the Legislative Council, it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the Legislative Council in the former Bill in the preceding Session; and any amendments which are certified by the Speaker of the House to have been made by the Legislative Council in the second Session and agreed to by the House shall be inserted in the Bill as presented to the Governor for assent in pursuance of this Section: Provided that the House of Representatives may, if they think fit,

¹ *Ib.* s. 35.

² *Ib.* ss. 36, 37.

on the passage of such a Bill through the House in the second Session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the Legislative Council, and if agreed to by the Council shall be treated as amendments made by the Council and agreed to by the House; but the exercise of this power by the House shall not affect the operation of this Section in the event of the rejection of the Bill by the Legislative Council.

Section 47 deals with the reserved power of the Governor and is as follows:

- (1) Subject to the provisions of sub-section (2) of this Section, if the Governor shall consider that it is expedient in the interest of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of Jamaica as a component part of the British Empire, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer or officers) that any Bill introduced, or any Motion, Resolution or Vote proposed for decision in either Chamber should have effect, then if the Chamber fail to pass such Bill, Motion, Resolution or Vote within such time and in such form as the Governor may think reasonable and expedient, the Governor, at any time in his discretion, may, notwithstanding any provisions of this Order, or of any Standing Orders of the Chamber, declare that such Bill, Motion, Resolution or Vote shall have effect as if it had been passed by that Chamber, either in the form in which it was so introduced or proposed or with such amendments as the Governor shall think fit which have been moved or proposed in the Chamber or in any Committee thereof; and thereupon, the said Bill, Motion, Resolution or Vote shall be deemed to have been so passed and further proceedings may be taken thereon, and in the case of any such Bill, the provisions of this Order relating to assent to Bills and disallowance of laws shall apply accordingly.
- (2) The Governor shall not make any declaration under this Section unless:
 - (a) the question whether the declaration should be made shall have been submitted in writing by the Governor to the Executive Council, and the Executive Council shall have resolved that the declaration be made; and
 - (b) a Secretary of State shall have approved of such declaration or the Governor shall, at the time of making the declaration, certify in writing that urgent necessity requires that the declaration be made without obtaining such approval.
- (3) Whenever the Governor shall make a declaration under this Section without the approval of a Secretary of State, he shall forthwith report to a Secretary of State the making of, and the reasons for, the declaration and the grounds of urgency.
- (4) If any Member of either Chamber objects to any declaration made under this Section, he may, within 7 days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such Member, be forwarded by the Governor as soon as practicable to a Secretary of State.
- (5) Any such declaration, other than a declaration relating to a Bill, may be revoked by a Secretary of State, and the Governor shall notify such revocation in the *Gazette*; and from the date of such notification any Motion, Resolution or Vote which shall have had effect by virtue of the declaration revoked shall cease to have effect, but without prejudice to anything lawfully done thereunder.

Any Bill, however, for repealing or amending the Order in Council

must be reserved, unless the Governor is previously authorized by the Secretary of State to assent thereto.

Section 48 deals with the Governor's assent to legislation.

The Governor may, with the approval of the Executive, return to either Chamber any Bill presented to him for assent and transmit therewith any *amds.* he may recommend in order that the 2 Chambers may deal with such recommended *amds.*

Section 50 deals with disallowance of laws and s. 51 requires the Legislature to conform to R. 1.

Government Contracts.—Provisions are made in the Constitution in regard to any Unofficial Member of the Council being a party to a subsisting contract with the Government for or on account of the public service without having disclosed to the Governor the nature of such contract and his interest therein.¹ Any contravention thereof renders the appointment of such Member void as also does the sitting or voting of such Member in the Chamber.² Likewise, any Unofficial M.L.C. ceases to be a Member of the Council at the next dissolution of the Council after his appointment, or previously thereto should he contravene this provision.

Neither is an M.H.R. capable of being elected to the House or of sitting or voting therein, who at the time of his election was a party to any subsisting contract with the Government for or on account of the public service, if he has not had published, within 1 month before the day of his election, in the *Gazette* or some newspaper circulating in the constituency for which he is a candidate, a notice setting out the nature of such contract and his interest therein.³ An M.H.R. also vacates his seat, should he without the prior consent of the House become a party to any such contract.⁴ The general penalty for unqualified persons' sitting or voting in either Chamber is £20 for every day on which he so sits and votes, recoverable by action in the Supreme Court at the suit of the Attorney-General.

The provision in regard to contracts does not apply to the 3 *ex officio* Members of the Executive who sit in the Legislative Council.

"*Offices of Emolument under the Crown of Jamaica.*"—Several provisions are made in the Constitution in regard to this subject, but such offices do not include any person who—⁵

- (a) is in receipt of a pension or other like allowance in respect of service under the Crown; or
- (b) is a Member of the Executive Council established by this Order or a Member of either Chamber; or
- (c) holds an office the holder of which is declared by any law for the time being in force in Jamaica not to be disqualified for election as a Member of the House of Representatives.

Should a Nominated Member of the Executive be appointed temporarily to any office of emolument under the Crown or even act in

¹ See "The Boothby Case," JOURNAL, Vol. XI-XII, 90.
² No. 1215, ss. 26 (3), 28 (f).

³ *Ib.* s. 37 (5).

⁴ S. R. & O. 1944,
⁵ *Ib.* s. 39 (i) (f).

⁶ *Ib.* s. 1 (2); see also Index.—[ED.]

any such office, he may not sit as a Nominated Member thereof so long as he continues to hold or act in such an office.¹

Unofficial M.L.C.s may not be appointed to or hold an office of emolument under the Crown, and should such a Member be appointed temporarily or acting to such an office, he may not sit or vote in the Council so long as he continues to hold or act in such office.²

Similarly the seat of an M.H.R. becomes vacant if appointed permanently to any such office of emolument,³ and an M.H.R. appointed thereto temporarily or acting may not sit or vote in the House so long as he continues to hold or to act in such office.⁴

The same penalty is provided against sitting or voting as in the case of contracts.⁵

Procedure.—Section 46 provides that Questions in both Chambers shall be decided by the majority vote of those present, the Member presiding having only a casting vote, exercisable only in case of an equality of votes.⁶ Standing Orders are in the power of each Chamber, including Joint Standing Orders.⁷

Privilege.—The Legislature is given power to define the privileges, immunities and powers of each Chamber and its Members, with the usual reservation that such shall not exceed those for the time being held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom or Members thereof.⁸

The Governor is required to reserve any Bill dealing with this subject unless he has been authorized by a Secretary of State to assent thereto.

Oath.—The Oath of Allegiance is required to be taken by every Member of either Chamber before sitting or voting, but exception is made for the election of President and Speaker⁹ of a new Council or House.

No Bill, Motion or Vote, however, may be prepared in either Chamber without the approval of the Executive if Mr. Speaker has certified it a money measure, and such a Bill must originate in the House. The approval of the Executive is required for the introduction of any Bill to implement the policy of the Government. If the Executive so resolves, the Governor may send by message to Mr. Speaker the draft of any Bill, Motion, Resolution or Vote which it appears to him should be introduced into the House and at the same time, or by later message, require that the Bill, etc., shall be introduced not later than a date specified in such message. Should such requirement not be complied with the Bill, etc., shall nevertheless be deemed to have been introduced on the specified date.¹⁰

Provision is made in s. 55 (3) in regard to money measures as follows:

(3) For the purposes of this Section, a Bill, Motion, Resolution or Vote shall be regarded as a money measure if the Speaker of the House of Re-

¹ *Ib.* ss. 14 (6), 24.

² *Ib.* s. 28 (3).

³ *Ib.* s. 39 (i) (j).

⁴ *Ib.* s. 39 (2).

⁶ *Ib.* s. 59.

⁶ *Ib.* 46.

⁷ *Ib.* 53.

⁸ *Ib.* 52 & 48 (2) (b).

⁹ *Ib.* 54.

¹⁰ *Ib.* 55 (1).

representatives, after consultation with the Attorney-General, is of opinion that it contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public money or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts, of public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matters incidental to those subjects or any of them. In this sub-section the expressions "taxation", "public money", and "loan", respectively do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

Miscellaneous.—This is dealt with in Part VII. Section 59 deals with the penalty, already referred to, imposed upon any M.L.C. or M.H.R. who sits or votes while unqualified under the Constitution.

Section 60, with Schedule I, provides a "civil list" for the salaries of the Governor, his private secretary and aide-de-camp and the 3 *ex officio* Members of the Executive. Schedule I gives a list of the existing Orders-in-Council which are revoked under the Constitution.

Section 61 deals with the removal of difficulties under the Constitution by the Secretary of State by Order made not later than January 1, 1947.

By s. 62 His Majesty reserves to Himself, His Heirs and Successors, power, with the advice of His or Their Privy Council, to revoke, add to, or amend this Order as to Him or Them shall seem fit.

Letters Patent.—The *Handbook* also contains the text of the Letters Patent of October 27, 1944 (amending those of March 3, 1882), for the annexation of Morant Cays and Pedro Cays to the Island of Jamaica, as well as the Letters Patent of the same date, both passed under the Great Seal of the Realm, constituting the office of Captain-General and Governor-in-Chief of the Island of Jamaica.

Royal Instructions.—These (also dated October 27, 1944) are passed under the Royal Sign Manual and Signet to the Captain-General and Governor. They give the composition of the Privy Council as follows: the Colonial Secretary, O.C. Troops (if not below the rank of Lt.-Colonel) and the Attorney-General, and Financial Secretary and Treasurer, and 2 nominated persons not holding offices of emolument under the Crown in Jamaica appointed by Royal Instructions or Warrant or by the Governor under the Broad Seal of Jamaica. This tenure of office is 3 years, and a seat on the Privy Council of a Nominated Member is vacated by permanent appointment to an office of emolument under the Crown in Jamaica; by resignation in writing to the Governor; or absence from Jamaica without his written permission. The Governor may suspend a Nominated Member and make provisional appointments. The precedence of its Members is laid down and it is summoned by the Governor, who, so far as is practicable, attends and presides at its meetings; 3 Members are a quorum.

Under Art. 10, the functions of the Privy Council are that, in the execution of the powers and duties conferred upon the Governor under

Art.s 11 (Discipline) and 12 (Pardon) of the Letters Patent, he shall consult with such Council, except in cases:

- (a) which are of such nature that, in his judgment, Our service would sustain material prejudice by consulting the Council thereupon; or
- (b) in which the matters to be decided are, in his judgment, too unimportant to require their advice; or
- (c) in which the matters are, in his judgment, too urgent to admit of their advice being given by the time within which it may be necessary for him to act.

In case of (c) the Governor is required to communicate to the Council the measures he has adopted, with the reasons therefor.

The Governor alone shall submit questions to the Privy Council, but if he declines to submit any question to such Council touching upon his powers under Art.s 11 and 12 above mentioned when requested by a Member of the Privy Council to do so, such Member may require a record on the Minutes of his written application, together with the answer by the Governor thereto.

The Governor may act in opposition to the advice given him by Members of the Council, but he must early fully report to the Secretary of State with reasons therefor and in every such case it is competent for any Member thereof to require record on the Minutes of any advice or opinion given by such Member and the grounds therefor.

Save in regard to the powers conferred on the Governor by Art.s 10 (Appointment of Officers), 11 (Discipline) and 12 (Grants of Pardon) of the Letters Patent, the Governor shall consult with the (Executive) Council, except in cases outlined under paragraphs (a), (b) and (c) of Art. 10.¹

The proviso to Art. 13 to the Royal Instructions reads as follows:

That, save as otherwise expressly provided by any Order made in Our Privy Council, if in any case the Governor shall consider that it is expedient in the interest of public order, public faith, or good government (which expressions shall, without prejudice to their generality, include the responsibility of Jamaica as a component part of the British Empire, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer or officers) that he should not act in accordance with the advice of the Executive Council, then—

- (a) he may, with the prior approval of a Secretary of State, act against that advice; or
- (b) if, in his judgment, urgent necessity so requires, he may act against that advice without such prior approval, but shall report the matter to Us without delay through a Secretary of State with the reasons for his action.

Whenever the Governor shall so act against the advice of the Executive Council it shall be competent to any Member of the said Council to require that there be recorded upon the Minutes of the Council the grounds of any advice or opinion that he may give upon the question.

Other Articles of these Instructions deal with Minutes, Rules for

¹ R.I. 13 (1).

Enactment of Laws, their publication and transmission to Whitehall, the disposition of Crown lands, appointments during pleasure, pardon, Blue Book, Governor's absence and Interpretation.

Article 17 of the Instructions lays down the following as to reserved Bills:

- (1) Any Bill for the divorce of persons joined together in holy matrimony;
- (2) Any Bill whereby any grant of land or money or other donation or gratuity may be made to himself;
- (3) Any Bill affecting the currency of Jamaica or relating to the issue of Bank Notes;
- (4) Any Bill imposing differential duties;
- (5) Any Bill the provisions of which shall appear to him to be inconsistent with obligations imposed upon Us by Treaty;
- (6) Any Bill interfering with the discipline or control of Our forces by land, sea or air;
- (7) Any Bill of an extraordinary nature and importance whereby Our prerogative or the rights and property of Our subjects not residing in Jamaica, or the trade or transport or communications of any part of Our dominions or any territory under Our protection may be prejudiced;
- (8) Any Bill containing provisions to which Our assent has once been refused, or which have been disallowed by Us;

Provided that, if the Governor shall have satisfied himself that urgent necessity requires that any such Bill (other than one appearing to him to be inconsistent with obligations imposed upon Us by Treaty) be brought into immediate operation, he may assent thereto, but he shall, at the earliest opportunity, transmit the Law to Us together with his reasons for so assenting.

