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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USUAL SESSION MONTHS OF EMPIRE PARLIAMENTS

	Parliament.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	[illegible]
	United Kingdom		★	★	★	★	★	★				★	[illegible]
	Canadian Dominion	★	★	★	★	★							
Canadian Provinces	Ontario		★	★									
	Quebec	★	★	★									[illegible]
	Nova Scotia			★	★								
	New Brunswick		★	★	★								
	Manitoba		★	★	★								
	British Columbia										★	★	★
	Prince Edward Island			★	★								
	Saskatchewan	★	★	★									★
	Alberta		★	★	★								
	Australian Commonwealth			★	★	★				★	★	★	★
Australian States	New South Wales			No set rule now obtains.									
	Queensland			★	★				★	★	★	★	★
	South Australia			No set rule now obtains.									
	Tasmania						★	★	★	★	★	★	★
	Victoria							★	★	★	★	★	★
	Western Australia							★	★	★	★	★	★
	New Zealand						★	★	★	★	★	★	
	Union of South Africa	★	★	★	★	★							
Union Provinces	Cape of Good Hope			★		★							
	Natal			★	★	★	★						
	Transvaal			★	★	★	★						
	Orange Free State			★			★						
	South-West Africa			★	★	★							
	Ireland (Eire)	★	★	★	★	★	★	★			★	★	★
	Southern Rhodesia				★	★	★				★		
	India Central		★	★	★						★	★	
Governors' Provinces	Madras	★	★	★					★	★	★	★	★
	Bombay		★	★	★					★	★		
	Bengal		★	★	★				★	★		★	★
	United Provinces	★	★	★	★				★		★	★	★
	The Punjab		★	★				★		★		★	
	Bihar	No set rule obtains.											
	Central Provinces and Berar	★	★	★					★				
	Assam		★	★	★					★	★		
	North-West Frontier			★						★	★		
	Orissa		★	★					★	★			
	Sind		★	★					★	★			
Indian States	Hyderabad												
	Mysore	★					★				★		
	Jammu and Kashmir			★	★					★	★		
	Baroda	Four quarterly Sessions: specific months not fixed											
	Travancore	★			★			★	★				
	Burma		★	★					★	★			
	British Guiana				★	★	★				★	★	★
	Ceylon	★	★	★		★	★	★	★	★	★	★	★
	Jamaica					★					★		
	Kenya Colony	No set rule obtains.											
	Malayan Union												
	Malta, G.C.												
	Mauritius												
	Singapore Colony	★			★		★		★		★	★	★
	Tanganyika Territory												
	Trinidad and Tobago, B.W.I.					★	★	★	★	★	★	★	

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* *Questionnaire* subject. † To end of the XXXVIIth Parliament.—[ED.]

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
H.M. Government	=His Majesty's Government.

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.

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

Vol. XIV For 1945

PARLIAMENTARY SERVICE OF THANKSGIVING AT WESTMINSTER

On Tuesday, May 8, 1945,[1] two processions left the Palace of Westminster, the one from the House of Lords to Westminster Abbey and the other from the House of Commons to their church, St. Margaret's, Westminster. It was a Day of Thanksgiving to Almighty God for victory over the forces of despotism in Europe.

House of Lords.—On that day the Lord President of the Council (Rt. Hon. Lord Woolton) moved:

> That this House do attend this day at Westminster Abbey to give thanks to Almighty God on the occasion of the cessation of hostilities in Europe by the surrender of Germany to the Allied Nations.

—and the Motion was agreed to with the time-honoured *nemine dissentiente*, whereupon the House adjourned in order to proceed to the Abbey.

The route of the procession was direct from the Peers' Entrance to the Palace of Westminster. Walking at the head of the procession was the Rt. Hon. the Lord Chancellor with his staff, followed by the Gentleman Usher of the Black Rod, the Clerk of the Parliaments, the Clerk-assistant and the Reading Clerk (the Clerks-at-the-Table), and the Minister of Reconstruction, as acting Leader of the House in the absence abroad of the Leader of the House. Then walking in threes came the other Ministers in the House of Lords and Peers to the number of about 200. All were bareheaded and slowly passed in between the public lining the route. One can visualize the scene, the cheering crowds, the pealing of the bells of St. Margaret's, and in front of the Palace the massive bronze statue of Richard, Cœur-de-Lion, war-scarred and with his sword bent but not broken—still standing a symbol of the heroism of his race.

The service in the Abbey was taken by the Dean of Westminster, who said:

[1] 136 *Lords Hans.* 5, s. 161.

The Lord hath done great things for us, which ought to be had in remembrance.

Let us therefore offer high praise and thanksgiving to the God of all mercies for the success which He has granted to us and to our Allies: for the faith which has upheld us through years of danger and suffering: for the skill of our leaders and the valour and steadfastness of sailors, soldiers and airmen: for the hope that we are about to enter upon a righteous and abiding peace: for the holy memory and high example of that great company of men and women, known and unknown, whose faith and courage God has inspired and used.

—after which the congregation joined heartily in the responses. The congregation remaining standing, the following prayer was read:

To Thee, O Lord, the Champion Leader of Thy people, do we Thy servants ascribe thankoffering of victory, for Thou hast delivered us in the cloudy and dark day. And as Thou hast invincible power, let the design of Thy great love lighten upon the waste of our wraths and sorrows; and give peace to Thy Church, peace among nations, peace in our dwellings and peace in our hearts. We ask it in the name of the victorious Christ, Thy Son our Blessed Lord. *Amen.*

The Doxology was then sung, followed by the reading of the psalm " If it had not been the Lord who was on my side."

Anyone who has even once visited that ancient pile in which are enshrined the monuments to the great of our nation can easily imagine how the singing of the hymn " All people that on earth do dwell " would ring out under that vaulted roof. The Dean then gave a short address and prayers were offered up to Almighty God, the congregation standing. The last of these prayers, which had been adapted from the speech of Abraham Lincoln at his second Inauguration on March 4, 1865, as President of the United States of America, was as follows:

Grant, O merciful God, that with malice toward none, with charity to all, with firmness in the right as Thou givest us to see the right, we may strive to finish the task which Thou hast appointed us; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow and orphan; to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations; through Jesus Christ our Lord. *Amen.*

After the singing of " O God, our help in ages past," the Lord's Prayer and the following Final Act of Thanksgiving were said by all:

Blessing and honour, thanksgiving and praise, more than we can utter, more than we can conceive, be unto Thee, O most adorable Trinity, Father, Son and Holy Spirit, by all angels, all men, all creatures for ever and ever. Amen and Amen. To God the Father who first loved us, and made us accepted in the Beloved: to God the Son, who loved us, and washed us from our sins in His own blood: to God the Holy Ghost, who sheds the love of God abroad in our hearts, be all love and all glory, for time and for eternity. *Amen.*

The service closed with the Blessing and the National Anthem, recording yet another great event on the scroll of the history of a free people whose representatives were assembled to offer up to Almighty God heartfelt thanks for their deliverance.

The Peers with the Lord Chancellor then returned to their temporary Chamber and the House adjourned at four minutes past four

o'clock, the sun now shining, that May afternoon, upon the multitude gathered in front of the Palace of Westminster to mark the great day.

The following are the PEERS KILLED IN ACTION OR WHO DIED ON ACTIVE SERVICE:

Lord Alington.
Lord Arundell of Wardour.
Earl of Aylesford.
Lord Brabourne.
Lord Braybrooke.
Lord Calthorpe, Flying Officer, R.A.F., killed in a flying accident October 9, 1945 (T. October 11, 1945).
Earl of Chichester.
Viscount Colville of Culross.
Duke of Connaught.
Earl of Coventry.
Lord Darcy de Knayth (Viscount Clive).
Lord Davies.
Marquess of Dufferin and Ava.
Earl of Erne.
Viscount Gormanston.
H.R.H. Duke of Kent.
Marquess of Lansdowne.
Viscount Long.
Lord Lyell, V.C.
Lord Moyne, assassinated in Cairo November 6, 1944.
Lord North.
Duke of Northumberland.
Lord O'Neill.
Viscount Portman.
Two Lords Shuttleworth (2nd and 3rd Barons).
Lord Sudeley.
Earl of Suffolk and Berkshire.
Duke of Wellington.

Died through Enemy Action

Lord Auckland.
Lord Glanely.
Earl of Kimberley.
Two Lords Stamp (1st and 2nd Barons).

Officer of the House of Lords Killed in Action

Davidson, C. K., Lieut.-Col., C.I.E., O.B.E., R.A.

House of Commons.—On the same afternoon,[1] after an announcement by the Prime Minister (Rt. Hon. Winston Churchill) in the Commons

[1] 410 *Com. Hans.* 5, s. 1867-9.

of the unconditional surrender of Germany at 2.41 a.m. on the previous day, the Prime Minister moved:

That this House do now attend at the Church of St. Margaret, Westminster to give humble and reverent thanks to Almighty God for our deliverance from the threat of German domination.

saying, in conclusion: " This is a similar Motion to that which was moved in former times."

After the Question had been put and agreed to, Mr. Speaker said:

I propose to proceed at once to St. Margaret's, and I invite the House to follow. I will go first with the Mace; then I invite Privy Councillors to follow in fours, as far as may be in order of precedence, and then the rest of the House will fall in behind. After the Service, the House will return to the Chamber in the same order of procession, and by the same route.

Hansard records:

Whereupon Mr. Speaker and the Members proceeded to the Church of St Margaret, Westminster, and attended a Service of Thanksgiving to Almighty God

It was just after a quarter to four in the afternoon when the waiting crowds burst into cheers as the procession of their directly elected representatives emerged from St. Stephen's porch of the Palace of Westminster. The short distance to the western door of St. Margaret's was thronged by cheering crowds as Mr. Churchill walked behind Mr. Speaker accompanied by the Clerk of the House of Commons and the two Clerks-Assistant. Mr. Churchill was followed by the members of the Cabinet and members of the Commons.

The Speaker, preceded by the Serjeant-at-Arms bearing the Mace, entered the church in procession by the West Door.

The congregation being assembled, the National Anthem was sung, after which the Speaker's Chaplain moved the congregation to thanksgiving and dedication in the following words:

Brethren, it is with full hearts that we gather here to-day to give thanks for our deliverance from the hands of our enemies.

As it is meet and right, we lift up our hearts in thanksgiving to God, saying " The Lord hath done great things for us whereof we rejoice."