Article 18 of the Instructions dealing with Private Bills reads:

- (1) Every Bill (not being a Government measure) intended to affect or benefit some particular person, association, or corporate body, shall contain a clause saving the right of Us, Our Heirs and Successors, a bodies politic and corporate, and all others, except such as are mentioned in the Bill and those claiming by, from, or under them.
- (2) No such Bill shall be introduced into the Legislative Council or the House of Representatives until due notice has been given by not less than 3 successive publications of the Bill in the *Jamaica Gazette*; and the Governor shall not assent thereto in Our Name unless it has been so published. A certificate under the hand of the Governor signifying that such publication has been made shall be transmitted to Us with the Bill or Law.

The *Handbook* also contains Governor's Proclamations fixing the day for the operation of Part III of the Constitution,¹ as well as in respect of Morant and Pedro Cays;² the date the Constitution shall come into force;³ modifying, in existing instruments, references to the Legislative Council, the existing Privy Council or the Governor therein;⁴ and bringing Part III of the Constitution into operation.⁵

¹ Proc. No. 13/1944.

⁴ *Ib.* 19/1944.

² *Ib.* 14/1944.

⁵ *Ib.* No. 1 of 1945.

³ *Ib.* 15/1944.

XV. CONSTITUTIONAL ISSUES IN NEWFOUNDLAND

BY THE EDITOR¹

THERE was debate on the question of government in Newfoundland on a Motion for the Adjournment in the House of Commons during the 1942-43 Session.² There were also other incidental references to the subject in debate during the 1943-44 Session, but in that Session definite Motions were moved both in the Lords and in the Commons in regard to the question of a change in the present temporary form of control under the Commission of Government referred to in Volume II of the JOURNAL, a form of government which has been carrying on since the suspension of Newfoundland's self-governing Constitution by the Imperial Government in 1933 at the request of Newfoundlanders themselves.

It is now proposed to give an outline of the debate upon these two Motions—so far as the constitutional issue is concerned—and so prepare the reader for any further developments there may be in the future for the gradual restoration of the freedom the people of this Dominion enjoyed in their own Government, until "the oldest Colony" once more takes up her rightful place as a Dominion under the Statute of Westminster, 1931. Both these Motions were no doubt largely brought about as a consequence of the "Goodwill Mission" consisting of Mr. C. G. Ammon (Camberwell N.), Major Sir D. Gunston (Thornbury) and P.O. Alan P. Herbert (Oxford University), all Members of the House of Commons, who had visited Newfoundland in 1943 at the invitation of the Imperial Government.

However, before these 2 Motions came up for discussion, considerable attention was given to the subject of the constitutional position of Newfoundland during the debate on the Address-in-Reply, Dominion Affairs, when the Under-Secretary of State for Dominion Affairs (Mr. R. V. Emrys-Evans), on December 3, 1943,³ made the following statement as to the attitude of the Imperial Government, which it may be well to quote:

After reviewing the position, the Government have decided that their policy should be based on the following main points:

The arrangements made in 1933 included a pledge by His Majesty's Government that, as soon as the Island's difficulties had been overcome and the country was again self-supporting, responsible government, on request from the people of Newfoundland, would be restored. Our whole policy is governed by this undertaking.

Owing, however, to the existing abnormal conditions caused by the War which make it impossible for the Newfoundland people as a whole to come to a considered conclusion as to the Island's future prospects, there should be no change in the present form of government while the War lasts.

As soon as practicable after the end of the War, that is, the War in Europe, machinery must be provided for enabling the Newfoundland people to

¹ See also JOURNAL, Vols. II, 8; IV, 35; V, 61; VII, 106; XI-XII, 77.

² 390 *Com. Hans.* 5, s. 873-97.

³ 395 *Com. Hans.* 5, s. 599-600.

examine the future of the Island and to express their considered views as to the form of government they desire, having regard to the financial and economic conditions prevailing at the time. In the meantime, the Secretary of State will take soundings in order to ascertain what kind of machinery would be acceptable to the Newfoundland people.

If the general wish of the people should be for a return to full responsible government, we for our part shall be very ready, if the Island is then self-supporting, to facilitate such a change.

If, however, the general wish should be either for the continuance of the present form of government or for some change of system which would fall short of full responsible government, we shall be prepared to examine such proposals sympathetically and consider within what limits the continued acceptance of responsibility by the United Kingdom could be recommended to Parliament.

In the meantime a vigorous attempt should be made to push on with the development of local government, on which the Members of the Mission have made some interesting recommendations, as well as with general reconstruction plans. Every effort should be made to encourage the development of local government institutions, which would afford a base for an effective central Government.

In accordance with this statement of policy, my noble friend will take steps to ascertain what machinery would be most acceptable to Newfoundland public opinion and to devise means to enable it to be put into effect at an appropriate moment. Possible methods might include, for example, the setting-up of some form of National Convention, but this is for further consideration in the light of views expressed in Newfoundland. I would like to add that there is no desire on the part of the Government to impose any particular solution. The Government will be guided by the freely expressed views of the people. It is for Newfoundland to make the choice, and the Government, with the assent of Parliament, will be very ready to give effect to their wishes.

The Commons Motion.

On December 16, 1943, Mr. C. G. Ammon, one of the "Goodwill Mission", moved the following:¹

That this House welcomes the statement made on behalf of His Majesty's Government of the acceptance in principle of the right of Newfoundland to self-government; and urges His Majesty's Government to give effect to such approval by taking the necessary preliminary action as soon as practicable.

and said that the Island had been taken possession of by England in 1583. Then followed a long period of neglect which accounted largely for the disposition of the population of the island. The difficulty of the Mission was that nobody in Newfoundland seemed to know what he wanted. He wanted to return to some form of self-government, but exactly what he didn't know, except that he did not want to return to the position which existed just before the Commissioners were appointed. Some people had the idea of linking up with Canada or with the United States. The latter suggestion, however, found very few supporters, but it had its genesis in the fact that for the time being the island was enjoying unexampled prosperity, largely brought about by the U.S. naval bases and military camps as well as by Canada's air bases.

¹ *Ib.* 1743.

There was a large number in favour of linking up with Canada, but an overwhelming number against it. The Mission was left with 2 issues, either to restore responsible government or to try to find a middle course and to approach it in steps.¹ The Mission considered that there must be a compromise position for a time between Commission government and responsible government. They suggested that Commissioners be nominated from the United Kingdom and that those from Newfoundland be elected by a general franchise of the country, to which the people had been unused for some time. There was strong criticism of the Commission of Government, but a good deal of it arose from the manner in which it was first appointed and the difficulties under which it had laboured since, some of it of its own making. The Commission was appointed at the request of the Parliamentary Government of Newfoundland itself.²

Almost its first action was to close the Colonial Building which had been the Parliament House since 1855 and to abolish its insignia and symbols of Parliament, which at once created the impression that it was the intention of the Imperial Government to wipe out every possibility of return to responsible government.³ It was not quite in keeping with his position that the Governor should continue to be Chairman of the Commission. It placed him in an invidious position in that he might seem to take sides, but after all he was the King's representative, but he had neither the training nor experience for a position like that. The Mission had therefore suggested, as a half-way house, that there should be a Chairman appointed by the Governor after his choice had been agreed to by the members of the new Commission. In addition, a Treasury official should go over to Newfoundland to advise and have power, up to whatever might be an agreed amount, to consent to expenditure on the spot rather than that every trumpery bit of expenditure should have to be referred to London for assent. Two or 3 highly placed civil servants should go out to advise in Newfoundland and similar civil servants should come over for training in the United Kingdom and so build up a Civil Service in Newfoundland.⁴

There should be laid down a 10 years' scale of development in agriculture, education, health, roads, transport, etc., backed up by a loan from the United Kingdom in order to put Newfoundland on her feet.⁵

Major Sir D. Gunston (Thornbury)—another member of the Mission—remarked that the Commission of Government had done a fine job. They had increased health service, brought in compulsory education, established co-operative societies and instituted a permanent Civil Service. Before that there was the spoils system in which whole offices changed when the Government went out. Even down to the crossing sweepers, people had to be given offices according to the proportion of their religious denomination. That had been swept away.⁶

Mr. Maxton (Glasgow, Bridgeton), in moving, in line 4 to leave out

¹ *Ib.* 1745, 1746.

⁴ *Ib.* 1749, 1750.

² *Ib.* 1747, 1748.

⁵ *Ib.* 1751.

³ *Ib.* 1748.

⁶ *Ib.* 1754.

"as soon as practicable" and to add "forthwith", said that all his amendment suggested was that the House should call upon the Government to take the necessary preliminary action forthwith.¹

Mr. Speaker, however, stated that he did not accept the amendment—it was too limited—but he would accept "now" instead of "as soon as practicable".²

In opposing the amendment, the Deputy Prime Minister (Rt. Hon. C. R. Attlee) said that no one wanted to get back to just the form of government they had before. Experience showed that it was one thing to have forms of democracy and another thing to be able to work them. They had seen so many excellent Constitutions fail owing to the fact that the people were not able to work them.³ The Act for setting up the Commission did not provide any way of bringing it to an end or for setting up a new Constitution. It was a very remarkable omission. They should try to get from the people of Newfoundland, by consultation, their view of the kind of machinery they would like set up, to determine their future Constitution, rather than to act on purely *a priori* lines and put them back where they were 10 years ago.⁴

At Mr. Speaker's suggestion, the amendment was then put and negatived, after which the Main Question was again proposed.

Mr. Beverley Baxter (Wood Green) admitted that the circumstances in 1933 were desperate. Sir Richard Squire's Government had been in office for a long time and had become very corrupt, but there was a General Election and the Squire Government was swept out of office; every member of the Party but 2 was defeated. A new (Allardice) Government was formed on the policy of retrenchment and reform. "The economic blizzard which had cracked Wall Street struck Newfoundland."⁵ They could not meet the demands for interest. They were *in extremis* and sent word to us: "Will you send a Royal Commission to inquire into our difficulties?"⁶ In 1933 Newfoundland owed about £20,000,000, of which \$26,000,000 were owed to the bankers of New York in gold bonds payable at gold price. Another \$6,000,000 had been loaned by the Canada Banks to help pay the interest. Great Britain converted the loan to 3½%, guaranteed it here and paid back to the New York and Canadian Banks.

Then the Imperial Government decided to turn back the clock and bring to their oldest possession the institution of taxation without representation, something which one would have thought they had dropped from the time of the American Rebellion. It was agreed that Newfoundland should be put on her feet as speedily as possible, secondly, to promote the political education of her people, and thirdly to restore the Constitution—which the Imperial Government had never revoked but merely suspended—as soon as the island was self-supporting again.⁷ The Government of Newfoundland could not be handed over at once. A General Election should be called in 3 months' time

¹ *Ib.* 1761.

² *Ib.* 1768.

³ *Ib.* 1771.

⁴ *Ib.* 1771, 1772.

⁵ *Ib.* 1774.

⁶ *Ib.* 1775.

⁷ *Ib.* 1777.

after January 1, to elect delegates to a Constituent Assembly for the purpose of creating a Provisional Government, to work with the Commission Government for the gradual handing over and then for it to go in one year's time to the country with a general reconstruction policy.¹

Petty Officer A. P. Herbert (Oxford University) considered Newfoundland to be the most testing and complicated puzzle in the whole Imperial scene. Something of the religious, political and indeed industrial problems of Ireland and of India, the size of Ireland, the title of a Dominion, the population of Bradford, the history and habits of Dominion Government and the social services of a neglected Crown Colony—all the problems of Empire were crammed into one little place.² He suggested the formation of a nominated Council of Citizens appointed by the Governor from every class and body. There were a great many bodies in Newfoundland who were already studying the problems of the future. They should frame the questions to be put to the people at the plebiscite and then they should get on with the question of political education. By a freak of history, a decision of the Privy Council, and the cleverness of the present Lord Chancellor, who was their advocate, Newfoundland possessed 104,000 miles of Labrador, 3 times her own size.³ One knew that the American Colonies—they did not teach it in their history books—did not revolt until the Indian menace had been put down and the French menace in the whole of North America had been subdued.⁴ He regarded it as important that Newfoundland should have a Parliament of some sort.⁵

The Under-Secretary of State for Dominion Affairs (Mr. P. V. Emrys-Evans) observed that the election of half the Commissioners would raise questions of constitutional theory and practice. The Governor was responsible to the Secretary of State and through him to Parliament. If the 3 Commissioners were elected, they would, in a sense, be responsible to the electorate as well as to the Secretary of State. Divided loyalties might well affect the efficiency of the Government. One of the reasons why the Royal Commission⁶ recommended that the Chairman should be the Governor was that he had a different status and that his presence in the Chair would keep a proper balance between the Newfoundland Commissioners and the United Kingdom Commissioners and thus correct any tendency for the United Kingdom Commissioners to establish a dominating influence. In practice there had never been any difference of opinion between the Newfoundland Commissioners on the one hand and the United Kingdom Commissioners on the other. The Governor in the Chair reassured public opinion that the local point of view would have full weight. The Governor of a self-governing community acted on the advice of his Ministers and the Governor of a non-self-governing Colony was responsible to the appropriate Secretary of State. Under the Commission

¹ *Ib.* 1779.² *Ib.* 1780, 1784.³ *Ib.* 1787.⁴ *Ib.* 1790.⁵ *Ib.* 1791.⁶ *Cmd.* 4480.

the Governor, acting on the advice of the Commission, was responsible to the Secretary of State and through him to Parliament. If he ceased to be a Member of the Commission, the Commissioners would be responsible to the Secretary of State direct, which would place the Governor in a difficult position. Such a change, moreover, would be a departure from the arrangements made, with the consent of all concerned, in 1933; and it would be necessary to consult Newfoundland public opinion. In the view of the Government, complete self-government must mean responsibility for the island's finances. Any other course would mean a training in irresponsibility rather than in responsibility.¹

The Question on the Motion was then put and agreed to.