And we humbly acknowledge that it is by His over-ruling providence that our cause has prospered, so we thank Him for all those through whom this mighty deliverance has been wrought. We thank Him for the gift of great leaders: for the valour of our sailors, soldiers and airmen: for the devotion of the men of the Royal Merchant Navy: for the gallantry of those engaged in civil defence: for the courage and endurance of our people throughout our Commonwealth and Empire: and for the self-sacrifice of all who have laid down their lives for their friends.

And inasmuch as we know that the fruits of victory have yet to be gathered in, we would here pledge ourselves afresh to our unfinished task, praying God so to fill us with His spirit that we may be worthy instruments in His hand for the fulfilment of His purposes for our country and for mankind.

Let us therefore join in giving glory to God, and in dedicating ourselves to His service in coming years.

"The Old Hundredth" was then sung by the whole congregation, after which the First Lesson from ISAIAH lii. 7-10 was read.

Then, the congregation remaining seated, the Choir sang the metrical version of Psalm cxxiv., to the tune "Old 124th."

The Second Lesson was MATTHEW vii. 24-27, followed by the hymn "Rejoice, O land, in God thy might," to the tune "Wareham."

The congregation then joined in the General Thanksgiving, and after remembrance had been made of those who had laid down their lives, and particularly the following members of the House of Commons:

Richard Porritt
Peter Eckersley
Arnold Wilson
John Rathbone
Ronald Cartland
Dudley Joel
James Baldwin-Webb
Patrick Munro
Somerset Maxwell
Allen Bathurst, Lord Apsley
Edward Kellett
John Whiteley
Victor Cazalet
Hubert Duggan
Stuart Russell
Frank Heilgers
George Grey
John Macnamara
Robert Bernays
Rupert Brabner
John Campbell

the congregation rose and sang the hymn "O God, our help in ages past," to the tune "St. Anne."

The Service was concluded with the Blessing, and the Speaker, preceded by the Serjeant-at-Arms bearing the Mace, left the church by the same door at which the procession entered, *Hansard* recording:

Whereupon, the bells of St. Margaret's Church were rung, in celebration of Victory.

Directly the House had returned it was adjourned at twenty-nine minutes to five o'clock,[1] and so ended a memorable day.

[1] *Ib.* 1870-4.

I. EDITORIAL

Introduction to Volume XIV.—On the occasion of the prorogation of the XXXVIIth Parliament on June 15, 1945,[1] the Royal Commissioners in the voice of the Lord Chancellor, when delivering the King's Speech, said:

> *With you* I thank Almighty God for the victories already granted to us, and I pray that His blessing may attend us in all our undertakings throughout the strenuous times which lie ahead.

The Commission proroguing Parliament to Tuesday, July 3, 1945, was read in the House of Lords and the Tenth Session of the XXXVIIth Parliament of the United Kingdom of Great Britain and Northern Ireland " in the Eighth year of the Reign of His Majesty King George the Sixth " came to an end. On June 15 the fourth longest Parliament was dissolved by Royal Proclamation after a repeatedly prolonged life of 9 years 6 months and 20 days.

The First Session of the XXXVIIIth Parliament assembled on August 15, 1945, in the Ninth year of the reign of King George VI, who opened Parliament in person on that day in the House of Lords' own Chamber, where the Commons now sit, the small Chamber now used by the Lords not being large enough for the purpose. Previous to the State Ceremony of the Opening of Parliament, the Commons met in St. Stephen's Hall.

During his Speech to both Houses of Parliament on that occasion[2] His Majesty the King said:

> It is the firm purpose of my Government to work in the closest co-operation with the Governments of My Dominions and in concert with all peace-loving peoples to attain a world of freedom, peace and social justice so that the sacrifices of the War shall not have been in vain. To this end they are determined to promote throughout the world conditions under which all countries may face with confidence the urgent tasks of reconstruction and to carry out in this country those policies which have received the approval of My people.

In this Volume the Articles on Rulings of the Speaker of the House of Commons have been brought up to the conclusion of the last Session of the XXXVIIth Parliament. Those falling in the 1945 part of the First Session of the XXXVIIIth Parliament will be dealt with in Volume XV of the JOURNAL together with those Rulings in the 1946 part of such Session.

The main body of this issue contains Articles on: Private Bill Procedure in the Imperial Parliament, dealing with the wholesale revision of the House of Commons Standing Orders on that subject by Select Committee in 1945; lifting the ban on Secret Sessions of that House with a relative paragraph in Article XVIII—Applications of Privilege—in regard to the discharge of part of the Order of June 18, 1942 previously referred to in Volume XI-XII of the JOURNAL; and Rebuilding of the House of Commons, following the Article on that

[1] 411 *Com. Hans.* 5, s. 1909. [2] 413 *ib.* 53.

subject in our previous issue and giving much technical information in connection with all that appertains to the construction of an up-to-date Legislative Chamber. Delegated Legislation, again a subject receiving much attention, is dealt with both by an Article and Editorial paragraphs. Other Articles deal with the Reports from the House of Commons Select Committee on National Expenditure, also brought up to the end of the last Session of the XXXVIIth Parliament; Electoral Reform and Representation, following up an Article on the subject in the last Volume of the JOURNAL. Two Articles have been contributed by ex-M.P.s—one on "The A.B.B.s"—the Active Back-Benchers (an unofficial body of members in the House of Commons making it their duty to watch "Delegated Legislation"); and the other on "The Hansard Society" (a non-party, non-profit-making society founded in 1944 to arouse interest in, increase knowledge of and spread information about Parliament and parliamentary institutions).

Further contributions are: Financial Procedure in the Queensland Parliament; Precedents and Unusual Points of Procedure in the Union House of Assembly; the Central African Council (a new body established to deal with some questions common to the Territories of Northern and Southern Rhodesia and Nyasaland); and Constitutional Movements in Ceylon, covering a subject much dealt with in earlier Volumes of the JOURNAL.

Composite Articles relate to Recommendations of Amendments by the King's Deputy in Bills presented for Royal Assent;[1] Leader of the Opposition;[1] and Expressions in Parliament (which latter it is proposed to review annually).[1]

Instances are given of Applications of Privilege in the Article on that subject such as: Letter to a Member; the discharge of part of the Order of June 18, 1942, in regard to Secret Sessions, and a Private Member's Motion—all House of Commons instances; Obstruction during Session in the streets leading to the Houses of Parliament and Attendance of a Senator before an Assembly Select Committee during long adjournment (Union Parliament); Divulging Proceedings of Secret Session in Southern Rhodesia; Freedom of Speech (Madras); and Newspaper Libel on the State Council (Ceylon).

There are also reviews of the new, 14th, edition of Erskine May and a book on Parliamentary Procedure in the Union House of Assembly.

Under Editorial many interesting points are noted. First is the switching on of Big Ben's Lantern Light by Mr. Speaker after a War interval of 5 years 7 months and 23 days of darkness. Other paragraphs deal with Private Bill Procedure in the Imperial Parliament. There is a further reference to the working of the House of Commons Members' Pensions Fund; and an instance is given of the proceedings upon the resignation of the Chairman of Ways and Means together with that of the appointment of his successor. A closing reference is made to "the Ramsay Case" and the subject of M.P.s' salaries; income tax and

[1] A *Questionnaire* subject.—[ED.]

postal franking have also come under Question and answer. Th
Reports from the Committee on Publications and Reports are take
another stage. Instance is given of a threatened personal charge again
a Minister, and the question of Parliamentary catering has again bee
the subject of attention.

In addition, there are the lingering War subjects of Disqualificatio
the Fighting Services Personnel and M.P.s, and the censorship o
Parliamentary criticism.

Owing to delayed mails, full information in regard to Canada has no
yet come through, but there are the questions of amendments t
Motions, the refusal of Urgency Adjournment Motions and the text o
an Order-in-Council as to Parliamentary candidates belonging to th
Armed Forces.

Australia has not afforded any special instances during the yea
under review, except the question of the payment of M.P.s on Selec
Committees, Commissions and Honorary Ministers; the question o
members of Parliament and Government contracts arose in the Western
Australian State Parliament and will be dealt with in the next issue
of the JOURNAL under a *Questionnaire* Article.

In New Zealand, Disqualification of Members, the reading of
speeches, changes in the Electoral Law and Parliamentary Catering,
as well as Remuneration and Free Facilities for M.P.s are given.

Constitutional questions in connection with the representation of
Natives (Africans) and their registration as voters have been considered in the Union Parliament, as well as the financial relations
between the Central Legislature and the Provinces, with a further
reference to the Executive control over expenditure.

In the Central Legislature of India, the main subjects are: its composition following the recent General Election; Government policy;
the detention of members; the rejection of the Finance Bill and other
Government defeats; the distribution of the legislative power; failure
of the constitutional machinery in certain of the Governors' Provinces;
language rights; and Private or Hybrid Bills.

In the Governors' Provinces, the matters of special note are Procedure
Conferences, members' salaries and Rules of procedure.

In regard to the Indian States, there is the question of their future
development and further reference to government in the State of
Mysore.

In Burma, action has also been taken in regard to the question of
the failure of constitutional machinery, and legislation in regard to
temporary constitutional provisions.

In the Colonial Empire, constitutional changes are noted in the Gold
Coast, Kenya Colony, Trinidad and Tobago, and the Zanzibar Protectorate, as well as the Imperial Government's statement in the House
of Commons on the election of the National Convention in Newfoundland. Further and fuller information is given on the subject of closer
union in the British West Indies.

Acknowledgments to Contributors.—We have pleasure in acknowledging Articles in this Volume from Mr. O. C. Williams, C.B., M.C., Clerk of Committees, House of Commons; Sir Herbert Williams, ex-M.P. for South Croydon; Commander Stephen King-Hall, ex-M.P. for Ormskirk; Mr. T. Dickson, J.P., Clerk of the Queensland State Parliament; Mr. Ralph Kilpin, J.P., Clerk of the Union House of Assembly; and Mr. Claude C. D. Ferris, O.B.E., Clerk of the Southern Rhodesia Legislative Assembly.

We are also grateful for Editorial paragraphs from Mr. T. Dickson, J.P., Clerk of the Queensland State Parliament; Commander G. F. Bothamley, Clerk of the New Zealand House of Representatives; Mr. Ralph Kilpin, J.P., Clerk of the Union House of Assembly; Mr. Claude C. D. Ferris, O.B.E., Clerk of the Southern Rhodesia Legislative Assembly; the Hon'ble Mr. Shavax A. Lal, M.A., LL.B., Secretary of the India State Council; Mian Muhammad Rafi, B.A., Secretary of the India Central Legislative Assembly; Dr. S. K. D. Gupta, M.A., Secretary of the Bengal Legislative Council; and the Acting Clerk of the Kenya Legislative Council. Indeed, contributed Editorial paragraphs by other members of the Society, 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 coming 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 XIV.—The only new subject in this *Questionnaire* which has been taken up in this Volume is the power of the King's Deputy to recommend amendments to Bills. It is hoped to deal with members charged with pecuniary interest and M.P.s holding the office of Parliamentary Secretaries and M.P.s having contracts with the Government, together with other back subjects, in our next issue.

Honours.—On behalf of our fellow-members, we wish to congratulate the undermentioned members of our Society who have been honoured by His Majesty the King during the year under review in this issue of the JOURNAL:

O.B.E. (Mil.).—Lt.-Colonel Victor G. Vella, Clerk of the Executive Council and of the Council of Government, Malta, G.C.

I.S.O.—P. P. de Cesare, Esq., ex-Clerk of the Councils, Malta, G.C.

Robert F. Phalen, K.C.—We regret to announce th death on July 11, 1945, at North Sydney, Nova Scotia, o Mr. Phalen, Clerk of the House of Assembly of Nova Scotia, at the age of 73 years.

Mr. Phalen was first appointed Clerk-Assistant of the House of Assembly on February 18, 1909, which office he held until the Session of 1934, when he was appointed Clerk. He had therefore been a Clerk-at-the-Table for 37 Sessions of the Nova Scotia Legislature. He also served as Town Solicitor in North Sydney, Cape Breton County, where he was a resident.

Mr. Phalen was a graduate in law of Dalhousie University in 1898. For many years he contributed editorial articles to the Casket Publishing Company.

Mr. Phalen had been a member of our Society since 1935. We wish to express, on behalf of all members, our deepest sympathy with Mr. Phalen's widow and the members of his family.

P. P. De Cesare, I.S.O.—On November 30, Mr. De Cesare retired from the office of Clerk to the Councils of Malta, G.C., to which he was appointed as a retired Civil Servant on October 1, 1942, during which critical period he gallantly filled the gap.

At the Third Sitting of the Council of Government of this gallant little Island, Dr. Boffa moved, seconded by Mr. Mintoff, the following Motion:

> That this Council places on record its sincere appreciation of the valuable services rendered to it by Mr. P. P. De Cesare, I.S.O., for a period of 43 years in his capacity first as Shorthandwriter, later as Chief Shorthandwriter, and since 1940 as Clerk of the Council.

The Motion was supported by the Lieutenant-Governor, after which Dr. Boffa stated that Mr. De Cesare had been connected with Maltese Parliamentary institutions for 43 years—since 1902. During self-government from 1921 to 1933 he was Chief Stenographer and Editor of Debates. Dr. Boffa said he would be expressing the feelings of all hon. members when he stated that Mr. De Cesare had been a most zealous and efficient official of this Council. At all times he was most courteous and helpful to all hon. members who had occasion to avail themselves of his advice and valuable Parliamentary knowledge. In this regard, he was also most helpful to the Chair. Dr. Boffa concluded by wishing Mr. De Cesare many happy years of well-deserved rest.

Dr. Boffa also took the opportunity of welcoming the new Clerk, Lieut.-Colonel Vella.

The Lieutenant-Governor then said it was with great pleasure that those on his side of the House has listened to Dr. Boffa's speech. The Lieutenant-Governor said that he had only been on the Island 3 years, but during that period Mr. De Cesare had been of the greatest help to him personally, and he knew that he enjoyed the confidence and trust of all hon. members of the Council of Government, which Mr. De Cesare had served so well.

Question was then put and agreed to.

Shortly after the suspension of self-government in 1934 Mr. De Cesare was appointed Assistant Secretary to the Government and in 1940 went back to the Council as Clerk to the Council of Government and to the Executive Council. Though a retired Civil Servant, he acted as Clerk to the Councils, October 1, 1942, to November 30, 1945, gallantly filling the gap during some of the most critical days the Island has ever been through; he also held appointments in several Government Committees. In 1908 Mr. De Cesare was appointed Shorthand Master in the Lyceum and Examiner of Shorthand in the Civil Service. He is the author of *An Adaptation of Pitman's Shorthand to the Italian Language.* In June, 1945, Mr. De Cesare was awarded the Imperial Service Order in well-merited recognition of his long and faithful service.[1]

Although Mr. De Cesare had been a member of our Society intermittently, we had learned to appreciate his value. We wish him good health and every happiness in his well-earned retirement.

S. F. du Toit, LL.B., J.P., relinquished his post as Clerk of the Union Senate on March 31, 1946, upon appointment as Union Minister Plenipotentiary-Designate to Sweden.

At a farewell dinner given by Senators on March 28, 1946, in the Parliamentary Dining Room, Cape Town, Mr. President (Senator the Hon. P. J. Wessels) in the chair, His Honour the Administrator of the Cape Province (Hon. P. A. Myburgh) and the ex-President of the Senate being present, the Leader of the Senate, the Hon. the Minister of the Interior (Senator the Hon. C. F. Clarkson), in paying tribute to Mr. du Toit's zeal for the status of the Senate, said that he had often come up from " another place " with plans set for what he would do in the Senate, but whenever those plans in any way infringed on the Senate's rights and privileges the Clerk stood in the way.

Senator the Hon. C. A. van Niekerk, a former President of the Senate, bore witness to what he as an ex-President of the Senate owed to the guidance and assistance of Mr. du Toit. Furthermore, there was no minority in the House which could not rely on his firm assistance. The toast was supported by the Leaders of other Parties in the House.

Mr. du Toit, in reply, thanked hon. Senators for their tokens of kindness and humorously recalled incidents in his service, at the same time paying tribute to famous Senators during his service in the Senate since the establishment of Union in 1910.

[1] *Times of Malta*, Dec. 1, 1945.

Mr. du Toit said that the Senate had in recent years enhanced its status in the performance of its constitutional functions as a constituent branch of the Legislature. Never, in his opinion, had it been necessary for the Senate to have wider financial powers in order to attain that status. The Senate's powers in legislation under s. 60 of the Constitution were really only circumscribed in respect of finance. He urged the Senate to abide by that limitation and, should it ever contemplate asking for wider powers in the field of finance, first to ask itself, "Have we made the fullest use of the powers we already have, before we seek for those we have not?"

Of the new post to which he had now been called, he would only say that there again his *rôle* would be to keep his ears open and his mouth shut—although not quite so shut as at the Table of the House.

Speaking for himself and his lone colleague at the Table—in fact for Clerks-at-the-Table generally—he would say that he had that night inflicted on members what so many of them had so often inflicted on so few—namely, a speech that was too long. They should, however, forgive him, for it was his last opportunity to retaliate.

On March 29,[1] the following Motion was moved in the Senate:

> That Mr. President be requested to convey to Mr. S. F. du Toit, LL.B., on his retirement from the office of Clerk of the Senate, the assurance of the sincere appreciation of this House of the distinguished services he has rendered as an Officer of Parliament during 26 years of devoted service in different offices, of which 16 years have been spent at the Table, and to extend to him the good wishes of the House in his new appointment.

In moving this Motion the Minister of the Interior asked Mr. President to convey to Mr. S. F. du Toit, on his retirement from the office of Clerk of the Senate, the assurance of the sincere appreciation of this House of the distinguished services he had rendered as an officer of Parliament and to extend to him the good wishes of the House on his new appointment. The Minister said he moved the Motion with mixed feelings, first of regret that a distinguished officer of the House, one who had endeared himself to all sections of the House, should be leaving them. At the same time they congratulated him upon his new appointment and wished him every success. The position of Clerk was a very important and onerous one, and the Minister was sure that he was speaking for all Senators when he claimed that Mr. du Toit had always been available to them with advice as to procedure and the conduct of the Business of the House. He was sure they all wished Mr. and Mrs. du Toit well in the high and distinguished office to which they were going; they would, he knew, worthily represent South Africa, and he trusted that their sojourn overseas would be a happy one.

Senator the Hon. C. A. van Niekerk, in supporting the Motion, said that their hearts were filled with sorrow at the loss of one of their most faithful, hard-working and helpful officials. On the other hand,

[1] 1945 *Sen. Hans.* 771-7.

they rejoiced that his services to his people and Fatherland had not been passed unnoticed. He had known Mr. du Toit for 26 years. There was a proverb—that one must have eaten a bag of salt with a man before one knew him properly. The services which both he and Mr. Green rendered to the Presidents of the Senate were of incalculable value. They hoped that Mr. du Toit's heart would beat in the cold North still more warmly for South Africa and that he would watch her interests there as he had watched them here. There was not a member of the House who would not wish their Clerk a very successful career. They wished him the blessing of God, "who holds the destinies of multitudes and nations in His hand", and that Mr. du Toit would be guided by the Father in the work he was going to do.

Senators the Hon. S. F. Alberts and B. Celliers also joined in the congratulations, and Senator Dr. the Hon. E. H. Brookes testified how much those in the smaller groups were indebted to the officials of the House for the advice they gave and for their help to Mr. President in his impartial conduct of the proceedings of the House and the general protection and goodwill which Mr. President extended to all Parties. They, as Senators, appreciated that the Parliamentary system depended for its successful working to a very large extent on whoever occupied the office of Clerk. They, however, did not only look upon Mr. du Toit's work as being carefully carried out in good and sound Parliamentary tradition, but they looked upon him as a personal friend, who had rendered them many kindnesses, who had gone out of his way to help them, and who carried with him their sincere good wishes not only as a trusted official but as a helpful friend in the new work to which he was going.

Senator the Hon. G. Hartog spoke as one who had known Mr. du Toit all the 16 years he had been at the Table. There was no doubt that his translation to another sphere was to the loss of the Senate. Senator Colonel the Hon. G. R. Richards echoed the words of appreciation which had fallen from the various speakers in recognition of the magnificent service which the Clerk had rendered the House and Senators personally. Colonel Richards joined in wishing Mr. du Toit God-speed in his new work.

Senator the Hon. M. J. Vermeulen said that a great deal depended upon a Clerk of the Senate or a Clerk of the House of Assembly. In Mr. du Toit they had a Clerk who was exceptionally competent. The hon. Senator had the privilege of having known Mr. du Toit at Reibeeck West, where he was born. He thought the Prime Minister had made a happy choice in appointing Mr. du Toit to his new office.