The Lords Question and Motion for Papers.

The same Member who had moved the Motion in the Commons (now upon his elevation to the Peerage as Lord Ammon) on May 3²—

rose to ask His Majesty's Government for information regarding the constitutional position of Newfoundland and the arrangements of the Government for the post-War economic development of the Island; and to move for Papers.

In the debate which followed, the noble Lord said that the Colony was adopted by Sir Humphrey Gilbert on behalf of Queen Elizabeth on August 5, 1583, but it was not until 1832 that an elected Assembly was formed. In 1855 responsible government was granted and continued until 1933, when, owing to difficulties, mainly economic, the country was put into a state of virtual bankruptcy. For 12 years from 1920 the Budget never balanced. By 1931 the public debt had doubled and the island's credit was exhausted with no reserves on which to fall back.

Then followed the Amulree Commission and the Newfoundland Parliament of its own volition asked the Imperial Government to give effect to its findings, with the result that "the Commission of the Government" was appointed. When the Newfoundland Act was passed setting up this separate government it was stated that, as soon as the island's difficulties were overcome and the country was again self-supporting, responsible government, on request from the people of Newfoundland, would be restored. The islanders did not wish to recover self-government because there was a strong suspicion that some of the old politicians were still alive and the people were afraid that they might get back into position again. So it was suggested that if from this side Commissioners were nominated and the people of Newfoundland elected their Commissioners, afterwards agreeing on an independent Chairman, that might be a middle course. The noble Lord suggested a fair-sized loan spread over a period of years to enable the development of roads, housing and agriculture. Eighty p.c. of taxation was raised on imports.

¹ 395 *Com. Hans.* 5, s. 1798, 1799.

² 131 *Lords Hans.* 5, s. 576.

Viscount Bennett observed¹ that when the Commission Government was appointed certain financial responsibilities were assumed to enable the situation to be met. It was nearly 1,000 years ago since the island was discovered by the Norsemen. The noble Viscount referred to the Blaine-Bond and the Bond-Hay Treaties, but every effort to secure a permanent treaty with the United States had usually failed because the United States was not prepared to enable the Newfoundland fishermen to send their products from the Great Banks into the port of Gloucester in competition with their own fishermen. In 1893 negotiations for the admission of Newfoundland into the Canadian Confederation were almost concluded, but failed for financial reasons.

Newfoundland's 6 or 7 threads of life resolved themselves into fishing and fish, pulp and paper, minerals and mineral deposits. He hoped the Government would not too speedily go back to self-government but by gradual evolution. Follow the old system, for Governors to take counsel with representative men, seek their assistance and advice and ultimately to create a Legislative Council. It should be made possible for the Newfoundland people to have the opportunity of self-development, not only in an economic sense but by the development of a Constitution on the lines which had enabled Great Britain to act so successfully in the development of free institutions throughout the world, starting with the best men in the community, beginning with the advice and help of the business man and growing up gradually until such time as there could be established a system of full representative and responsible government. The fact was, the Report of a Commission indicated that all the money that was borrowed did not find its last lodging place in the development of the country.

The Secretary of State for Dominion Affairs (Viscount Cranborne—*Lord Cecil*), in the course of his reply, said² it would take a long time to go into all the activities of the Commission and the various experiments it had made, with the object of opening up the island. The Commission had reformed the administration, overhauled the Customs tariff and revenue-collecting machinery, set up the Newfoundland Fisheries Board and organized through it, in co-operation with the merchants, an improved system of marketing; expanded and improved social and health services, including the rebuilding of the main hospital and provision of cottage hospitals at selected centres; increased grants for education (now compulsory); built roads; promoted agricultural development; set up a new Department to survey geological possibilities; launched experiments in land settlement, in co-operation, in the building of schooners; and generally done all they could to give new life to the industries of the country and open up fresh enterprises. The Commission had also co-operated with the Air Ministry in building a vast transatlantic airport at Gander, of the greatest value in the War.

The Commission could not, of course, do all this without substantial assistance from Great Britain, and in the period before the War the

¹ *Ib* 586

² *Ib* 605.

island's budget was only balanced by yearly grants-in-aid from the United Kingdom Exchequer. In addition, loans or grants were made from the Colonial Development Fund. As a result of the War, however, Newfoundland had for the past 4 years been in a boom period, and its revenue had reached in 1943-44 the record of \$28,000,000 compared with \$9,000,000 when the Commission took over in 1934. For the last few years, instead of receiving annual grants from the United Kingdom, Newfoundland had not only balanced her budgets but had built up a surplus, a large part of which she had lent Great Britain, free of interest, for the prosecution of the War.¹

In conclusion, the Minister said that His Majesty's Government's main objective was that the Newfoundland people, after the War, should choose their own course for themselves and that he had been in consultation with the Government and the Commission as to the most suitable form of machinery to be set up for enabling the Newfoundland people to review the position and give expression to their wishes. Two members of the Commission of Government were to pay a visit to Great Britain in order to go into the position with a view to machinery being in readiness for operation as soon as circumstances permitted. In the meantime, it was not for H.M. Government to gather opinions on the question of a change in the form of government: "this would be for the National Convention or for such other body of Newfoundlanders as may be set up after the War for that purpose."² . . . It will be for the Newfoundlanders themselves to review their prospects and make their choice as to the form of government they want."

The noble Lord asking the Question acknowledged the work of the Grenfell Commission, and after thanking the noble Viscount for his reply said, "I beg leave to withdraw my Motion."³

¹ *Ib.* 607.

² *Ib.* 610.

³ *Ib.* 616.

XVI. THE READING OF SPEECHES

THE *Questionnaire* for Volume XII contained the following item:

VII.—Please give particulars of any Standing Orders or Rulings dealing with the reading of speeches by Legislators.

It is almost a universal Standing Order in Empire Parliaments and Legislatures that a Member may not read his speech but may refresh his memory by reference to notes.¹

United Kingdom.

House of Lords.—The Motion on the subject moved by the Earl of Crawford in 1936 has already been dealt with in the *JOURNAL*.²

House of Commons.—The following are some references to the subject in this House during recent years. Valuable remarks upon the subject are, however, contained in a letter by Sir Gilbert Campion, the Clerk of the House of Commons, to Mr. T. Dickson, the Clerk of the Queensland Parliament, given later under that State.

On November 10, 1932,³ a rt. hon. Member asked Mr. Speaker (FitzRoy) whether he would consider making some announcement to the House of his intention to enforce the rule, which had been allowed to fall too much in abeyance, against the reading of speeches, whether by Ministers, ex-Ministers or other hon. Members; to which Mr. Speaker replied: "Certainly, if my attention is called to the fact that hon. Members are reading the whole of their speeches I should remind them of the rule."

Upon the re-election for the fourth time of Mr. Speaker FitzRoy on November 26, 1935,⁴ Mr. Speaker, when submitting himself to the House, on being called to the Chair, referred to the subject of the reading of speeches and proffered the following advice:

I have noticed how our debates are conducted and I want to tell the House that a debate should be a debate, that is, a discussion, one speaker following another and giving arguments for and against the question that is before the House. In other words, the debates should have the qualities of the cut-and-thrust of debate. I have noticed, rather more in recent years than it was in the past, that there has been a tendency growing in our debates for them to become the delivery of a series of set speeches. That habit is not carrying out debate in the true meaning of the word, and if that becomes the custom of this House I am sure that the life interest, not only in this House but outside, will suffer thereby.

On December 3, 1935,⁵ an hon. Member asked if it was in order for an hon. Member to come down to the House and to read out a long, prepared speech. Mr. Speaker replied that he understood that the hon. Member had rather copious notes and that it was not in order for

¹ *House of Commons: Manual of Procedure in the Public Business*, 7th Ed., 1942, 107.

² See *JOURNAL*, Vol. V, 15.

³ 270 *Com. Hans.* 5, s. 515.

⁴ 307 *Ib.* 7.

⁵ *Ib.* 335.

an hon. Member to read his speech—"and I am afraid that I shall soon have to apply that rule more strictly than I have done hitherto."

On May 12, 1936,¹ an hon. Member on a point of order asked if it was in order for an hon. Member to address the House from a printed speech. Another hon. Member thereupon inquired: "Has not the practice of not reading printed speeches been wholly abandoned, especially by the Labour Party?" In reply Mr. Speaker said: "I should be sorry to accuse one Party more than the other."

On March 9, 1937,² an hon. Member rising to a point of order remarked that he understood there was a Ruling against the reading of speeches and asked, in view of the speech (of the Minister) which was being obviously read, what was the Chairman's Ruling; to which the Chairman said that, though the reading of speeches was forbidden by the Standing Orders, hon. and rt. hon. Members were permitted to make copious use of notes, and, further, it was the recognized practice of the House that Members of the Government, when they had important statements to make, should, for greater accuracy, have those statements written out.

Another hon. Member, on a point of order, thereupon observed that surely the latter part of the Chairman's statement referred to definite statements of Government policy and not to a longish speech explaining a Bill, and that the House ought not to have long statements read to it, but there ought to be only the use of notes.

On May 18, 1938,³ an hon. Member rose on a point of order to ask whether it was in accordance with the traditions of the House that hon. Members should read every word of their speeches; to which Mr. Speaker replied that he did not think that the hon. Member was doing more than other hon. Members did.

On February 16, 1943,⁴ an hon. Member rose to a point of order and said that there was a well-established convention that Ministers were permitted to read statements when those statements were of Government policy, involving the careful weighing of words; but the rt. hon. the Minister started off his speech by saying that whatever he proposed to say was entirely provisional. The hon. Member submitted that in those circumstances the rt. hon. gentleman was not entitled to be exempted from the Rule that speeches ought not to be read. Further, that if his speech was a statement of fixed Government intention, the language of which would be weighed carefully afterwards, there would be an excuse for reading it, and there was no excuse, in his submission, for reading something which was merely provisional; to which Mr. Speaker replied that if the rule in practice were disregarded he should take notice of it.

The hon. Member then asked Mr. Speaker if he would, from the Chair, ignore hon. Members on these Benches and those Benches, should they bring into the House a manuscript and read out from that manuscript

¹ 312 *Ib.* 2454.

⁴ 386 *Com. Hans.* 5, s. 1662.

² 321 *Ib.* 1010.

³ 336 *Ib.* 438.

in the same way as "this abominable abuse is disregarded"; upon which Mr. Speaker stated that the hon. Member would find, and he expected that he had found, that there was equal treatment of all Members of the House.

On March 11, 1943,¹ an hon. Member rose to a point of order and said that he always understood that Members should not be allowed to read their speeches. He had been listening attentively to the rt. hon. gentleman and he had not taken his eye off his script since he started.

Mr. Speaker said that it was generally understood that a Minister in charge of one of their Defence Departments had to be so careful what he said, unless he gave information to the enemy, that he did allow him to read his speech.

During the same debate,² the same hon. Member again lodged a protest against the growing habit of Ministers of the Crown reading their speeches when they addressed the House. It was a deplorable habit and was growing day by day. He found, on looking up the records, that of the last 6 Ministerial addresses from the Treasury Bench 5 had been solemnly read word by word, "with a member of the Gestapo in the box making quite sure that every word was uttered so that it could be altered in the official record if it was not." The hon. Member then suggested that if Ministers were going to make a habit of reading their speeches they should circulate copies of them among Members. That would shorten the debate or give back-benchers more opportunity of addressing the House.

On May 18, 1943,³ upon an hon. Member being asked by Mr. Deputy-Speaker to keep to the Budget and not go into legislation, another hon. Member asked if the difficulty did not arise out of the Member having a written speech and asked, "Is that quite in order in this House?"; to which Mr. Deputy-Speaker replied, "If I were to rule hon. Members out of order for reading I should have to make it pretty well universal."

Canada.

Senate and House of Commons.—Paras. 238 and 239 of *Beauchesne's Parliamentary Rules and Forms* give the practice in Canada as follows:

238. It is a rule in both Houses of Parliament that a Member must address the House orally, and not read from a written, previously prepared, speech, for the reason that, "if the practice of reading speeches should prevail, Members might read speeches that were written by other people, and the time of the House be taken up in considering the arguments of persons who were not deserving of their attention."

239. Mr. Speaker Glen said in the House on February 20, 1942:

"I have a statement I should like to make to the House. Now that the debate on the Address has been completed, I have been concerned with what I am sure has been evident to all Members of the House, namely, the breach of the Rule which deals with the reading of speeches. I would refer hon.

¹ 387 *Ib.* 896.

² *Ib.* 928.

³ 389 *Ib.* 998.

Members to Beauchesne's *Parliamentary Rules and Forms*, at p. 95, citation 293, which states:

"Besides the prohibitions contained in this Standing Order, it has been sanctioned by usage, both in England and in Canada, that a Member, while speaking, must not:

(c) read from a written, previously prepared speech."

"As long ago as April 19, 1886, a Resolution was adopted by the House, which reads:

"That the growing practice in the Canadian House of Commons of delivering speeches of great length, having the character of carefully and elaborately prepared written essays, and indulging in voluminous and often irrelevant extracts, is destructive of legitimate and pertinent debate upon public questions, is a waste of valuable time, unreasonably lengthens the Sessions of Parliament, threatens by increased bulk and cost to lead to the abolition of the official report of the debates, encourages a discursive and diffuse, rather than an incisive and concise style of public speaking, in marked contrast to the practice in regard to debate that prevails in the British House of Commons, and tends to repel the public from a careful and intelligent consideration of the proceedings of Parliament."