Question resolved *nemine dissentiente* in the Affirmative.

Mr. President then said: As it is not in accordance with established Parliamentary practice for the *Clerk* to thank the House personally, he has asked me, on his behalf, to express his sincere gratitude to honourable Senators for the resolution just passed.

Mr. du Toit's contribution to Vol. X aroused widespread interest.

T. D. H. Hall, C.M.G., LL.B.—Mr. Hall, the Clerk of the House of Representatives of the General Assembly of New Zealand, retired from his office in Parliament on June 30, 1945, after a public service of 44 years.

On July 4, Mr. Speaker said: With the indulgence of the House, I should like to read a letter from the late Clerk of the House, Mr. T. D. H. Hall, which is as follows:

29th June, 1945.

Dear Mr. Speaker,

Acting on medical advice I have been compelled to ask leave to relinquish my office, and my retirement takes effect officially as from 30th June, when I shall have completed over 44 years in the service of the State, of which 15 have been as Clerk of the House. I desire to acknowledge with deep gratitude the uniform kindness and consideration I have had from yourself and the preceding Speakers under whom I have served, from the Prime Ministers and Ministers who have held office during my term, and from the members of five Parliaments. I am proud that my career in the Public Service should have brought me to serve the Parliament of my country, and I deeply appreciate the very kind references to my work as Clerk.

Yours sincerely,
T. D. H. Hall.

The Honourable F. W. Schramm,
Speaker of the House of Representatives.

The Hon. W. Nash (Hutt) (Acting Prime Minister): Mr. Speaker, I move

That Mr. Speaker be requested to convey to Mr. T. D. H. Hall, C.M.G., LL.B., on his retirement from the office of Clerk of this House, its acknowledgment of his long and valuable services during the many years he held that office, and its appreciation of the advice and assistance he was at all times willing to render to members of this House in the conduct of their business.

In moving that Motion I think I would only be expressing the feelings of members of the House in general, and also of the Government, if I said that we came to look with particular respect on the late Clerk of the House because of his natural courtesy, his tremendous fund of knowledge, and his complete integrity, as well as his meticulous care in ensuring that whatever member or Minister came to him he was well advised as to the forms of the House and the best steps to take under the Standing Orders and the Rules of the House to achieve the end that that Minister or member desired. I have been privileged to be a member of the House during the whole of the time Mr. Hall was with us. We have been, in this House, probably as well served, if not, on the average, better served, than we could have been by any other Clerk. No one could have carried out the work more brilliantly and ably, and with such integrity. Members of the Government and Opposition sides alike have always received from Mr. T. D. H. Hall unfailing courtesy, and complete integrity in the advice he has given. I am sure they all join with me in expressing regret that he is leaving us, and in wishing him all that is good in his period of retirement.

Mr. S. G. Holland (Christchurch North) (Leader of the Opposi-

tion): Sir, I wish to support the Motion of the Acting Prime Minister, and to say that members of the Opposition desire to be associated with the sentiments expressed in the Motion, which I formally second. Mr. Hall has filled the high office of Clerk of the House for a long period of years. For over 40 years he has been a member of the Public Service. He has occupied the position of Clerk of the House with distinction and with great credit to himself and to the complete satisfaction of every member of the House, regardless of affiliations. I hope that Mr. Hall may have his health restored, so that he may enjoy the years of retirement that lie ahead.

Mr. Speaker: Before I put the Motion, it is fitting that I should, on behalf of hon. members, reciprocate the sentiments expressed in Mr. Hall's letter, and endorse the remarks of the acting Leader of the House and the Leader of the Opposition. Hon. members will join with me in thanking Mr. Hall for his courteous and valued assistance freely given out of his long experience in, and thorough knowledge of, Parliamentary procedure. His knowledge and experience have been at the service of hon. members and of the Department at all times, and his assistance has been freely and unselfishly given. During a period of 15 years Mr. Hall has held the position of Clerk of the House with honour and with distinction. He has made a special study of Standing Orders and procedure in this Parliament, and of procedure in Parliaments in other parts of the world, and that knowledge has helped him to make this Assembly one of the best-respected Assemblies in the world. I feel that I am speaking for members generally when I pass on to Mr. and Mrs. Hall our very sincere wishes for their long enjoyment of a well-earned rest. I will take the opportunity later in joining with hon. members in giving practical expression to our collective appreciation of the great and valuable services Mr. Hall has rendered to this House.

Motion agreed to.

[*Mr. Speaker left the Chair at five minutes past 3 o'clock p.m., until half-past 7 o'clock p.m.*]

Immediately the Motion was carried the House adjourned so that Mr. Speaker and members could repair to the Lounge, where Mr. Speaker, on behalf of the members, made a presentation to Mr. Hall. The Acting Prime Minister, the Leader of the Opposition and various members paid tribute to Mr. Hall and wished him well in his retirement. Mr. Hall had previously been the guest of Cabinet Ministers in the Cabinet Room, where a presentation was made to him also on behalf of Ministers.

Mr. Hall was also farewelled by the members of the House of Representatives Staff.

Mr. Hall was one of the foundation members of our Society and frequently contributed Articles of the highest calibre to our JOURNAL in addition to furnishing much valuable information both in the form of Editorial Note and otherwise. His Articles in Volumes V and VIII

on the working of the Parliamentary broadcasting system in the New Zealand Parliament aroused considerable interest in other countries, and that on "Public Administration and Parliamentary Procedure in New Zealand" was widely admired by members of our Society in all parts. He also wrote on "Prolongation of the Life of the New Zealand Parliament in War-time" (Vol. XI-XII)

Mr. Hall was a graduate of the University of New Zealand and a Barrister of the Supreme Court of the Dominion, and, in addition to his other service, both Parliamentary and otherwise, was for 8 years one of the Law Draftsmen on the Parliamentary Staff.

In 1938 His Majesty the King conferred upon Mr. Hall the Companionship of the Most Distinguished Order of St. Michael and St. George.

Mr. Hall's able assistance will be missed. His well reasoned memoranda were of the highest value and his opinion always sound.

The members of this Society throughout the Commonwealth and Empire wish Mr. Hall and Mrs. Hall good health and every happiness in the years to come in whatever direction Mr. Hall's great knowledge and wide experience may be utilized.

House of Lords (Delegated Legislation : Controls and Regulations).—On March 6,[1] the Marquess of Reading moved:

> That such controls and Regulations which affect the lives and business of persons in this country, instituted since September 1939 for the purpose of assisting the prosecution of the War, be generally terminated as soon as military necessity no longer justifies the maintenance of any of them; and that such controls as are thereafter required for the re-establishment and stabilization of our post-war existence be enacted so as to provide for proper remedies at law to protect persons affected in their lives and business against arbitrary or obscure orders by executive departments or offices.

The noble Marquess, in moving, said that he did not seek to rule out such planned organization of the life of the country as Parliament might in the future approve, but only to lift from the public the incubus of present emergency legislation and to make a fresh start in the altered atmosphere of peace. What he wanted was that the present state of affairs should not be allowed indefinitely to drag on, with nobody's business to see that the position was altered.[2] At the present moment scarcely anything was uncontrolled except the controllers themselves.

One legacy of the last War was the passport. Was one legacy of this War to be the identity card ?[3]

The prime purpose of the Resolution was to urge upon the Government, as soon as the War situation permitted, to lift the existing controls, and, if necessary, at a subsequent stage to introduce controls imposed after fresh consideration, to incorporate them in public Acts of Parliament and not in hole-and-corner regulations. The greater part of these regulations was not contained in Acts of Parliament and had never received its consideration. They were the product of a

[1] 135 *Lords Hans.* 5, s. 325; *see also* Index hereto. [2] *Ib.* 326. [3] *Ib.* 327.

number of orders and regulations issued by various Departments by virtue of powers conferred upon Ministers by a steadily increasing number of Statutes, not all of which laid down that such regulations should ever be laid before Parliament itself. Inevitably, the pressure of war-time conditions had given a violent impulse to this Departmental usurpation of the legislative powers of Parliament. In 1943 there were 1,792 orders and regulations issued; in 1944, 1,479; but not more than 238 had ever found their way into Parliament at all. One control had, however, been overlooked—namely, the control by Parliament over the legislative activities of Whitehall.[1] So forcibly was the late Lord Chief Justice Hewart struck by the first encroachment of this kind of *Ersatz* legislation upon the domain of Parliament and the realm of law, that he wasimpelled to protest against a practice which had already reached alarming proportions in 1929. Here was the kernel of his contention, continued the noble Marquess:

> The citizens of a State may indeed believe or boast that, at a given moment, they enjoy, or rather possess, a system of representative institutions and that the ordinary law of the land, interpreted and administered by the regular Courts, is comprehensive enough and strong enough for all its proper purposes.
>
> But their belief will stand in need of revision if, in truth and in fact, an organized and diligent minority, equipped with convenient drafts and employing after a fashion part of the machinery of representative institutions, is steadily increasing the range and power of departmental authority and withdrawing its operations more and more from the jurisdiction of the Courts.

Recourse was then had, observed the speaker, to the appointment of the Ministers' Powers Committee in 1929 and its Report in 1932.[2] The attention of that Committee had been directed to 3 points of criticism. First, the statutory powers conferred on Ministers to make regulations, rules or orders which, when made, might be held to have been placed outside the purview of the Courts by reason of a provision in the enabling Act supposed to have that effect. Secondly, statutory powers so conferred to amend existing Acts of Parliament or even the enabling Act itself in order to remove difficulties or to bring the provisions of the Act into operation. The third was the statutory powers of judicial or quasi-judicial decision against which there was no appeal. The Committee said:

> We doubt whether Parliament itself has fully realized how extensive the practice of delegation has become, or the extent to which it has surrendered its own functions in the process, or how easily the practice might be abused.[3]

In its main findings the Committee said:

> Parliamentary control over legislation is deficient in 2 respects:
> (i) Legislative powers are freely delegated by Parliament without the members of the 2 Houses fully realizing what is being done;
> (ii) Although many of the Regulations . . . are required to be laid before both Houses . . . there is no automatic machinery for their effective scrutiny on behalf of Parliament as a whole, and their quantity and complexity are such that it is no longer possible to rely for such scrutiny upon the vigilance of private members acting as individuals.

[1] *Ib.* 329. [2] *Cmd.* 4060. [3] 135 *Lords Hans.* 5, s. 330.

The chief recommendation was to set up a Standing Committee in each House, with the duty of scrutinizing, first, any Bill containing any proposal for conferring legislative powers on Ministers, and, second, every regulation made in the exercise of such powers required to be laid before Parliament. Within 12 years a Standing Committee had been set up in another place,[1] although it was not thought necessary to implement that part of the recommendation which applied to a similar committee in their Lordships' House.

Another significant passage in the Report was:

> The use of clauses designed to exclude the jurisdiction of the Courts to inquire into the legality of a Regulation or Order should be abandoned in all but the most exceptional cases.

If they must have delegated legislation, continued the noble Marquess, then let them at least see that it remained subject to close and recurrent scrutiny by Parliament and to the full and free jurisdiction of the Courts of law.[2]

Earl Stanhope observed that for many years Governments had done their best to shorten the Bills brought before Parliament so as to shorten debates and get more Bills through. The result had been that they had endeavoured to leave a great deal of power in the hands of Ministers to do things by regulation and by order which were not done in those Bills.

They were a very patient and patriotic people, and so long as the War continued they were prepared to put up with anything, but he was quite sure that when the War was over the public would insist that these regulations, orders and returns should cease.[3]

Lord Geddes referred to the lesson learned by the United States when the effort was made to enforce complete prohibition. It was that laws could not be enforced which had not the intellectual and moral support of an overwhelming majority of the people.[4]

When the debate was resumed on March 8,[5] Lord Rennell quoted from a compendium that during the last 5 years of War there were references to 10,000 orders and regulations, 220 Acts of Parliament and 300 leading cases, which an ordinary citizen was required to know lest he unwittingly transgressed. Those who had had any experience knew that the art of government was not in knowing how to make laws but in knowing what laws to make, what laws were necessary and acceptable to the citizens and could be obeyed.[6]

They should not slip into the position in which they were now and use war-time regulations to carry on a policy which had been neither discussed nor necessarily approved. It was precisely that to which they objected—namely, that orders arising out of the Defence Regulations which were therefore justified by military necessity should be carried forward for entirely different reasons without anybody having

[1] *See* JOURNAL, Vol. XIII, 171. [2] 135 *Lords Hans.* 5, s. 331. [3] *Ib.* 333-5.
[4] *Ib.* 338. [5] *Ib.* 417. [6] *Ib.* 428.

had an opportunity to discuss them. It was that opportunity for discussion which they asked for in the latter part of the Motion—namely, that where they were required to be continued they should be discussed in Parliament and enacted.

The Lord Chancellor (the Rt. Hon. Viscount Simon) observed that there had undoubtedly been a very considerable shifting in the views of people of all Parties, at any rate certainly of the older Parties, as to the point at which the line must be drawn between the claim to unrestricted individual rights and the interests of the community.[1] The Emergency Powers Act was not a permanent Statute. It had to be renewed every year. Had anybody voted against its renewal? Had anybody ever raised a protest that the powers of the Act were being grossly abused? Not at all. They had to recognize that in the modern State they could not possibly provide for all those masses of detail in the language of sections of Acts of Parliament. What you could do and what you ought to do, and what the Government have been giving a great deal of time in trying to devise, was to secure that Parliament realized that it had an opportunity of challenging and asking for revision of an important regulation which might be made within the powers already granted but which none the less when looked at in the flesh was open to objection. That was the machinery of affirmative Resolution and negative Resolution.[2] Referring to the identity card, the noble Viscount said they could not have the administration of the food code, which everybody so much admired, unless you had identity cards. Their new electoral machinery depended on the identity card and nothing else.[3] His Lordship agreed that those matters which were justiciable ought to be decided by the Courts, just as the interpretation of a regulation was a matter for judicial assistance. Those questions, however, were altogether distinct from the question of whether there could be an appeal to the Courts against a decision which Parliament had authorized a Minister or the Government to make, an executive decision on the question of whether the conditions had arisen which permitted the application of that power to be made.[4]

It was equally ridiculous to suppose that there could be appeal to the Judges to decide whether a particular person lawfully detained under Regulation 18B ought to be detained. That must be a matter for the judgment of the Executive.

The Lord Chancellor, continuing, said that:

> If you did not trust the Executive, you did not give them the powers; if you think the Executive have used their powers recklessly or wildly, then expose them in Parliament; but do not use the Judiciary to do things which the Judges were not able to do at all. They cannot judge, and do not claim to judge, the question of whether action of this sort is necessary in the interests of the State. How could they? They are no better qualified to do so than anybody else.[5]

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[1] *Ib.* 430. [2] *Ib.* 433. [3] *Ib.* 434. [4] *Ib.* 438. [5] *Ib.* 439.

It is a matter of the greatest possible importance for both Houses of Parliament, and for the public, to keep close watch on the Regulations that are made and on the way in which they are used, to challenge them when challenge is right, to challenge the Minister when the Minister should be challenged and to see that provision is made as well as can be done that even after the Regulation has been made there shall be opportunity to bring it up for Parliamentary examination.[1]

* * * * * *

My noble friend in his speech indicated a hope that the Government would accept his Resolution. I really cannot advise the House to do that. In the first place, as I understand the Resolution, he wants every War-time regulation for the purpose of assisting the prosecution of the War to be generally terminated as soon as military necessity no longer justifies the maintenance of any of them. Military necessity may not justify it, but there were other considerations which certainly came into play in regard to a great many of them.[2]

* * * * * *

The freedom that we have inherited, that we enjoy, that we went to war to maintain, and which we will enjoy in the future is a freedom under the law, and that the law itself is made by Parliament, and under the constant supervision and check of the representatives of the people in the House of Commons and of your Lordships' House. It may be that we will get back to normal at home much more quickly than may seem probable, but it is quite certain that we shall have to go on for a time with many regulations in a modified form. . . . For the reasons I have given I cannot recommend your Lordships to accept this Resolution.

Motion, by leave, withdrawn.

House of Lords (Private and Provisional Order Confirmation Bills).—On June 7,[3] the Chairman of Committees (Rt. Hon. Lord Stanmore), in accordance with the customary practice of the House in connection with Private Bill legislation when a dissolution of Parliament occurs in the middle of a Session, moved the Motions given below. They were in identical terms with the Resolutions passed by the House when Parliament was dissolved in 1929 and 1931. The object of the Resolutions was to permit promoters to reintroduce their Bills in the next Session at the same stage as that reached in the present Session and to exempt them from being charged new fees in regard to such stages, thus securing that the work and expense already expended on such Bills during this Session shall not be wasted. His Lordship understood that similar Resolutions would be passed in another place.

The Resolutions read as follows:

That the promoters of every Private or Provisional Order Confirmation Bill and petitioners for Estate Bills which shall have been introduced into or presented to this House in the present Session of Parliament, and which shall have passed the House and been sent to the House of Commons, or which shall be pending in this House, shall have leave to introduce or present the same in the next Session of Parliament, provided that notice of their intention to do so be lodged in the Private Bill Office not later than noon on the last sitting day of the present Session; and provided that all fees due by them thereon, up to that period, be paid.

[1] *Ib.* 439, 440. [2] *Ib.* 441, 442. [3] 136 *Lords Hans.* 5, s. 447.

That an alphabetical list of all such Bills, with a statement of the stages at which they shall have arrived, shall be prepared in the Private Bill Office, and printed.

That every such Bill which has originated in this House shall be deposited in the Private Bill Office not later than 3 o'clock on or before the third day on which the House shall sit after the next meeting of Parliament for business other than judicial business, with a declaration annexed thereto, signed in the case of a Private Bill by the agent, and in the case of a Provisional Order Confirmation Bill by an officer of the Department in which the Orders to be confirmed by such Bill are made, stating that the Bill is the same in every respect as the Bill at the last stage of the proceedings thereon in this House in the present Session.

That in case any such Bill brought from the House of Commons in the present Session, upon which the proceedings shall have been suspended in this House, shall be brought from the House of Commons in the next Session of Parliament, the agent for such Bill, or an officer of the Department, as the case may be, shall deposit in the Private Bill Office after the Bill shall have passed the House of Commons and prior to the First Reading thereof in this House, a declaration stating that the Bill is the same, in every respect, as the Bill at the last stage of the proceedings thereon in this House in the present Session.

That such Bill shall thereupon be deemed to have been passed through every stage through which the same shall have passed in the present Session; and that no new fees be charged in regard to such stages.

That the Standing Orders by which the proceedings on Bills are regulated shall not apply to any Private or Provisional Order Confirmation Bill which shall have originated in this House or have been brought up from the House of Commons in the present Session, in regard to any of the stages through which the same shall have passed.

That every certificate from the Examiners of Standing Orders for Private Bills given in respect of any Private or Provisional Order Confirmation Bill originating in the House of Commons upon which the proceedings shall have been suspended in that House in the present Session, shall be deemed to have been given in respect of such Bill, if the same shall be brought from the House of Commons in the next Session of Parliament and any notices published and served, and any deposits made in respect of such Bill, in respect of the present Session shall be held to have been published, served and made respectively for the Bill so brought from the House of Commons in the next Session of Parliament.

That all petitions presented in this Session relating to any Private Bill shall, if necessary, be referred to the Committee on the Bill in the next Session.

That no petitioners shall be heard before the Committee on any Bill unless their petition shall have been presented within the time limited in the present Session, unless that time shall not have expired before it closes, in which case, in order to be heard, their petition shall be presented not later than the fourth day on which the House shall sit for business other than judicial business in the next Session.

On Question, Motion agreed to, and a Message ordered to be sent to the Commons to acquaint them with the said Resolutions. On the same day the above-mentioned Resolutions were received by the Commons.[1]

House of Lords (Delegated Legislation).[2]—The Special Orders Select Committee was appointed December 6, 1944,[3] with the same

[1] 411 *Com. Hans.* 5, s. 1075.
[2] *See also* JOURNAL, Vol. XIII, 14.
[3] 134 *Lords Hans.* 5, s. 192.