"During the course of the debate, Members have been reading from manuscripts without regard to the rule, and all sides of the House have practised it. I think that I express the general sense of the House when I say that this practice is to be deplored. It is true that the debate just completed was very important, as hon. Members are likely to be quoted thereafter for their attitude now, and in consequence they wish to have the written word before them, rather than rely on the inspiration of the moment to find the proper expressions. I wish to intimate to the House that I shall have to insist upon Members observing the rule. I realize the difficulty of enforcing it and the Chair can only do so with the positive support of all Members."

"On a former occasion I agreed, and the House consented, that when important statements involving Government policy are made by Ministers on behalf of the Government, such statements could be read rather than expressed extemporaneously. This practice is, I understand, being followed in the British House of Commons, and it has been extended here to include statements made by the official Leader of the Opposition, whose status is regulated by s. 42 of the Senate and House of Commons Act, c. 147, R.S.C. 1927."

Australia.

The Senate.—Mr. John E. Edwards, J.P., the Clerk of the Commonwealth Senate, gives the following information on this subject:

S.O. 406 reads as follows:

No Senator shall read his speech.

The practice of reading speeches has developed to a considerable extent during recent years. With the advent of wireless broadcasting, in which speeches over the air have to be prepared beforehand and submitted to censorship, it has become almost universal for statements of an important nature to be carefully prepared and committed to writing. With the speeding up, too, of the work of Parliament and the great increase in the work of Ministers, the former practice by which Ministers studied every Bill exhaustively and made themselves so familiar with its contents that they were able to deliver second-reading speeches

extempore has been altered. Nowadays, second-reading speeches are frequently prepared by the draughtsman or by departmental officers. It sometimes happens that copies of such second-reading speeches are circulated at the same time as the speech is being delivered.

Up to the present, Standing Orders have not been altered to permit of this practice. It has grown up more or less in all Parliaments, and the tendency seems to be to encourage it rather than forbid it.

In May's *Parliamentary Practice* (13th ed.), p. 303, it is stated :

A Member is not permitted to read his speech, but may refresh his memory by a reference to notes. The reading of written speeches, which has been allowed in other deliberative assemblies, has never been recognized in either House of Parliament. A Member may read extracts from documents, but his own language must be delivered *bona fide*, in the form of an unwritten composition. Any other rule would be at once inconvenient and repugnant to the true theory of debate.

In a letter from the Clerk of the House of Commons, quoted in the Senate by Senator Brown on March 9, 1943 (*Hansard*, p. 1321), it is stated that the foregoing passage would be modified in the new edition of May's book, which was then in course of preparation.

The matter came up in the Senate on March 9, 1943, when the Minister for External Territories was moving the second reading of the Income Tax Assessment Bill, 1943. Bills of this class are extremely involved, and it is practically essential to have the second-reading speech prepared beforehand. During the reading of the speech by the Minister, a Senator rose to a point of order, and called the President's attention to S.O. 406. The President ruled that hon. Senators were not entitled to read their speeches, but were entitled to refresh their memory by reference to their notes. This was in accordance with rulings of previous Presidents on the subject. The Minister went on reading his speech. A point of order was again taken, and the President stated that he asked hon. Senators not to read their speeches. The Minister, being placed in a dilemma and being obviously unable to complete his speech without reading it, continued to read, and no further point was taken.

On the Motion for the adjournment of the Senate on the same day, Senator Brown dealt with the question at some length. He stated that the present position was awkward for anyone occupying the presidential chair, because of the explicit direction in S.O. 406. He went on to state that in view of the fact that on certain occasions it was essential, and perhaps of vital importance, that an hon. Senator in charge of a Bill should read his speech, it was unfair for other hon. Senators to call the attention of the Chair to S.O. 406, which is so explicit and adamant on the point. His view was that the Standing Order should be amended to provide that the Senate may grant leave to an hon. Senator to read his speech should such a course be deemed necessary. Senator Brown went on to inform the Senate of an occasion in the Queensland State Parliament where a similar position had arisen, and

where it was decided to write to the Clerk of the British House of Commons for an opinion on the matter.¹

A special meeting of the Standing Orders Committee of the Senate was called to consider the matter. At this meeting various suggestions were made, such as that the following exceptions might be allowed to the established rule:

- (1) A Member might refresh his memory by notes, but, except (a) by leave, or (b) as hereinafter provided, might not read his speech;
- (2) a statement made by leave or in personal explanation could be read by the Member making it;
- (3) a Member speaking for the first time after his first election should be permitted to read his speech;
- (4) a Minister or other Member moving a Resolution or the second reading of a Bill could be allowed to read his opening speech only;
- (5) the Minister in charge of a Financial Statement or of a Tariff could read his opening speech only; and
- (6) if the Minister by whom any debate has been begun has read his opening speech, the Leader of the Opposition or any person deputed by him, speaking first in reply, should be allowed to read his speech in reply.

After very careful consideration the Committee agreed that it was not advisable to alter the Standing Order, but that if a Senator desired for special reasons to read his speech he should be able to do so by leave of the Senate. On the same day (March 10, 1943) the President made a statement to the Senate embodying this decision, and stated that he would rule accordingly. On several occasions subsequently a Minister asked for leave to read his second-reading speech and such leave was readily granted. Other Senators have obtained leave to read portions of their speeches.

The following rules have been delivered:

By President Givens—

Ruling No. 106: A Senator may not read his speech; he may refresh his memory by looking at notes, but he may not read from a written document.

By President Kingsmill—

Ruling No. 39: Speeches are not to be read.

By President Lynch—

Ruling No. 19: Speeches may not be read, but reference may be made to extensive notes.

Queensland.—Mr. T. Dickson, J.P., the Clerk of the Parliament, contributes the following note on the subject and states that, although not a Ruling, it should prove of great interest:

During the Session of 1937, the Speaker drew the attention of the House to the fact that the Premier, in moving 2 R. of an important Bill, had read his speech, and suggested that in future if a Member wished to

¹ This letter is included in the Note contributed by the Clerk of the Queensland State Parliament.—[Ed.]

read his speech the permission of the House should first be obtained. Some ill-feeling was aroused, with threats of disagreement—the Premier making a strong point that the Speaker's intervention had not been sought by the House. The matter eventually dropped and the Clerk was asked to write to the Clerk of the House of Commons for some directions and advice. Sir Gilbert Campion dealt very fully with the subject in his reply, but unfortunately the Speaker did not at that time make the reply public. However, in October 1941, during a discussion on the Parliamentary Estimates, the opportunity was taken by the Premier to quote Sir Gilbert's reply.

The Premier, continuing, said that the Speaker of the day called attention to the fact that I was reading my speech on that occasion and expressed the opinion that it was against the Standing Orders. I disagreed with him, and stated my reasons for so doing. I pointed out the practice followed in the House of Commons, and a letter was subsequently written by the Clerk of the Assembly to the Clerk of the House of Commons in connection with the matter. Sir Gilbert Campion replied on December 21, 1937, and I think that his reply should be recorded so that the position should be known.¹ Where our Standing Orders are silent the House of Commons practice is the authority, and that authority is generally quoted from Sir Thomas Erskine May's *Parliamentary Practice*. Mr. Dickson wrote to the Clerk of the House of Commons, and this is the reply to which I have referred:

DEAR MR. DICKSON,

... I have read the pages of *Hansard* enclosed with your letter, and considered the situation which arose in connection with the reading of the Prime Minister's speech in the light, first of all, of the passage on p. 303 of Erskine May. I may say, incidentally, that this passage will be modified in the new edition which I hope will be published in the course of the coming year.

Taking the rule as set out in Erskine May at its face value, I think it will be generally agreed that it has two main objects:

- (1) It is intended to secure that speeches shall not be made by proxy—they shall not be verbally inspired from outside. This is sufficiently indicated in the note on p. 303 of May.
- (2) The second main object of the rule is to encourage debate. Set speeches make debate impossible. In this connection I might refer you to some remarks made by the present Speaker on his re-election in 1935. (H. of C. debates—1935-36—307, c. 7.)

The question then arises whether this rule is always obeyed literally, and, secondly, whether there has been any change in recent practice.

It is very difficult to tell from observation alone whether the practice of reading speeches is increasing. Some Members are cleverer in concealing their manuscript than others, and it is difficult to tell the difference between a speech which is read *in extenso* and one which is merely based on what is called "copious notes". The Speaker does not generally intervene unless he is asked for a Ruling by a Member. The enforcement of the Rule depends principally on the feeling of the House, and I think that in practice the following exceptions are generally recognized:

¹ See 1937 *Q'land Hans.* 1221; 1941 *Ib.* 558.

- (1) Ministerial statements in opening the second reading of an important or highly technical Bill, or when a statement is particularly important as in the case of a statement on foreign affairs, are frequently read without objection being raised.
- (2) The House is generally indulgent to a Private Member who is moving a Motion or opening a debate, and the Speaker, if appealed to, generally puts the matter aside by saying that the Member has evidently provided himself with very full notes. As it happens, the Speaker has this morning made such a reply in connection with the speech of a Member who was moving the second reading of a Private Member's Bill.

On the other hand, the House is likely to be impatient with Members who read prepared speeches when they should be dealing with the arguments of previous speakers, as this is contrary to the whole purpose and meaning of debate.

Perhaps I may summarize the result of what I have written above by saying that the rule, as laid down in May, is applied in the spirit rather than in the letter, that exceptions are allowed when they are not inconsistent with real debate and that perhaps in the present century the rule has been applied progressively with slightly greater latitude. . . .

Yours sincerely,
(Sgd.) G. F. M. CAMPION,
Clerk of the House of Commons.

The Premier further remarked that:

That letter bore out the validity of the contention I made at the time that a Minister in introducing a Bill that was highly technical in character and one involving contractual obligations on the part of the Crown was entitled to read his speech. The same applies to a statement of policy and also to a Ministerial statement on foreign affairs.

South Australia.

House of Assembly.—Captain F. L. Parker, Clerk of the Parliaments and Clerk of the House of Assembly, says that there is no Standing Order directly prohibiting reading of speeches. Standing Orders lay down that, where no other provision is made, the usages of the House of Commons are to be observed. The general practice followed is that a Member may not read his speech, but may refresh his memory by notes and may read extracts from documents.

Blackmore in his *Manual*,¹ in reference to this subject, says:

This usage, no doubt, owes its origin to the fact that to report or publish what is said in Parliament was, from the most ancient times, a breach of privilege; and a written speech would enable privilege to be violated. Moreover, there would be no guarantee that a Member was not reading a speech of someone else. Further, written speeches would, from their nature, be *a priori* utterances, not deliberative speeches, taking their colour from the course of actual debate.

New Zealand.

In both Houses there is a Standing Order: Legislative Council

¹ *Manual of the Practice, Procedure and Usage of the Legislative Council of S. Australia.* E. G. Blackmore, Clerk of the Parliaments. Rev. Ed., 1915. (F. Halcomb, M.A.)

S.O. 141 that "A Member may not read his speech, but may refer to notes"; and in the House of Representatives S.O. 160 states that "A Member shall not read his speech but may refresh his memory by reference to notes." The following Rulings have been given in the House of Representatives: *Rulings of the Speakers of the House of Representatives, 1867-1905*, gives the following *Parl. Hans.* references: 76-163; 83-603; 134-266.

Union of South Africa.

House of Assembly.—Mr. Ralph Kilpin, J.P., the Clerk of the House of Assembly, quotes the standard Standing Order on the subject with the following references:

On May 3, 1935,¹ Mr. Speaker drew the attention of an hon. Member to S.O. 61, which laid down that an hon. Member "shall not read his speech but may refresh his memory by referring to notes".

On February 21, 1940,² upon an hon. Member rising to a point of order, to ask whether another hon. Member was entitled to read someone else's speech, Mr. Speaker in drawing attention to S.O. 61 said that there had been a tendency lately among Members to read their speeches wholly or partly, which was in conflict with the Standing Order, and warned hon. Members that the practice must not be continued in future.

On March 13, 1940,³ an hon. Member on a point of order asked Mr. Speaker if an hon. Member was entitled to read his speech; to which Mr. Speaker replied that hon. Members knew that a speech must not be read, but he understood that the hon. Member was referring to full notes.

On March 3, 1941,⁴ an hon. Member on a point of order asked Mr. Speaker if the hon. the Minister was entitled to read his speech, whereupon the Minister interjected that the Bill was very involved and technical and perhaps therefore that he was making more copious use of his notes than he would otherwise do. Mr. Speaker then said that the Minister, like any other Member, should observe the rules.

More formal instances occurred on other occasions.⁵

Southern Rhodesia.

Legislative Assembly.—Captain C. C. D. Ferris, Clerk of the Legislative Assembly, quotes their S.O. 62, which is in the usual terms, and adds that it has, however, been permitted to the Minister of Finance to read his Budget statement and the reply to Budget debate.

India.

The only instance furnished in regard to a Ruling on this subject occurred in the Legislative Assembly, Assam, of which the following

¹ 25 *Assen. Hans.* 6416.

² 37 *Ib.* 2010.

³ 38 *Ib.* 3400.

⁴ 41 *Ib.* 3827.