Orders of Reference as for the former Session.[1] Particular action was taken by the Committee in regard to the following:

Special Orders laid before the House (pursuant to Act) or otherwise for Affirmative Resolution and referred to the Special Orders Committee.	*Report of the Special Orders Committee.*
Cinematograph Films (Labour Costs) Amendment Order, 1944.[2] Cinematograph Films (Quota) Amendment Order, 1944.[2]	That in their opinion the Order raises no very important policy or principle; that the Order is founded on precedent; that in the opinion of the Committee 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 on the Resolution to approve the said Order.[3] (*Approved by House*, December 20, 1944.) 134 *Lords Hans.* 5, s. 460.
House of Commons (Redistribution of Seats) Order, 1945.[4]	That in their opinion the provisions of the Order raise questions of policy and principle which have been accepted already by the House when passing the House of Commons (Redistribution of Seats) Act, 1944, under which the Order is submitted for approval; that the Order is not founded on precedent, inasmuch as this is the first Order which has been submitted for the approval of Parliament under the Act; that in the opinion of the Committee 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 on the Resolution to approve the said Order. (*Approved by House*, June 4, 1945.) 136 *Lords Hans.* 5, s. 304.

House of Commons (Big Ben Tower: Lantern Light).—At 9.30 p.m. on April 24,[5] Mr. Speaker Clifton Brown asked if he might make a slight interruption in the proceedings to remind the House that in peace time it had been the custom for the lantern light above Big Ben always to shine after sunset, in order to show that the House of Commons was at work. For 5 years 7 months and 23 days this light had been extinguished.

Mr. Speaker then said: When I press the switch beside the Chair, as I am about to do now, our lantern light will shine once more. In so doing, I pray that, with God's blessing, this light will shine henceforth, not only as an outward and visible sign that the Parliament of a free people is assembled in

[1] *See* JOURNAL, Vol. XIII, 14. [2] 134 *Lords Hans.* 5, s. 324. [3] *Ib.* 423, 424. [4] 136 *Ib.* 297. [5] 410 *Com. Hans.* 5, s. 794.

free debate, but, also, that it may shine as a beacon of sure hope in a sadly torn and distracted world.

I now turn on our lantern light.

Hon. members: Hear, hear.

Mr. Mathers (Comptroller of the Household): On this unique occasion, may I be permitted to move:

That the words which you, Mr. Speaker, have addressed to the House relating to the light on the Clock Tower be entered on the Journals of this House.

Hon. members: Agreed.

Question put and agreed to.

House of Commons (Personal Charge against a Minister).—Certain references were made by the hon. member for Mossley (Mr. Austin Hopkinson) on the Adjournment Motion on December 19, 1944,[1] as to the form of the accounts of the British Overseas Airway Corporation which did not enable one to form any opinion as to the conduct of its affairs.[2]

On January 25, 1945,[3] the hon. member for Carmarthen (Mr. Moelwyn Hughes) asked the Prime Minister (Rt. Hon. Winston Churchill) if his attention had been called to the Motion:

[*That a Select Committee be appointed to investigate the allegations made in this House on 19th December, 1944, by the hon. member for Mossley concerning irregularities in the administration of the Air Ministry.*]

—to which the Prime Minister replied that he was now able to inform the House that there was no ground for the allegations made against the B.O.A.C. He could not therefore advise the House to set up a Select Committee, nor would the Government give any special opportunities for discussion of a Motion to that end. There were, however, in the normal course of Parliamentary business various opportunities when the question could be raised, and he would direct the attention of his hon. and learned friend thereto.

The hon. and noble member for Horsham (Earl Winterton), in a Supplementary, asked whether it was not an almost invariable rule that when a charge was made in debate by an hon. member against the personal conduct of a Minister of the Crown, and when a demand for a *Sel. Com.*, or some inquiry, was put down by hon. members, including Privy Councillors, in all parts of the House, the Government agreed to have the inquiry.[4]

To which Mr. Churchill replied that he did not think so. He thought the matter had to be judged individually. He understood that the hon. member who made the allegations on the last occasion when he spoke about the B.O.A.C. referred as what is called " the farm case " as trivial or trifling, and that was the position in which he

[1] 406 *Com. Hans.* 5, s. 1723-50. [2] *Ib.* 1733. [3] 407 *Ib.* 961. [4] *Ib.* 962.

considered it stood. The Government took their view about these matters and would certainly adhere to it.[1]

The hon. member for Mossley then, in a Supplementary, asked the Prime Minister whether he was aware that the Motion referred to an inquiry into irregularities at the Air Ministry and had nothing whatsoever to do with the B.O.A.C., and that he had suggested that there had been a grave dereliction of duty on the part of the Air Minister and his subordinates, and that the B.O.A.C. was only introduced to give examples of the serious consequences which might follow.[2]

The Prime Minister said that the hon. gentleman had for a long time persisted in making these allegations and charges. "The farm case" had been fully answered by the Secretary of State.

After other hon. members had risen, Earl Winterton gave Notice that he would raise, on the Motion for the Adjournment, the question of the refusal of the Government to adopt the ordinary practice of the House of holding an inquiry into charges made by an hon. member against the personal conduct of a Minister.

The Prime Minister then rose, but Mr. Speaker said that, as Notice had been given of a Debate on this matter on the Adjournment, that closed the matter.

The Prime Minister again rose to calls by hon. members of "Order Order!" when Mr. Speaker said that if the Prime Minister wanted to say something the House should hear him.

The Prime Minister then asked Mr. Speaker whether he was not entitled, in view of the very grave words used by the noble Lord, to ask what was the charge which he was going to make against his rt. hon. friend on the Motion for the Adjournment. "Surely it is only fair to say what the charge is," said Mr. Churchill.

After further interjections Mr. Speaker said that as the matter was to be raised on the Adjournment it could not be further discussed.[3]

On March 6,[4] on the Motion—"That Mr. Speaker do now leave the Chair"—on going into Committee of Supply on the Air Force Estimates, the hon. member for Mossley referred to both of the above proceedings and said that he was now taking one of those opportunities suggested to him by the Prime Minister, with a view to pointing out to the House, when they came to discuss the Adjournment Motion to-morrow, the necessity for refusing a Judicial Committee under the Tribunal Act of 1921, and insisting upon the inquiry being made by a *Sel. Com.*[5]

On March 7,[6] Earl Winterton raised the matter on the Motion for the Adjournment of which he had given Notice, and said his was a case concerned with the procedure and rights of the House. He could conceive of no more dangerous precedent to set up than, when a charge of a serious character was brought against a Minister, and a Minister

[1] *Ib.* 962, 963. [2] *Ib.* 963. [3] *Ib.* 964, 965. [4] 408 *Ib.* 1904.

[5] 408 *Ib.* 1904-30; the hon. member then went on to make his charges, but the Editorial Note shows the procedure followed. The debate on the subject, however can be seen by reference to *Hansard*.—[Ed.] [6] 408 *Ib.* 2184-94.

said that because a Government Committee had investigated the charge, there was no need for further inquiry. A Minister might be charged with fraud and dishonesty and the Government of the day would say: " We have investigated this case. Our Law Officers have examined it and there is nothing in it. What right have the Opposition to ask for an inquiry? In the days of the great Churchill Government exactly the same form of inquiry was refused." That would be a serious precedent to create.

The Prime Minister might say that charges, however grave, brought up by a single member of this House, ought not to be the subject of an inquiry by a *Sel. Com.* The noble Lord did not think such a contention would be on strong ground. There were many examples in the past, one of the most famous being that of Mr. Plimsoll, who for years brought certain charges in this House, and eventually the aciton he advocated was taken.[1] Lastly, the argument might be taken that it would be wrong in the midst of a great War to submit Ministers and high officers to the burden of being examined by a *Sel. Com.* Such an argument would be contrary to the whole moral basis of democratic government and British justice, which rested on the assurance that no subject of the Crown was immune from the power of judicial inquiry because of the high position he occupied.

The hon. member for Carmarthen (Mr. Moelwyn Hughes) submitted that the request for a *Sel. Com.* was the only proper method by which Parliament could satisfy itself as to what was the right or wrong of the matter.[2]

The Prime Minister then stated that, as Parliamentary usage and custom was an important issue, he felt it his duty to deal with the matter himself. He would reduce it to its simplest terms.[3] The Government advise the House and the House decides. The Government advise the House whether there should or should not be a *Sel. Com.* and the House decides. The idea that there was any automatic procedure or bounden duty to take a particular course was utterly devoid of foundation. The last 3 cases of charges against Ministers which were made the subject of debate as to whether there should be a *Sel. Com.* or not were the Marconi case in 1912, where the Government proposed a Committee and the House accepted it, without a division, after prolonged agitation and consideration on both sides; the Maurice case in 1918, where the Opposition proposed a Motion for a *Sel. Com.* and the House rejected it on the advice of the Government; and the Campbell case in 1924, where the Opposition proposed and the House accepted the Motion for a *Sel. Com.* The Government then resigned. In all these cases the Government took their view, and had the right to take their view, and the Opposition took, and had the right to take, their view, and the House decided what was to happen.

Now, however, the party system was in abeyance, and the noble Lord asked them to lay down a new rule to the effect that when any

[1] *Ib.* 2185. [2] *Ib.* 2188. [3] *Ib.* 2189.

charge was made by any member against any Minister's honour or integrity the Government of the day were bound automatically to use their powers to appoint a *Sel. Com.* "No contention could be more absurd," said Mr. Churchill, who continued:

It would be most injurious to the House and absolutely contrary to its traditions if such a rule were made. So far as His Majesty's Government are concerned, we refuse to countenance it. . . . If this principle were adopted it would be open in the future for any single member, however irresponsible, however mischievous, however malignant, to bring any charge, however ill-founded, however worthless, however trivial, against any Minister, and thereupon, automatically, the whole ponderous machinery of a Select Committee would be set in motion.[1]

I can imagine even that in the days of party strife and faction when feelings run high and a score against the Government is a good thing to bring off, there might be a regular racket among half a dozen members to bring charges against half a dozen Ministers, or to fling insults against them, and then, automatically, there would be half a dozen Select Committees sitting upstairs, investigating the charges and insults which had been made. Such a procedure would bring the whole principle of Select Committees into contempt, and might tend to rob Parliament of an invaluable weapon in its armoury. The fact is that the Government remains master of its own conduct, and the House itself, the master of the Government, must decide for itself what action to take.

Mr. Churchill said he had looked into the case personally and in their opinion there were no grounds for appointing a *Sel. Com.*

"That is our position, and that is our advice to the House," said Mr. Churchill, who continued:

If it were the general desire of the House to discuss any matter under the sun, we should take pains to meet their wishes, but proof must be furnished—adequate proof must be furnished—of this general desire. In the days of party strife the Leader of the Opposition, in consultation with his colleagues, would usually express it, but now there is no Leader of the Opposition. The Government is a Government of all 3 Parties at the present time and consequently we have to ascertain whether a substantial body of members desire, and think it sufficiently important, that this matter of a Select Committee should be debated and that time should be given for the Motion.