⁵ 24 *Ib.* 2326; 37 *Ib.* 348; 41 *Ib.* 2213; 43 *Ib.* 966; 47 *Ib.* 1144.

note has been received from Mr. A. K. Barua, B.A., Secretary of such Assembly, who states that—

Assam : Legislative Assembly.—Members may have written notes, but they should deliver their speeches *ex ore*. On February 16, 1938, Maulair Dewan Muhammad Ahbab Chaudhury read a speech from a note prepared by him, whereupon Mr. Speaker ruled as follows:

I have so long allowed written speeches to be read; but I think it would be better if hon. Members deliver their speeches *ex ore*. They may have written notes; but they may speak in such a way referring to the notes as would make the speech appear to be *ex ore*.

XVII. SOME RULINGS BY THE SPEAKER AND HIS DEPUTY AT WESTMINSTER, 1939-1943

COMPILED BY THE EDITOR

THE following Index to some points of Parliamentary procedure, as well as Rulings by the Speaker and Deputy-Speaker of the House of Commons given during the Fourth, Fifth, Sixth, Seventh and Eighth Sessions of the Thirty-Seventh Parliament of the United Kingdom of Great Britain and Northern Ireland (3, 4, 5, 6 and 7 Ge. VI), are taken from the General Index to Volumes 341 to 393 of the Commons *Hansard*, 5th series, covering the period November 8, 1938, to November 23, 1943. The Rulings, etc., given during the remainder of 1943 (which fall in the 1943-44 Session) and those in the 1943-44 Session will be treated in Volume XIV of the JOURNAL.

The respective Volume and column reference number is given against each item, the first group of figures representing the number of the Volume, thus—"341 - 945" or "393 - 607, 608, 1160". The references marked with an asterisk are indexed in the Commons *Hansard* only under the heading "Parliamentary Procedure".

Minor points of Parliamentary procedure are not included in this Index, neither are Rulings in the nature of remarks by Mr. Speaker. Rulings in cases of irrelevance are only given when the point is clear without reference to the text of the Bill, or other document, itself. [It must be remembered, however, that this is an index, and, although its items generally are self-contained, in other cases a full reference to the *Hansard* text itself is advisable.

Note.—1 *R.*, 2 *R.*, 3 *R.* = Bills read First, Second or Third Time. *Amdt.(s)* = Amendments. *Com.* = Committee. *Cons.* = Consideration. *Rep.* = Report. *C.W.H.* = Committee of the Whole House. *Govt.* = Government. *Dept.* = Department. *O.P.* = Order Paper. *Q.(s)* = Question(s) to Ministers. *Sel. Com.* = Select Committee. *Stan. Com.* = Standing Committee. *R.A.* = Royal Assent.

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¹ *Vide* text.

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¹ See also 373 Com. Hans. 5, s. 966.

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¹ *See also* JOURNAL, Vols. VI, 97; VIII, 170.

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¹ *i.e.*, "non-monetary."

² *See also* JOURNAL, Vol. X, 176.

³ *But see* Articles in various Vols. of JOURNAL under "Applications of Privilege" or separately treated in special Articles.—(Ed.)

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¹ Normally 5 hours a week.

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 - allowed to help hon. Members in debate, 387 - 1478, 1479.
 - not allowed as similar to *Q.* already on *O.P.*, and not yet reached, 365 - 938.
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 - supply of figures to other Members, 373 - 449.
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¹ i.e., by arrangement between the *Govt.* and the Leader of the Opposition.

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- another matter, *356 - 203, etc.; 371 - 1820; *378 - 905, etc., *386 - 1737, etc.
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- asking of, not necessary, 377 - 1511.
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- too long, 385 - 513; 391 - 2453.
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¹ Generally a matter of importance.—[Ed.]

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—*Supplementary (continued)*:

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- vetting of, 361 - 757.
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- to be addressed to *Dept.* concerned, 359 - 1129, 1130.
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Question(s) to Prime Minister. See Prime Minister.

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- Division procedure, 374 - 1912.¹
- in House of Lords arranged for attendance of Commons, etc., 361 - 1142
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- Minister of Labour, non-M.P.s not allowed speech in House, 362 - 24.
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- duty of, to consider not only whether an, would increase a charge but whether it *might* increase it, 349 - 2278.
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- no selection made, 380 - 1546, 1547, 1587; 386 - 1614, 1685.
- not in order to complain of arbitrary selection of, by, 348 - 320.
- not selected, 349 - 1536; 390 - 1594.

¹ See also JOURNAL, Vol. X, 20.

² Non-monetary.

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- rests with Chair, 376 - 1286.
- selection made without any account of Party, 386 - 1965.
- selection of, 350 - 34; 377 - 725, 726, 727; 382 - 553 to 558; 385 - 469, 470 to 472, 734, 1436.
- selection of, would mean debate, 344 - 482.
- selection of, rests with Chair, 376 - 1286.
- when selecting, Chair not guided by order in which, are set down, 389 - 1262.
- cannot interfere with proceedings in *C.W.H.*, 349 - 1258.
- catching eye of, 369 - 1103.
- criticism of, out of order, 350 - 1731.
- Deputy, awaits Mr. Speaker's return for decision, 386 - 1767.
- does not consider it his duty to censor hon. Members' speeches, 388 - 1922.
- expressions of opinion are for the Leader of the House, 391 - 1804.
- limitation of debate, Mr. Speaker FitzRoy in reply to the *Q.* whether Mr. Speaker would advise the House as to the best step to be taken to enable a greater number of Members to take part in debate, said:—
"It is much better, when a Member resumes his seat after he has made a speech, for the House to have the feeling that they wish he had gone on longer instead of wondering why he did not stop sooner," 347 - 2501 to 2504.
- no power to stop a Member giving something away to enemy during debate, 361 - 1270.
- not a *Q.* for, to answer, 357 - 965.
- Privilege Amdts.*—see *Lords' Amdts.*
- proposes dispensing with the usual ceremony of shaking hands in view of the shortness of the period of Prorogation, in accordance with precedent laid down by predecessor, 383 - 2332; 393 - 1480.
- Ruling(s).
- Member objecting to, can put down Motion, 363 - 146.
- must not be debated, 383 - 853.
- sitting suspended by, 351 - 110.
- Speaker, Mr. (FitzRoy): *"While I am always ready to give protection in this House to any hon. Member, it is not my business to deal with Govt. policy,"* 347 - 11.
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- proceedings on *Govt.*, exempted from *S.O.* (Sittings of the House), 374 - 1330, 1331.
- Sittings of House, Rule for, cannot be suspended in *Com.*, 389 - 632.
- Suspension of, not now made at end of *Q.s.*, 374 - 1330.

Statutory Order(s).

- cannot be amended, can only be rejected or accepted by House, 374 - 377.

¹ Mr. Speaker FitzRoy said it was reputed "that Disraeli, when he was once asked by a new Member, whether he advised him to take part often in the Debates of the House replied: 'No, I do not think you ought to do so. It is much better that the House should wonder why you do not speak than why you do.'"

Stranger(s).

- any Member can spy, 379 - 1216.
- division for, in respect of, in public, 381 - 1362.
- in Lobby, 346 - 2116, 2222.
- Motion for withdrawal of not debatable, 372 - 829.
- Q. must be put directly, are espied, 393 - 1475.
- seating for overseas troops, 358 - 1820.
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Supply. *See* Finance; *also* Debate.

Vote(s) of Confidence or Censure. *See* Motions.

Ways and Means. *See* Debate and Finance.

XVIII. APPLICATIONS OF PRIVILEGE, 1944

BY THE EDITOR

At Westminster.

Letter to Member.—On May 19,¹ in the House of Commons, the hon. Member for S. Croydon (Sir Herbert Williams) raised a matter of Privilege, which, although it affected one Member in detail, yet might, in principle, affect every Member of the House. Sir Herbert had not been able to get in touch with the hon. Member for St. Helens (Mr. W. A. Robinson), but last night the *Evening Standard* contained the following statement:

Economic sanctions are being imposed by the National Union Distributive and Allied Workers upon one of the Union's M.P.s. Mr. W. A. Robinson, who sits for St. Helens, receives, in addition to his Parliamentary £600 a year, an allowance of £200 a year from the Union for expenses and a pension of £450 a year as a retired official of the Union. He also gets an allowance for postages and free secretarial assistance. Mr. Robinson has refused the Union's request to resign his seat. The Union has now informed him of its intention to withdraw the £200 a year allowance and the postage and secretarial expenses. His pension as a former official of the Union will continue.

Sir H. Williams said that it seemed to him that an attempt to coerce an M.P. to take action in his capacity as an M.P. by financial pressure was a breach of the Privilege of the House.

Mr. Speaker said an important point had been raised which affected them all, but that he could not declare a *prima facie* case had been made out without confirmation by the hon. Member for St. Helens as to its accuracy. The hon. Member for S. Croydon had raised it at the first opportunity and he would therefore not be prejudiced if he raised it again at the earliest possible moment on the fact that it was verified.

On May 23,² Mr. Robinson being in his place, Sir H. Williams again raised the question of privilege referred to above, upon which Mr. Speaker called "Mr. Robinson", who said that the matter had not been raised by him in the Press and that he could only inform the House that he was in receipt of a registered letter of May 15 from his organization, which he read as follows:

(For text of letter see below.)

The hon. Member said that he received that letter with regret. He had shown it to no one, and from whomsoever the Press received the information it was not from him.

Mr. Speaker said that the House would appreciate that the matter had not been raised by the hon. Member himself, but that the matter raised a rather serious issue. He had decided therefore that a *prima facie* case had been made out.

Sir H. Williams then moved: "That the Matter of the Complaint be referred to the Committee of Privileges", which Question was put and agreed to.

¹ 400 *Com. Hans.* 5, s. 439.

² *Ib.* 584.

Report.—On June 14,¹ the Report² from the Committee of Privileges was brought up, read and ordered, with the Minutes of Proceedings, to be printed.

The Committee examined the acting General Secretary and Chairman of the Union and heard evidence from Alderman W. A. Robinson and Sir Gilbert Campion, who, at the request of the Committee, submitted a statement on the precedents.

The Committee had referred to it the letter of May 15 from the Union, as given below, and stated that the first communication between the Union and the hon. Member for St. Helens, in which the question of his resignation was raised, was dated April 24, 1944. On May 10, Mr. Robinson replied, stating that he had no intention of applying for the Chiltern Hundreds, and it was in answer to this letter that the letter of May 15 was sent.

These letters were as follow:

ALDERMAN W. A. ROBINSON, M.P.,
HOUSE OF COMMONS,
WESTMINSTER, S.W.1.

NATIONAL UNION OF DISTRIBUTIVE AND
ALLIED WORKERS,
122, WILMSLOW RD., MANCHESTER, 1
April 24, 1944.

DEAR MR. ROBINSON,

St. Helens Division and Parliamentary Representation.

The Executive Council at their meeting held this last week-end received a deputation from the Executive Committee of the St. Helens Labour Party and fully reviewed the Parliamentary situation in St. Helens.

They subsequently unanimously adopted the following resolution:

"That this Executive Council, having heard the deputation from the St. Helens Labour Party Executive Committee, express their profound dissatisfaction with the services given by Alderman W. A. Robinson, J.P., M.P., in his capacity as the Parliamentary representative for St. Helens, and that he be called upon forthwith to resign as the Member for the Division."

The next meeting of the Executive Council will be held on May 13 and 14, and any comments you wish to make, in view of this decision, should be sent to me prior to that meeting.

Yours fraternally,
(Sgd.) ALFD. W. BURROWS,
Acting General Secretary.

THE GENERAL SECRETARY,
NATIONAL UNION OF DISTRIBUTIVE AND
ALLIED WORKERS.

HOUSE OF COMMONS.
May 10, 1944.

MY DEAR HALSWORTH,

Re St. Helens Division.

I desire to respectfully acknowledge your letter suggesting that I tender my resignation as Member for the above Division.

For very definite reasons I beg to inform our Executive Council that I have no intention of applying for the Chiltern Hundreds, and therefore will remain a Member of Parliament.

Yours faithfully,
(Sgd.) W. A. ROBINSON.

¹ *Ib.* 1988.

² H.C. Paper 85 of 1943-44.

ALDERMAN W. A. ROBINSON, M.P.,
HOUSE OF COMMONS,
WESTMINSTER, S.W.1.

NATIONAL UNION OF DISTRIBUTIVE AND
ALLIED WORKERS,
122, WILMSLOW RD., MANCHESTER, 14.
May 15, 1944.

DEAR MR. ROBINSON,

Your letter of May 10, intimating that it is not your intention to resign as Member of Parliament for St. Helens, was noted by the Executive Council at their meeting held last week-end.

I am directed to inform you that the Executive Council adopted the following Minute unanimously:

"That the retaining allowance of £200 p.a., payable to Mr. W. A. Robinson, as authorized by Minute 944 (3) of Executive Council held 12th and 13th December, 1942, and the postal allowance and secretarial assistance authorized by Minute 757 (3) of Executive meeting held 10th and 11th October, 1942, be discontinued after June 30, 1944."

Yours fraternally,
(Sgd.) ALFRD. W. BURROWS,
Acting General Secretary.

The Report then goes on to say that it found the following facts established. Down to the end of 1942, Mr. Robinson was the Political General Secretary of the Union and as such was in receipt of a salary and a member of the Union's Parliamentary Panel. In November, 1942, having reached the age of 65, he came off the Panel and went on pension. In normal circumstances the association between him as an M.P. and the Union would have ceased and no question of allowance would have arisen. In the special conditions of war-time, however, the Union decided to continue the association and to make him an allowance of £200 in respect of expenses as an M.P., and he was also given postage allowance and secretarial assistance. The letter of April 24 was the result of complaints made against Mr. Robinson by the Executive of the Divisional Labour Party for St. Helens, reinforced by the dissatisfaction which the Union itself felt as a result of their experience. The evidence given by the Chairman and Secretary of the Union to the effect that these complaints were not directed against Mr. Robinson's votes or speeches or his actions in relation to the business of the House was confirmed by Mr. Robinson, and the Committee accepted his evidence. It was therefore unnecessary for them to investigate the truth of these complaints or the justification for them. They related to alleged neglect to deal with constituency matters and dissatisfaction with Mr. Robinson's conduct as an individual.