The Prime Minister then said:

I say that if any substantial body of hon. members wish for time to be given or if there is a general desire made known through the usual channels, or if the larger Parties in the House take it up as a matter on which they wish that such an opportunity should be given, certainly we shall agree to find the time.

* * * * * *

The Government have the responsibility of advising the House, and if there is a substantial desire to challenge the Government's view, then a debate can take place and the matter will be carried to its proper conclusion in a Division.

* * * * * *

In this case, I am quite certain, and take upon myself the full responsibility of advising the House, that there is no sufficient case, no case worthy of investigation at all.

Hansard, after further remarks from the Prime Minister, reports:

It being half an hour after the conclusion of business exempted from the provisions of the Standing Order (Sittings of the House), Mr. DEPUTY-SPEAKER

[1] *Ib.* 2190. [2] *Ib.* 2192.

adjourned the House, without Question put, pursuant to the Standing Order, as modified for this Session by Order of the House of 30th November.

House of Commons (Procedure in Change of Office of Chairman of Ways and Means).—On May 30,[1] the following is the *Hansard* report in connection with and pursuant upon the resignation of Major James Milner, M.P., M.C., T.D. (since appointed to the Privy Council):

Mr. Speaker acquainted the House that he had received a letter from Major Milner announcing his resignation of the office of Chairman of Ways and Means, which he read to the House, as follows:

CHAIRMAN OF WAYS AND MEANS OFFICE.
29th May, 1946.

MY DEAR MR. SPEAKER,

Although constitutionally elected for the full term of this Parliament, I think it proper, having regard to the changed situation, to tender to the House, through you, my resignation of the Office of Chairman of Ways and Means.

I regard it as a great honour to have occupied one of the chief offices in the House of Commons for something over 2 years in these notable and strenuous days, and I desire to thank right hon. and hon. gentlemen in all parts of the House for the courtesy and consideration they have shown to me.

May I say that I am particularly indebted to you for your unfailing consideration and many personal kindnesses.

To the Clerks at the Table and the officials of the House generally I would also wish to express my grateful thanks for their help and assistance at all times.

I have the honour to remain,
Yours very sincerely,
JAMES MILNER.

Colonel the Rt. Hon. D. Clifton Brown, M.P.,
Speaker,
House of Commons, S.W.1.

Mr. Speaker: I would like to add my warm thanks to the hon. and gallant gentleman for the efficient and loyal service he has always given to me as Deputy-Speaker and to the House as Chairman of Ways and Means.

Mr. Eden: I think that members in all parts of the House would wish to be associated with what you have said, Sir. I would like to say with what regret we heard the reading of that letter, and how much gratitude we feel for the work the hon. and gallant gentleman the member for South-East Leeds (Major Milner) has done for the House while he held this most responsible office. The letter which you have read necessitates certain changes in the recommendations, and I would like later to move that Mr. Charles Williams be Chairman of Ways and Means and Colonel Sir Charles MacAndrew be Deputy-Chairman. Both these hon. gentlemen are well known to the House: one comes from south of the Tweed and the other from north of the Tweed; and I hope their names will be acceptable to the House.

Mr. Attlee: I should like to associate my colleagues on this side with what the Leader of the House has said, and to join in the thanks of the House to the Chairman of Ways and Means.

[1] 411 *Com. Hans.* 5, s. 219.

Sir Archibald Sinclair: On behalf of my hon. friends, I should like to associate myself with what the right hon. gentleman has said. The hon. and gallant member for South-East Leeds (Major Milner) has served the House well, and we hear of his departure with regret.

Mr. Eden: I beg to move,

"That Mr. Charles Williams be Chairman of Ways and Means, and Colonel Sir Charles MacAndrew be Deputy-Chairman."

Question put and agreed to.

House of Commons ("The Ramsay Case").[1]—Reference was made in the last issue of the JOURNAL to the release on September 26, 1944, of Captain A. H. M. Ramsay, M.P., from detention in Brixton Prison, during the War, under Regulation 18B of the Defence (General) Regulations, 1939, and the facilities accorded to him by the late Mr. Speaker FitzRoy to put down non-oral Questions while so detained.

To make the Parliamentary reference to such release complete, however, it should be said that on such above-mentioned date[2] the Secretary of State for the Home Department (Rt. Hon. H. Morrison) informed the House of his decision to release from detention the hon. and gallant member for Peebles and Southern (Captain Ramsay) and of the reasons for that decision. The Minister said that the essential features of such Regulation, which conferred on the Executive drastic and arbitrary powers of arrest and detention without trial, were, first, that its purpose was to protect the State and not to punish individuals, and, secondly, that the exercise of the powers could be justified only when there was reasonable cause to believe that the safety of the State might be in danger, and, thirdly, that detention should not be continued any longer than was necessary for that purpose. It followed that it was the duty of the Home Secretary to keep under continuing examination the cases of persons whose detention had been ordered in pursuance of that Regulation, and to decide from time to time in the light of the circumstances and of the considerations affecting national security whether it was necessary to continue detention.

The hon. and gallant member had been detained on the ground that there was reasonable cause to believe him to be a person who had been recently concerned in acts prejudicial to the public safety or the defence of the Realm or in the preparation or instigation of such acts and that, by reason thereof, it was necessary to exercise control over him.

The Minister stated that he had not felt that he should be justified in ordering his release, but the success of the arms of the United Nations and the certainty that the forces of evil arrayed against them were doomed to complete overthrow, had created a situation in which he as the Minister responsible for internal security, would be justified in taking risks which would not have been justifiable but for the improvement in their national fortunes.

After weighing all the considerations which were relevant in the case of persons who had not been convicted of any criminal offence, he had come to the conclusion that the time had come when it would be

[1] *See also* JOURNAL, Vols. IX, 64; X, 25; XIII, 44. [2] 403 *Com. Hans.* 5, s. 41.

legitimate to face any risk there might be that the hon. and gallant member might be tempted again to engage in irresponsible and mischievous activities and the Minister was accordingly giving instructions for Captain Ramsay's release as soon as the necessary arrangements could be made. The Minister had considered whether the hon. member could be subjected, as had been done in the case of other persons released from detention, to conditions imposing upon him a measure of supervision. But a member of Parliament must, if he was to perform his functions, be free to attend Parliament,[1] to move about the country, and to engage in all the activities of a member.

The imposition of any restrictive conditions would be incompatible with the exercise of the rights of a member of Parliament, and in this case he had therefore ordered that the release should be unconditional. The Minister, continuing, said that it would be appropriate on this occasion to make some further statement about his intentions with regard to other persons under the Regulations.

He did not propose to release *en bloc* all those who were at present detained on the ground of hostile origin or associations or of having been concerned in acts prejudicial to the safety of the Realm. The time had not come when that could safely be done. But a fresh review of those cases had recently been undertaken, and of the 223 persons detained on July 31 release had been authorized in 70 cases.

As regards persons detained on the ground of membership of the British Union, all had been released now with the exception of 14. The cases of those remaining in detention were undergoing a further review, and, to the extent that he was satisfied that no undue risk would be involved to security or the War effort in releasing the persons whose release had not yet been effected, release would be authorized subject to whatever conditions were deemed necessary.[2]

During the interjections which followed the Minister's statement, he observed that releases involved an element of risk, which it was for him to adjudge. He thought that the risk was one that in present circumstances could be taken. If things worked out wrongly, there were remedies available to him, but he thought it was a risk which in present circumstances could be properly taken.

The conduct of a member of the House was not a question for the Home Secretary. " It is entirely a matter for you, Mr. Speaker," said the Minister.[3]

The Minister said:

> I must be careful about exercising any powers of saying—" You shall not make particular speeches ", and particularly is that so in the case of a member of Parliament. In the view of many, in the case of a member of Parliament, either he is detained or is not detained, and if he is not detained I think it would be wrong for me to impose conditions.[4]

House of Commons (Ballot for Notices of Amendments on going into Committee of Supply).—The following notification was made

[1] *Ib.* 42. [2] *Ib.* 43. [3] *Ib.* 46. [4] *Ib.* 48.

in the House by a Joint Parliamentary Secretary to the Treasury (R. Hon. J. Stewart) on December 8, 1944:[1] "No Notices of Amendments on going into Committee of Supply to be given until the firs Thursday in February."

On Thursday, February 1,[2] such Notices were given, the followin being the form: "I beg to give Notice that, on going into Committe of Supply on the Civil (Army, Air or Navy) Estimates, I shall ca attention to . . . and move a Resolution."

An hon. member attempting to give such Notice for another hon member was ruled out of order by Mr. Speaker, who said: "It is onl on a private member's Motion that that can be done. It cannot b done now."

House of Commons (Interruption of C.W.H. for Ministerial Statement).—On May 2,[3] the House being in *C.W.H.* on the Requisitioned Land and War Works Bill, the Prime Minister moved "That the Chairman do leave the Chair," saying that he did so because he had a brief statement to make. After the Question had been put and agreed to, Motion was moved—"That this House do now adjourn," whereupon the Prime Minister made a statement on "German Forces, Italy and Austria (Unconditional Surrender)," after which the Motion was, by leave, withdrawn, and the House resolved itself into Committee on the Bill.

House of Commons Disqualification Act, 1944.[4]—On February 22,[5] the Prime Minister was asked whether it was proposed to continue in force the House of Commons Disqualification Act, 1944.

Mr. Churchill replied that the Government did not propose to ask Parliament to continue further the House of Commons (Temporary Provisions) Act, 1941, which had played such a useful and convenient part in their affairs. That Act would accordingly expire on March 6, 1945, after which no further certificates could be issued. On the other hand, M.P.s who were at that date holders of Offices under the Crown which would otherwise disqualify them for membership of the Commons would continue to enjoy the protection afforded by the Act until the Emergency Powers (Defence) Act, 1939, expired. They had at the same time considered what would be the position of members who still held certificates under the Act of 1941 in the event of a dissolution taking place before the Emergency Powers (Defence) Act expired. They were advised that such members, if they continued to hold their offices, would for the most part be precluded from seeking re-election under the terms of the Servants of the Crown (Parliamentary Candidature) Order, 1927. In the event therefore of a general election it was proposed to advise His Majesty to amend that Order so as to permit those members to seek re-election.