The Committee observed that while the payment to, or receipt by, a Member of money, or the offer or acceptance of other advantage, for promoting or opposing a particular proceeding or measure, constituted an undoubted breach of privilege, it had long been recognized that there were Members who receive financial assistance from associations of their constituents or from other bodies, and a body which provided such assistance must normally be free and entitled to withdraw it. A statement that such support would be withdrawn unless certain action was taken in Parliament in relation to the business of the House might

come within the principles laid down in the precedents as a breach of privilege. It depended upon circumstances.

The Committee said it was clear from the evidence that the Union was dissatisfied with Mr. Robinson, but it did not think that a decision to withdraw support based on such dissatisfaction could in itself amount to a breach of privilege. The Union should be free to make its dissatisfaction known to the M.P., which they did by calling upon him to resign. The officials of the Union disclaimed (and the Committee fully accepted their disclaimer) the slightest intention to affront Parliament or commit any breach of its laws and privileges. If it had inadvertently done so they desired to express the fullest apology.

Conclusion.—The Committee in para. 5 of the Report came to the following conclusion:

Your Committee do not think that there is any general rule which can be stated, but every case of this, or a similar, kind must be considered in the light of the particular circumstances. There was in this case no attempt to influence the action of the Member in the House of Commons in voting or speaking, and Your Committee are of opinion that the course taken by the Union did not involve a breach of the privileges of the House.

Tasmania: Legislative Council.

Reflection on the Conduct of Mr. President.—On September 21, 1943,¹ Mr. Eady called the attention of the Council to a paragraph contained in a statement dealing with the proposed purchase by the Hydro-Electric Commission of the hydro-electric undertaking of the Launceston City Council, stated to have been furnished by Mr. George J. McElwee, M.L.C., appearing in the Launceston *Examiner* newspaper on July 1 last; also to a paragraph contained in a report of a speech made by Mr. G. J. McElwee at a special meeting of the Launceston Trades Hall Council, appearing in the *Examiner* newspaper of July 2 last; and to a paragraph contained in a report of an address made by Mr. McElwee at the Launceston 50,000 League Lunch, appearing in the *Examiner* newspaper of July 6 last on the same subject, which, he submitted, reflected on the conduct of the President in the Chair.

Ordered, That the paragraphs complained of be read.

The copies of the Launceston *Examiner* referred to by Mr. Eady were delivered to the Clerk of the Council, and the paragraphs complained of were read by the Clerk as follows:—

Paragraph contained in statement furnished by Mr. McElwee appearing in the *Examiner* newspaper of July 1, 1943:

The Bill, which became law only on the casting vote of the President of the Legislative Council, who definitely voted against the weight of evidence put before him, enforces the sale of the city's electrical undertaking to the Hydro-Electric Commission at a price to be agreed upon.

Paragraph contained in report of speech made by Mr. G. J. McElwee

¹ 1943 L.C. VOTES, 45.

at a special meeting of the Launceston Trades Hall Council appearing in the Launceston *Examiner* of July 2:

When the Bill had come before the Legislative Council, the President (Mr. Murdoch) had voted against it despite the fact that he usually could never find anything good in the Government's proposals and despite the fact that he should have based his casting vote on the evidence before the House, which had been presented by several speakers against the Bill and only one, the Minister in charge, for it.

Paragraph contained in report of an address made by Mr. G. J. McElwee at the Launceston 50,000 League Lunch appearing in the Launceston *Examiner* newspaper of July 6:

" ' I consider,' Mr. McElwee said, ' that the President of the Legislative Council (Mr. Murdoch)—who doesn't seem to have anything good to say about Launceston at all—should have taken more of a judicial attitude and voted according to the information and facts put before him. So far as I can remember, the Attorney-General (Mr. McDonald), who introduced the Bill, was about the only one who actually spoke in favour of it. On the other hand, every Member who opposed it spoke and gave his reasons. Yet, in giving his casting vote, the President voted with those Members who had sat tight and said nothing.' "

A Motion was made, and the Question being proposed—" That the reflections on the President contained in the paragraphs appearing in the *Examiner* newspaper of the 1st, 2nd and 6th July last are a gross libel upon the President and a grave breach of the privileges of the Council." (Mr. Eady.)

Mr. McElwee was heard in his place and offered a full and unreserved apology for the reflection contained in the paragraphs of which complaint had been made.

And the Motion was, with the leave of the Council, withdrawn.¹

Australia.

*Censorship of M.P.s' Mail Matter.*²—On February 25,³ in the Commonwealth House of Representatives, Mr. Archie Cameron (Barker) raised the question of the censorship of M.P.s' mail matter, giving instances to which he had drawn the attention of the Minister. The hon. Member said he had raised the question because it struck at the foundation of the privileges of this House and moved the following Motion:

That the opening by censors of letters addressed to Members of this House, at Parliament House, Canberra, or at the rooms occupied by Federal Members in a State capital city is a breach of the privileges of Parliament.

Among other arguments in support of it, the hon. Member urged that there should be a complete cessation of the opening of letters addressed to Members of the Parliament at this House, and at the rooms which

¹ Contributed by the Clerk of the Legislative Council.—[Ed.]

² See also JOURNAL, Vol. XI-XII, 31, 36.

³ 177 C'th Hans. 628-44.

they occupied in the different capital cities, otherwise how could the principle be supported that the subject had certain rights against the Crown?

Mr. Spender (Warringah), in seconding the Motion, maintained that letters sent to M.P.s, provided they did not come from service personnel or from military areas, should not be censored. It was one of the cardinal principles of the democratic system that any man with a grievance should have an unfettered right to approach his Parliamentary representative in an endeavour to obtain redress. It was indefensible that mail despatched from within Australia should be opened unless sent from military areas within the country. Mail was being opened by the censorship authorities under the Post and Telegraph Censorship Order for reasons that bore no relation to the security of the country. Documents that had no relation to national security were, it was freely said, being circulated in Government Departments to enable tab to be kept on various persons, and on the financial position and trading operations of firms.¹

The Prime Minister (Rt. Hon. J. Curtin) quoted the Post and Telegraph Censorship Order gazetted quite early in the War, which laid down clearly that the censor may open and examine all postal articles as defined in the Post and Telegraph Act. Mr. Curtin said that his own mail was subject to censorship. Communications which floated about the country might contain information not only of a kind useful to the enemy, but also of a kind relating to a potentially subversive element in the community, and the sooner such persons were placed under surveillance the less mischief they were likely to do. Many such persons wrote to M.P.s. He did not propose to put a label on them, but merely pointed out that no one should be immune from the requirements of the National Security Regulations gazetted in time of War in order that the country should not be imperilled. The purpose of censorship was to withhold information calculated to assist the enemy or to affect the War effort adversely. How was it possible to do that unless the mails were examined? The fact was that there was no immunity from censorship for any citizen and there ought to be no immunity. When a letter was in the post no one knew what it contained except the sender. Not even the censor could know its contents until he examined it. The very principle of immunity of M.P.s from censorship was admitted to be impracticable, "therefore the Motion could not be sustained".²

In reply to an interjection, the Prime Minister said—That the Post Office was not entitled to interfere with mail for the purpose of preventing a Member of Parliament from getting information. Nor was it entitled to erase information contained in a letter to a Member of Parliament. The censorship ought to be entitled to examine all mail, regardless of to whom it was directed, but it should not interfere with the most rapid despatch of all correspondence to Members of Parliament.³

¹ *Ib.* 630.

² *Ib.* 632.

³ *Ib.* 633.

The Leader of the Opposition (Rt. Hon. R. G. Menzies, K.C.), in moving the following *amdt.* to the Motion, namely—to insert after “addressed” the words “by other than service personnel or persons residing in operational areas”, said that what was challenged in the Motion, as he now proposed to amend it, was the right of the censor to interfere with mail directed by civilians to Members of Parliament. There was a right in every constituent to approach his representative in Parliament and a right in that Member to ventilate the grievances of that constituent.

The Attorney-General (Rt. Hon. H. V. Evatt, LL.D., K.C.) suggested that both the mover withdraw his Motion and the mover of the *amdt.* his *amdt.*, and assured the mover of the Motion that the Government would have the whole question of this privilege of Members of Parliament examined by a Committee representing both sides of the House.¹

The Minister for the Navy and Minister of Munitions (Hon. N. J. O. Makin²) proposed later to submit the following further *amdt.*: that all words after “capital” be left out, with a view to insert in lieu thereof the following words: “matter which should be submitted for report to a Parliamentary Committee on privileges”.

After other hon. Members had taken part in the debate, the mover, on being assured by the Attorney-General that he accepted the following points: (1) A Committee to be established forthwith to consider this question of privilege; (2) the Committee to be appointed by the Prime Minister and Party Leaders in consultation; (3) the Committee to meet and report promptly—he, with the mover of the *amdt.*, asked leave to withdraw both.³

On March 7,⁴ after notice, the following new Standing Order was adopted by the House:

322A.—A Committee of Privileges, to consist of 7 Members, shall be appointed at the commencement of each Parliament, or as soon thereafter as is practicable, to inquire into and report upon complaints of breach of privilege which may be referred to it by the House.

The Member was duly appointed to it, the quorum being 5.

On March 14,⁵ Mr. Curtin, by leave, made a statement that he had on March 10 received from Mr. Menzies a memorandum in the following terms:

The Opposition Parties are of opinion:

1. That there should be an inquiry into censorship.
2. That this should not be conducted by a Royal Commission but by a Committee of Parliament specially appointed, which shall make recommendations to the Government.
3. That the Committee should not be constituted of Party Leaders, but that it should be composed, having regard to the responsible nature of the inquiry, of Ministers and former Ministers from the Government and Opposition sides of the House.

¹ *Ib.* 636.

² A former Speaker of the House of Representatives.—[ED.]

³ 177 *C'th Hans.* 644.

⁴ *Ib.* 819, 1027.

⁵ *Ib.* 1245.

4. That the terms of reference of the Committee should be: To inquire into and make recommendations to the Government with respect to censorship.

5. That it should be left to the Committee to determine whether, and under what circumstances, it will sit in public.

6. That the Committee should not be constituted by Resolution of the House (because it is intended that it should report to the Government), but that should any question arise during its deliberations as to its capacity to call witnesses, this question should be provided for by suitable regulation.

7. That, after making its recommendations, the Committee should become a standing committee of advice upon censorship to which questions of censorship could be referred from time to time and which should be authorized to inspect censorship instructions and maintain contact with the censorship authorities.

and Mr. Curtin announced that he had decided to act in terms of paras. 1 to 6 inclusive, and would consult with the Leader of the Opposition and the Leader of the Australian Country Party in regard to the constitution of the Committee. After the committee had submitted its report to the Government he would consider whether or not para. 7 should be acted upon.

On March 30,¹ Mr. Archie Cameron laid on the Table the Report from the Standing Committee on Privileges relating to censorship of Members' correspondence, together with Minutes of Proceedings, and upon the Minister for the Crown (Hon. F. M. Forde) stating that it was not proposed to print the Report but to have copies typed for availability of hon. Members, Mr. Cameron moved: "That the paper be printed", which was, after short debate, resolved in the affirmative.²

(Here we must leave this matter as the complete records for 1944 have not yet come through.—ED.)

¹ 178 *Ib.* 2504.

² *Ib.* 2506.

XIX. REVIEWS

"*The Provincial Legislatures are not 'Parliaments'*."¹—Dr. Arthur Beauchesne, the Clerk of the House of Commons of Canada, is looked upon as the Erskine May of that Dominion, although he himself would not acknowledge it. It is so often, however, that knowledge and efficiency are shrouded in modesty while ignorance is emblazoned with assurance. Therefore anything from Dr. Beauchesne is always both sound and interesting. In our last issue we reviewed the 3rd edition of his treatise on Canadian Parliamentary Procedure.

The author opens his article by quoting Lord Watson in the Maritime Bank case, when he said "that the Dominion Government is not the only Government in Canada", and Dr. Beauchesne remarks that his lordship was not referring to Parliament. There are many governments in Canada, federal, provincial, municipal, educational and ecclesiastical. The Canadian Provinces are not nations. It was a false contention therefore that their Legislative Assemblies were Parliaments. "There is only one nation in the Dominion—it is the Canadian nation under the control of one Parliament. Parliament is the forum where the sovereignty and independence of a people are to be preserved. It is not any elected Assembly authorized by law to deal only with selected matters of a local or private nature." The author then goes on to describe the legislative power of the Parliament of Canada, and in contrast to that of the Provinces.

Parliament is defined in s. 17 of the British North America Act, which says, "there shall be one Parliament for Canada"; it adds, "consisting of a Queen, an Upper House, styled the Senate, and the House of Commons". Dr. Beauchesne takes the reader through the Constitution in support of his contention, mentioning the power of the Federal Government to disallow Acts passed by the Provinces.

The Canadian Provinces can amend their own Constitutions, but they are not alone in the exercise of that power. The United Kingdom Parliament could also amend these Constitutions, and if it did so its law would be irrevocable, whilst the Provinces' amendments were subject to the Federal Government's veto. The Provinces enjoy a certain autonomy within the circle mapped out for them, but they have to admit, after all, they are only a branch of the country's legislative establishment.

The author then goes on to quote authorities in support of the sovereignty of the Dominion Parliament, the non-applicability of the privileges, immunities and powers conferred on the Senate and House of Commons to the Provincial Legislatures, giving instances where the Federal Government's veto was imposed upon measures passed by such Legislatures. The effect of Privy Council decisions in regard to the distribution of the legislative power between the Dominion and the Provinces is also referred to. In fact, the article of only 10 pages

¹ Reprinted from *The Canadian Bar Review*, February, 1944, by Dr. Arthur Beauchesne, C.M.G., K.C.

is full of value and interest to all those concerned with constitutional questions under a non-unitary form of government.

"*The Powers of the Australian Senate in Relation to Money Bills.*"¹—We have received a pamphlet on the above-named subject, which is reprinted from *The Australian Quarterly* and is an article on the subject by Mr. John E. Edwards, J.P., the Clerk of the Commonwealth Senate. The article gives an account of the procedure known as the "request" or "process of suggestion"—namely, suggested alterations "requested" by the Senate to the House of Representatives, in provisions of Bills originating in that House which the Senate may not, under the Commonwealth of Australia Constitution Act, 1900, amend.

A general article on this mode of procedure in respect of Second Chambers of Empire Parliaments appeared in this JOURNAL for 1932 (Vol. I, pp. 31 and 81) and 1933 (Vol. II, p. 18), but Mr. Edwards deals more fully with the subject in respect of its practice in the Commonwealth Parliament and especially with instances which occurred in 1943. The article opens by setting out in full s. 53 of the Constitution,² and refers to that excellent little red book by the Clerk of the first Commonwealth Senate³ published in 1911.⁴ Mr. Edwards points out that the stand taken by the first Senate, when it claimed that it could not only "request" amendments, but could insist on its "requests" being complied with under threat of rejecting the Bill, has been taken up by every Senate since 1901, and, on every occasion, the House of Representatives has been compelled to recognize the Senate's rights and act accordingly. Mr. Edwards quotes from Quick and Garran's *Annotated Constitution of the Australian Commonwealth* (pp. 671-2), and from other noted Australian constitutional authorities.

The author observes that it is apparent that the first Senate, feeling itself in a strong position, claimed the right to "press" its "requests" and, having succeeded, set the precedent which was later followed whenever the occasion arose. Mr. Edwards deals with the disagreement between the two Houses of the Commonwealth Parliament which occurred in the 1943 Session, in connection with the proposal to link up the National Welfare Fund with the Government's largely increased income tax proposals. The Income Tax Bill was received by the Senate on March 9 of that year, and 2 R. was moved on the same day. This Bill contained a Clause reading as follows:

2. This Act shall come into operation on a date to be fixed by Proclamation, not being earlier than the date upon which the National Welfare Fund Act, 1943, comes into operation.

To quote further from Mr. Edwards' article:

¹ Reprinted from *The Australian Quarterly*, September, 1943, Sydney, N.S.W.

² 63 & 64 Vict., c. 12.

³ *Notes on the Practice and Procedure of the Senate in Relation to Appropriation, Taxation and other Money Bills.* By C. B. Boydell, C.M.G. 1911. (Govt. Printer, Canberra, A.C.T., Australia.)

⁴ The author informs us that a list of the more recent cases is quoted in the Report of the Royal Commission on the Constitution, pp. 44-6.—[Ed.]

In Committee on the Income Tax Bill, the Senate decided to "request" the House of Representatives to leave out the words "not being earlier than the date upon which the National Welfare Fund Act, 1943, comes into operation". Senators claimed that, as the National Welfare Fund Act was not at that time in existence, the passage of the Income Tax Bill with the Clause as it stood would bind the Senate to subsequently pass the National Welfare Fund Bill, or else prevent the Income Tax Bill coming into operation. This situation raised a constitutional issue, the question of "tacking" one Bill to another, which had been the subject of conflict between the House of Lords and the House of Commons in British Parliamentary history. When the Commonwealth Constitution was framed, s. 55 was inserted in order to protect the Senate against this practice.

The author then goes on to relate how the contest was carried on between the two Houses in regard to the subject, and in conclusion remarks that "It is generally agreed that the Senate came out of the conflict with enhanced prestige and that its constitutional position in relation to Money Bills has been considerably strengthened."

This article is full of very interesting and authoritative matter in regard to the practice of "requests" which was introduced into the Parliament of South Australia in 1857.

Perhaps Mr. Edwards with his able pen would turn his attention some day to the history and practice of the "request" throughout Australia, for, with the continued constitutional development in the Overseas Parliaments and Colonial Legislatures, and the likelihood that the practice of the "request" may be introduced into other British Commonwealth bicameral Constitutions, with a view to removing some of the disagreements which have so often occurred under such Constitutions, such a work would prove of great value and usefulness.

Western Australia Parliamentary Handbook.—During the year under review, the 4th edition of this useful handbook¹ compiled in the office of the Clerk of the Legislative Assembly, was issued.

The above publication opens with the Regnal Table; this is followed by lists of Governors of the Territory since 1832; the Agents-General in London since 1891; the present and past Ministries; M.L.C.s with their dates of election and retirement; past and present Presidents and Chairmen of Committees; Clerks and Black Rods of the Legislative Council and past and present Speakers; Chairmen of Committees; Clerks and Serjeants-at-Arms of the Legislative Assembly as well as the present Members thereof with their constituencies and Sessional addresses. The dates are also given of General Elections since 1890 and of Parliaments also since the inauguration of responsible government, as well as a List of Honours held by citizens of this State. The frontispiece to the book gives a picture of the Houses of Parliament at Perth, and an elevation is given of the proposed new Houses of Parliament. The Judiciary and List of Colonial Secretaries, Advocates-General, Attorneys-General and Surveyors-General are also included.

¹ *The Western Australia Parliamentary Handbook, 1944.* (Perth: Govt. Printer.)

Further lists are given of Unofficial Nominee Members of the Legislative Council 1870-90, of successive Members of such Council with their respective Electoral Districts, since 1870 and 1890 respectively. Another chapter gives political and official biographies of the Members in both Houses.

The *Handbook* also has a brief history of the Legislative Council in existence from 1830 to the granting of responsible government in 1890. At first this Council's sittings were held *in camera*, but later were public, with the Members in full dress and the Governors and Crown Officials in uniform. It was not long, however, before a dispute arose with the Governor over the Estimates.

A "Representative" Legislative Council was introduced in 1870 consisting of 6 nominated and 12 elected Members. Later, these numbers were raised from time to time until finally this unicameral Chamber consisted of 26 Members presided over by a Speaker, of whom 4 were officials, 5 nominees of the Crown and 17 directly elected for 5 years by different constituencies. The qualification of elected members was £1,000 freehold property, while the franchise was £50 freehold or £10 household, or lease of Crown Lands to the same amount of annual rental.

In 1887, by Resolution of this Council, its dissolution and a general election was requested in order that the people might have an opportunity of expressing their views upon the question of a "responsible government" Constitution which was introduced in 1890, but not without some difficulty in the Imperial Parliament on account of the Crown Lands in Western Australia.

This new Constitution provided for 2 Chambers, a Legislative Council and a Legislative Assembly. The former was to be nominated until (in 1893) the population of the Colony had reached 60,000 (in 1939 it was estimated at 465,429), when it became elective upon a reduced property franchise. The Legislative Council now consists of 24 Members elected for 6 years, the State being divided into 8 three-Member Provinces. In addition to the usual qualifications, an M.L.C. must not be under 30 years of age and have been resident in the State for at least 2 years. He may not be a minister of religion, neither directly nor indirectly interested in a Government contract or agreement, nor may he hold any office of profit or emolument under the Crown other than that of an officer of H.M.'s sea or land forces on full, half or retired pay, except as Minister of the Crown, President or Chairman of Committees of the Council.

Franchise for the Upper House is for both sexes not under 21 years who are not in receipt of relief from the Government or from any charitable institution and is based, in addition to the usual provisions, upon certain property qualifications, 6 months' residence in the State and, except in respect of freehold property, no aboriginal native of Australia, Asia or Africa, or person of half-blood is entitled to vote for the Legislative Council. A voter may vote for each or any number of

the candidates not exceeding the number of Members to be elected for the Province.

The Legislative Assembly now consists of 50 Members (who may be of either sex) of not less than 21 years of age elected for 3 years with 12 months' residence in the State. Otherwise the qualifications for an M.L.C. apply. A Minister who is an M.L.A. accepting an office of profit under the Crown must seek re-election. As in the case of the Upper House, the Speakership and Chairmanship of Committees in the Assembly are not considered offices of profit. Any M.L.A. or his wife may claim to be enrolled in his constituency, which shall be deemed residence for the purpose of the Act. Voting for the Assembly is compulsory.

Franchise for the Lower House includes female suffrage, and is similar to that outlined in respect of the Upper House, except that the voter must not be wholly dependent on relief from the State or from any charitable institution subsidized by the State, unless a patient under treatment for accident or disease in a hospital, and the voter must have resided, in the district in which he is enrolled, for 6 months continuously and for a continuous period of one month immediately preceding the date of claim. Voting has been compulsory since 1936. An aboriginal native of Australia, Asia or Africa, or the islands of the Pacific, or a person of half-blood, cannot vote at Assembly elections.

Members of each House receive an allowance of £600 a year, the President and Speaker each £1,000, and the Chairman of Committees in each House £600. The Leader of the Opposition in the Assembly has an annual allowance of £800. A free pass over all Government railways in Australia is also granted M.L.A.s.

This is a most handy and useful book of reference, neatly printed and economically bound, which puts on record much that concerns the Parliament of Western Australia, of interest both to legislators and to the public. The last edition was published in 1937.

Tasmania: Parliamentary Handbook.¹—This is a record of the services of the Members of both Houses since the introduction of responsible government in 1855 (with provision for additions in subsequent years). It opens with the following foreword by the Premier of the State, the Hon. Robert Cosgrove, M.H.A., who took such a prominent part at the Canberra Convention, 1944.²

It is fitting that there should be preserved for posterity a record in convenient form of the service given in Parliament by the chosen representatives of the people. Particularly does this apply to the pioneers, whose activities in the legislative sphere in years gone by formed the basis upon which Tasmania became an integral part of the great Australian Commonwealth.

The publication of this booklet, therefore, will serve a very useful purpose. Containing as it does so much authentic and interesting information, it is a valuable addition to the historical records of the State.

¹ *The Parliament of Tasmania, 1856-1943*. Compiled by L. A. Thompson, Clerk-Assistant of the House of Assembly. (Govt. Printer, Tasmania.)

² See JOURNAL, Vol. XI-XII, 152.

In addition to the alphabetical index, keys are provided to 3 photographic records of such Members and officers taken over a period of nearly 40 years.

An interesting note is given, in brief, of the constitutional history of the Parliament.

The Constitution has, since 1855, been a bicameral one, and its first Parliament was opened one day short of 31 years after separation of the Colony from New South Wales on the Continent of Australia, of which Commonwealth Tasmania is its smallest state.

Some interesting features of the Tasmania Constitution are that there has always been either a property or salary qualification for the Parliamentary franchise, in respect of both Houses, although a university graduate of a British Dominion, a barrister or solicitor of the Tasmanian Supreme Court, a legally qualified medical practitioner, officiating minister of religion or officer or retired officer of the land or sea forces not on active service, are also entitled to vote for the election of Members of both Houses. The property or salary qualification has, however, been reduced in the course of years.

In 1896 the Hare-Clark system of P.R. was introduced and applied to Hobart and Launceston only, at the general election of 1897. This system of voting operated for the first time in the British Empire.

In 1903 the vote for both Houses was extended to women (3 Edw VII, No. 17).

In 1906 the Assembly reverted to 30 Members, elected by 5 grouped electorates under P.R., which had been repealed. By the Constitution (War Service Franchise) Act (11 Geo. V, No. 4) the Upper House franchise was conferred on soldiers, sailors and nurses who had served in World War I.

In 1921 (12 Geo. V, No. 61) women otherwise qualified became eligible for election as Members of both Houses.

The following table indicates, in the years specified, the population of Tasmania (as at June 30 in each case), the number of House of Assembly electors on the roll, and the percentage of electors to the total population:

<i>Year.</i>	<i>Population.</i>	<i>Electors on Roll.</i>	<i>Percentage of Electors.¹</i>
1912	189,105	103,513	54.74
1922	213,303	110,549	51.83
1933	227,599	123,696	54.35
1943	241,534	144,669	59.90

The House of Assembly enjoys the distinction of having as its Speaker the Hon. J. J. Dwyer, holder of the Victoria Cross (1917). This honourable and gallant Member was first elected a Member of Parliament in 1931.

O. C.

¹ The figures in the above table were supplied by the Commonwealth Statistical Bureau, Hobart.—(L.A.T.)

XX. LIBRARY OF "THE CLERK OF THE HOUSE"

BY THE EDITOR

THE Clerk of either House of Parliament, as the "Permanent Head of his Department" and the technical adviser to successive Presidents, Speakers, Chairmen of Committees and Members of Parliament generally, naturally requires an easy and rapid access to those books and records more closely connected with his work. Some of his works of reference, such as a complete set of the Journals of the Lords and Commons, the Reports of the Debates and the Statutes of the Imperial Parliament, are usually more conveniently situated in a central Library of Parliament. The same applies also to many other works of more historical Parliamentary interest. Volume I of the JOURNAL¹ contained a list of books suggested as the nucleus of the Library of a "Clerk of the House", including books of more particular usefulness to him in the course of his work and which could also be available during Recess, when he usually has leisure to conduct research into such problems in Parliamentary practice as have actually arisen or occurred to him during Session, or which are likely to present themselves for decision in the future.

Volume II² gave a list of works on Canadian Constitutional subjects and Volumes IV³ and V⁴ a similar list in regard to the Commonwealth and Union Constitutions respectively.

Volumes II,² III,⁵ IV,⁶ V,⁷ VI,⁸ VII,⁹ VIII,¹⁰ IX,¹¹ X¹² and XI-XII¹³ gave lists of works for a Clerk's Library published during the respective years. Below is given a list of books for such a Library, published during 1944:

Clarke, Mary Paterson.—Parliamentary Privilege in the American Colonies. 1944. (Yale University Press. London: Milford. 20s.)

Forsey, Eugene A.—The Royal Power of Dissolution of Parliament in the British Commonwealth. (Oxford University Press. London: Milford. 21s.)

Laird, John.—The Device of Government: An Essay on Civil Polity. (Oxford University Press. 6s.)

Ross, J. F. S.—Parliamentary Representation. (Eyre and Spottiswoode. 10s. 6d.)

¹ 123-6. ³ 137, 138
⁵ 133 ⁶ 152
⁸ 212 *et seq* (starred items).
¹² 196.

⁴ 223.
⁷ 222.
¹⁰ 223-6 (starred items). ¹¹ 170.
¹³ 267.

XXI. LIST OF MEMBERS

PRESIDENT.†

Captain C. C. D. Ferris.

MEMBERS.

Dominion of Canada.

- L. Clare Moyer, Esq.,* D.S.O., K.C., B.A., Clerk of the Parliaments, Clerk of the Senate, and Master in Chancery, Ottawa, Ont.
- Dr. Arthur Beuchesne,* C.M.G., K.C., M.A., LL.D., Litt.D., F.R.S.C., Clerk of the House of Commons, Ottawa, Ont.
Chief Clerk of the House of Assembly, Halifax, N.S.
- H. H. Dunwoody, Esq., Clerk of the Legislative Assembly, Winnipeg, Man.
- R. S. Stewart Yates, Esq., Clerk of the Legislative Assembly, Victoria, B.C.
- J. M. Parker, Esq., Clerk of the Legislative Assembly, Regina, Sask.
- R. A. Andison, Esq., Clerk of the Legislative Assembly, Edmonton, Alta.

Commonwealth of Australia.

- J. E. Edwards, Esq., Clerk of the Senate, Canberra, A.C.T.
- R. H. C. Loof, Esq., B.Com., Clerk-Assistant of the Senate, Canberra, A.C.T.
- F. C. Green, Esq., M.C., Clerk of the House of Representatives, Canberra, A.C.T.
- W. R. McCourt, Esq., C.M.G., Clerk of the Legislative Assembly, Sydney, New South Wales.
- F. B. Langley, Esq., Clerk-Assistant of the Legislative Assembly, Sydney, New South Wales.
- A. Pickering, Esq., M.Ec.(Syd.), Second Clerk-Assistant of the Legislative Assembly, Sydney, New South Wales.
- H. Robbins, Esq., M.C., Clerk of Committees and Serjeant-at-Arms, Legislative Assembly, Sydney, New South Wales.
- T. Dickson, Esq., J.P., Clerk of the Parliament, Brisbane, Queensland.
- Captain F. L. Parker, F.R.G.S.A., Clerk of the House of Assembly, and Clerk of the Parliaments, Adelaide, South Australia.

† No Second Chamber having yet been constituted as provided for in the Southern Rhodesia Constitution, the Clerk of the Legislature next in constitutional precedence acts alone.—[ED.]

* Barrister-at-law or Advocate

- C. H. D. Chepmell, Esq., Clerk of the Legislative Council, Hobart, Tasmania.
- C. K. Murphy, Esq., Clerk of the House of Assembly, Hobart, Tasmania.
- P. T. Pook, Esq., B.A., LL.M., J.P., Clerk of the Parliaments, Melbourne, Victoria.
- H. B. Jamieson, Esq., Clerk-Assistant of the Legislative Council, Melbourne, Victoria.
- R. S. Sarah, Esq., Usher and Clerk of Records, Legislative Council, Melbourne, Victoria.
- F. E. Wanke, Esq., Clerk of the Legislative Assembly, Melbourne, Victoria.
- H. K. McLachlan, Esq., Clerk-Assistant of the Legislative Assembly, Melbourne, Victoria.
- J. A. Robertson, Esq., Serjeant-at-Arms and Clerk of Committees, Legislative Assembly, Melbourne, Victoria.
- L. L. Leake, Esq., Clerk of the Parliaments, Perth, Western Australia.
- A. B. Sparks, Esq., Clerk-Assistant and Black Rod of the Legislative Council, Perth, Western Australia.
- F. G. Steere, Esq., J.P., Clerk of the Legislative Assembly, Perth, Western Australia.
- F. E. Islip, Esq., Clerk-Assistant of the Legislative Assembly, Perth, Western Australia.

Dominion of New Zealand.

- C. M. Bothamley, Esq., Clerk of the Parliaments, Wellington.
- H. L. de la Perrelle, Esq., Clerk-Assistant of the Legislative Council, Wellington.
- Lt.-Comdr. G. F. Bothamley, R.N.Z.N., Clerk of the House of Representatives, Wellington.
- H. N. Dollimore, Esq.,* LL.B., Clerk-Assistant of the House of Representatives, Wellington.

Union of South Africa.

- S. F. du Toit, Esq.,* LL.B., Clerk of the Senate, Cape Town.
Clerk-Assistant of the Senate, Cape Town.
- Ralph Kilpin, Esq., J.P., Clerk of the House of Assembly, Cape Town.
- J. F. Knoll, Esq., Clerk-Assistant of the House of Assembly, Cape Town.
- J. M. Hugo, Esq., B.A., LL.B.,* Second Clerk-Assistant of the House of Assembly, Cape Town.
- J. P. Toerien, Esq., Clerk of the Cape Provincial Council, Cape Town.

* Barrister-at-law or Advocate.

- T. L. G. Smit, Esq., B.A., Clerk of the Natal Provincial Council, Maritzburg.
 C. M. Ingwersen, Esq., Clerk of the Transvaal Provincial Council, Pretoria.

South-West Africa.

- K. W. Schreve, Esq., Clerk of the Legislative Assembly, Windhoek.
 J. W. Louw, Esq., Clerk-Assistant of the Legislative Assembly, Windhoek.

Southern Rhodesia.

- Captain C. C. D. Ferris, Clerk of the Legislative Assembly, Salisbury.
 G. E. Wells, Esq., Clerk-Assistant of the Legislative Assembly, Salisbury.
 J. R. Franks, Esq., Second Clerk-Assistant of the Legislative Assembly, Salisbury.

Indian Empire—

British India.

- The Honble. Mr. Shavex A. Lal,* M.A., LL.B., Secretary of the Council of State, New Delhi.
 Mian Muhammad Rafi,* B.A., Secretary of the Legislative Assembly, New Delhi.
 D. K. V. Reghava Varma, Esq.,* B.A., B.L., Deputy Secretary of the Legislature and Secretary of the Legislative Council, Fort St. George, Madras.
 Surya Rao, Esq.,* B.A., B.L., Assistant Secretary of the Legislature and Assistant Secretary of the Legislative Assembly, Fort St. George, Madras.
 N. K. Dravid, Esq., I.C.S., Secretary of the Legislative Council, Poona, Bombay.
 R. S. Halliday, Esq., I.C.S., Secretary of the Legislative Assembly, Poona, Bombay.
 Dr. S. K. D. Gupta, Secretary of the Legislative Council, Calcutta, Bengal.
 S. A. E. Hussain, Esq.,* B.A., B.L., Assistant Secretary of the Legislative Council, Calcutta, Bengal.
 T. M. Paul, Esq., Second Assistant Secretary and Registrar of the Legislative Council, Calcutta, Bengal.
 K. Ali Afzal, Esq.,* Secretary of the Legislative Assembly, Calcutta, Bengal.

* Barrister-at-law or Advocate.

- Rai Bahadur N. N. Sen Gupta, First Assistant Secretary of the Legislative Assembly, Calcutta, Bengal.
- Rai Sahib K. C. Bhatnagar, M.A., Secretary of the Legislative Council, Lucknow, United Provinces.
- G. S. K. Hydrie, Esq.,* B.A., LL.B., Secretary of the Legislative Assembly, Lucknow, United Provinces.
- Sardar Bahadur Sardar Abnasha Singh,* Secretary of the Legislative Assembly, Lahore, the Punjab.
- Khan Bahadur Sahib H. A. Shujaa, B.A., Assistant Secretary of the Legislative Assembly, Lahore, the Punjab.
- S. Anwar Yusoof, Esq.,* Secretary of the Legislature, Patna, Bihar.
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▪ Barrister-at-law or Advocate.

XXII. MEMBERS' RECORDS OF SERVICE

Note. — *b.*=born; *ed.*=educated; *m.*=married; *s.*=son(s);
d.=daughter(s); *c.*=children.

Members who have not sent in their Records of Service are invited to do so, thereby giving other Members the opportunity of knowing something about them. It is not proposed to repeat these records in subsequent issues of the JOURNAL, except upon promotion, transfer or retirement, when it is requested that an amended record be sent in.

Gupta, Dr. S. K.D., M.A.(Cantab.), LL.M.(Cantab.), LL.D. (Dublin).—Barrister-at-Law; *b.* March 1, 1902; *ed.* Presidency College, Calcutta; Trinity College, Cambridge; Inner Temple, London; Eshan Scholar, 1923; Practised at the Rangoon High Court and subsequently at the Calcutta High Court; Dean of the Faculty of Law, Lucknow University, 1935-38; was a Member of numerous bodies and committees, including the Committee for the Reform of Legal Education appointed by the Government of the United Provinces, 1937; Professor, University Law College, Calcutta, 1938-39; Secretary to the Bengal Legislative Council since 1940.

Yates, R. S. Stewart.—Appointed Clerk of the Legislative Assembly of British Columbia, 1945, in place of Major W. H. Langley, K.C., retired.

XXIII. STATEMENT OF ACCOUNT AND AUDITOR'S
REPORT, 1944-45

I REPORT that I have audited the Statement of Account of "The Society of Clerks-at-the-Table in Empire Parliaments" in respect of *Volume XII*.

The Statement of Account covers a period from September 1, 1944, to August 31, 1945. All the amounts received during the period have been banked with the Standard Bank of South Africa, Ltd.

Receipts were duly produced for all payments for which such were obtainable, including remuneration to persons for typing and clerical assistance and roneoing, and postages were recorded in the fullest detail in the Petty Cash Book.

I have checked the Cash Book with the Standard Bank Pass Book and have obtained a certificate verifying the balance at the Bank.

The Petty Cash Book has been checked to the Cash Account. Amounts received and paid for Volume XIII, which are paid into a Special Account not operated upon, have been excluded from the Revenue and Expenditure Account.

The following amounts are owing:

	£	s.	d.
For printing Volume XI-XII	96	5	10
	96 5 10		

Against this there is due and in hand:

	£	s.	d.
For grants	52	10	0
For subscriptions	112	0	0
At Bank	26	11	11
In hand	3	4	3
	194 6 2		

CECIL KILPIN,
Chartered Accountant (S.A.).

SUN BUILDING,
CAPE TOWN.
September 18, 1945.

The Society of Clerks-at-the-Table in Empire Parliaments

STATEMENT OF ACCOUNT FOR THE PERIOD FROM SEPTEMBER 1, 1944, TO AUGUST 31, 1945.

REVENUE.		EXPENDITURE.	
	£ s. d.	£ s. d.	£ s. d.
Balance as at August 31, 1944, being excess of income over expenditure at that date	12 17 4	Vol. XI-XII for 1942 and 1943: Printing and Publishing: Vol. X—balance	121 10 4
Parliamentary Grants: ¹		Vol. XI-XII—on account	146 11 6
Province of Nova Scotia, Vol. XI-XII	20 0 0		268 1 10
Commonwealth of Australia, Vol. XI-XII	50 0 0	Postages, Telegrams, Telephone, Transport	19 2 8
State of New South Wales, Vol. XII	5 0 0	Barr-charges	1 6 10
State of Western Australia, Vol. XI	7 10 0	Cables and Telegraphic Address	8 16 8
New Zealand, Vol. XI-XII	30 0 0	Publications and Newspapers	10 19 0
Union of South Africa, Vol. XI-XII	25 0 0	Typing and Clerical Assistance	69 17 5
Province of Cape of Good Hope, Vol. XII	10 0 0	Stationery	4 5 1
Province of Natal, Vol. XI	10 0 0	Gratuities to Messengers	5 7 6
Province of Transvaal	10 0 0	Customs duty	1 0 0
Southern Rhodesia, Vol. XII	10 0 0	Audit Fee	3 3 0
Baroda State, Vol. X	5 0 0		
	18a 10 0	Cash Balance, being excess of Receipts over Expenditure	5 13 7
Subscriptions: ²			
Volumes I to XII inclusive	80 0 0		
Sales:			
Volumes I to XII inclusive	122 6 3		
	£397 13 7		

OWEN CLOUGH,
Honorary Secretary—Treasurer and Editor.

Countersigned:
S. F. DU TOIT,
Clerk of the Senate,
RALPH KILPIN,
Clerk of the House of Assembly,
Parliament of the Union of South Africa.

Audited and certified correct:

CECIL KILPIN,
Chartered Accountant (S.A.),
Sun Building,
Cape Town,
South Africa.

£397 13 7

September 18, 1945.

¹ Canadian Dominion Grant not yet received.—[Ed.]
² Owing to War-time mail delays the other subscriptions to Volumes XI-XII have not yet been received.—[Ed.]

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