A Supplementary was then asked as to what would be the effec

[1] 406 *Com. Hans.* 5, s. 908. [2] 407 *Ib.* 1634-5. [3] 410 *Com. Hans.* 5, s. 1506-11
[4] *See also* JOURNAL, Vols. X, 98; XI-XII, 15; XIII, 22. [5] 408 *Com. Hans.* 5 s. 957.

of denying the House the opportunity of again considering whether it would be desirable that M.P.s should serve for long periods overseas. Were they not being denied an opportunity of discussing the desirability of members continuing to wander round the world ?

To which Mr. Churchill said, " Far from it." The Act would disappear. They could dispense with this and much other War-time machinery. As to members being absent for a long time from their duties in the House, he had always been of opinion that that was a matter for the constituents and not for the House.

In reply to a Supplementary by another hon. member, as to whether the Prime Minister appreciated the fact that these certificates were repugnant to the overwhelming majority of the members of the House and ought to be withdrawn, Mr. Churchill said that it would be very unfair to remove this protection to members now and disqualify them from conducting their political business as they thought fit. The object was to facilitate such people coming up to stand for Parliament and that they should not be penalized in any way. The Bill was approved by an overwhelming majority in 1941.

Return.—On March 22, a Return[1] was laid on the Table of the House of Commons (pursuant to 7 & 8 Geo. VI, c. 11, s. 2) and ordered to be printed, showing the Certificates issued under the House of Commons Disqualification (Temporary Provisions) Acts, 1941-44, which were in force at January 1, 1945, or at any time during the previous year.

House of Commons (Fighting Services Personnel and M.P.s).[2]—On December 6, 1944,[3] the First Lord of the Admiralty was asked to state the circumstances under which a serving sailor was entitled to submit his views to his M.P., and whether those included criticisms of service conditions; to which the Rt. Hon. A. V. Alexander replied that, as regards service matters, he referred his hon. friend to the reply given by his rt. hon. friend the Prime Minister on May 20, 1941.[4] On all other matters a serving sailor was entitled to correspond with his M.P. as freely as he wished.

On January 24,[5] a *Q.* was asked the First Lord of the Admiralty if he was aware that a married A.T.S. on foreign service was allowed to return to the United Kingdom if her husband was serving at home and if he would amend the W.R.N.S. regulations to bring them into line with the other Services.

Mr. Alexander replied that he was aware that, in certain circumstances, some married members of the A.T.S. were posted to home establishments when their husbands were repatriated at the end of their term of service abroad. Sympathetic consideration was always given to applications for return to England from married W.R.N.S., serving abroad, where there were strong compassionate reasons, whatever the circumstances of the husband.

[1] H.C. Paper 49 of 1944-45.
[2] *See also* JOURNAL, Vols. IX, 21; X, 30; XIII, 41.
[3] 406 *Com. Hans.* 5, s. 562.
[4] *See* JOURNAL, Vol. X, 30.
[5] 407 *Com. Hans.* 5, s. 809.

The questioner, in a Supplementary, asked, if he gave the First Lord an instance in which there were strong medical reasons for granting the application, would he give consideration to this case? To which the First Lord replied that if there were strong compassionate grounds it would be considered, but, of course, he could not shift every married W.R.N. about, irrespective of the requirements of the Services.

On February 7,[1] the First Lord of the Admiralty was asked if he was aware that under G.H.Q., M.E.F. Order No. 43698 (A.G. 1 [*c*]) of December 7, 1944, serving wives belonging to the A.T.S., W.A.A.F., and Q.A.I.M.N.S. were allowed to accompany their serving husbands, or shortly follow them, when compulsorily repatriated to England; further, whether this Order had been extended to cover W.R.N.S.; and if he would take prompt steps to deal with the case of the Lieut.-Colonel, Royal Signals, and his W.R.N. wife.

The First Lord in reply said that, on the first part of the *Q.*, he referred the hon. member to his reply to the *Q.* by the hon. member for South Portsmouth on January 24 (*see supra*), and in reply to the second part of the *Q.* that the facts brought to his notice did not constitute sufficiently strong compassionate grounds to justify exceptional treatment.

On February 21,[2] a *Q.* was asked the First Lord of the Admiralty if he was aware that Form S. 272, revised July, 1943, and posted in all ships of the R.N., stated that the use of any methods of seeking redress or ventilating a grievance, other than by the usual service channels, was a breach of discipline; and if he would cause this notice to be reworded so that it did not appear to debar officers and ratings from communicating with their M.P.s about service matters which had been taken up through the usual channels without success.

Mr. Alexander said that, as he had informed the hon. member in correspondence, the procedure for securing redress of grievances in the Navy was defined in Article 10 of K.R. and A.I., which was summarized in the form mentioned. He did not consider it desirable to make any specific exception to the rule that complaints should be represented through Service channels, but, as he assured the House on February 7 (*see supra*), in practice no disciplinary action would be taken against officers or ratings for making representations to their M.P.s after having attempted, without success, to ventilate a genuine grievance through the usual channels.

The questioner, in a Supplementary, then asked if it would not be possible to revise the Notice in order to remove the obvious contradiction between the wording of the Notice and the First Lord's assurance; to which Mr. Alexander replied that the same type of instruction applied to all the Forces and before there was any revision there should be some proof that the ventilation of grievances through Service channels was, as a rule, so bad that it was creating a large and widespread grievance in the Services.

[1] 407 *Ib.* 2087. [2] 408 *Ib.* 789.

Another hon. member, in a Supplementary, asked what the First Lord meant by " genuine " complaints. Mr. Alexander said that it was one of a real injustice or lack of welfare provision which they had not been able to redress through Service channels.

On February 27,[1] a Q. was asked whether the Secretary of State for War would inquire into the case of 2 A.T.S. personnel who were reproved by their C.O. for communicating with their M.P.s; and would he make it clear to all C.O.s that military personnel were entitled to communicate to their members.

The Rt. Hon. Sir James Grigg, in reply, said that from inquiries he had made it seemed that nothing was said or done to these auxiliaries other than to explain to them the ordinary channels provided for redress of grievances. He referred the questioner to the very full answer given December 10, 1940,[2] to the hon. member for East Wolverhampton, which, for convenience, he would circulate in *Hansard*. The Minister said that he would like to emphasize the importance of men—and women too—taking up their problems through the channels specifically provided for them in the Army. Much time was wasted and nothing gained by those who did not put their applications, for example, for compassionate leave, to their C.O.s in the first place, and he very much hoped hon. members would help in this matter.

The questioner asked, as a Supplementary, whether the Minister was aware that these 2 A.T.S. personnel had been trying to get overseas for 18 months and had made every kind of application, but that he was informed they had been properly told off for writing to the hon. member.

The Minister said that " properly told off " covered a multitude of rebukes and it did not seem to him a very serious matter. Hitherto there had been no requirement overseas for girls of that particular class, but that was open to reconsideration and perhaps they might get their chance.

(*Here follows the answer referred to.*)[2]

On Motion for the Adjournment on March 29,[3] among other subjects raised was communications to M.P.s by Naval personnel, when the questioner of February 21 (*see supra*) referred to his Q. and the Minister's reply on this subject on that date. The hon. member also said that nevertheless, in all H.M. ships and shore establishments, a notice was put up saying, in effect, that it was a breach of discipline for Naval personnel to communicate with their M.P.s. He suggested that a modest rewording of the notice might solve the real contradiction. He believed and hoped that probably 99 *p.c.* of H.M. ships were " happy ships," but there might be a small propertion which were otherwise, in which there was some quite legitimate small or great grievance that the men could not ventilate properly through the usual channels in order to get redress. The hon. member then quoted an Air Force case about the transfer of an A.C.2.

[1] *Ib.* 1218. [2] *See* JOURNAL, Vol. IX, 21. [3] 409 *Com. Hans.* 5, s. 1617-30.

The Financial Secretary to the Admiralty (Mr. J. P. L. Thomas) reply reiterated what the First Lord had replied to previous *Q.s* this subject and said that Poster S.272 was displayed in all H.M. shi and Naval shore establishments. The paragraph was headed " Com munications to the Press," and read:

> Any other method of seeking redress or ventilating a grievance than th provided for in King's Regulations and Admiralty Instructions is an offenc against naval discipline. In particular it is an offence for any member the Fleet to solicit the influence of persons in positions of authority or to wri to newspapers or other periodicals on such matters.[1]

Mr. Thomas said that the First Lord and himself had decided t amend this paragraph to read as follows:

> Other methods of seeking redress or ventilating a grievance than thos provided for in the King's Regulations or Admiralty Instructions such a writing to newspapers or other periodicals on such matters are forbidden.[2]

There was nothing, continued Mr. Thomas, in the amended Notic that could make a rating feel that when he had put his complaint un-successfully through the usual Service channels he may not write tc his M.P.

During the debate which followed, several hon. members asked fo the word " genuine " to be removed from the amended paragraph, bu Mr. Thomas said he could not do that but would refer the point to the First Lord. The Admiralty provided those Service channels fo complaints from the Captain of the ship right up to the Board o Admiralty itself, and he did not consider it reasonable to suggest to officers and ratings how they might appeal from the Board's ow decisions. Mr. Thomas quoted the First Lord's answer to the *Q.* o February 21 (*see supra*) that a genuine complaint was one of rea injustice. However, Mr. Thomas undertook that the answer of th First Lord, and the poster, as now amended by him, would be brough before the necessary authorities.

House of Commons (Censorship of Parliamentary Criticism).— On December 2, 1942,[3] in answer to a *Q.* about censorin Parliamentary criticism, the Minister of Information (Rt. Hon. B Bracken) said that messages correctly reporting statements made i Parliament, whether or not they contained criticism of members o the Government or of anyone else, were not censored. The instruc tions given defined circumstances in which ordinary censors wer required to refer outgoing messages for the consideration of a highe authority within their Department. Messages based on proceeding in Parliament were specifically covered by this instruction solely i order to preclude misquotation. Such a precaution had been foun quite essential.

In reply to a Supplementary the Minister said he had no intentio of publishing in *Hansard* instructions to censors.

[1] *Ib.* 1621. [2] *Ib.* 1622. [3] 385 *Com. Hans.* 5, s. 1145.

The questioner then gave notice that he would raise the subject on the Adjournment.

Therefore, on the 8th *idem*,[1] the questioner said that it appeared to be the intention of the Minister to interfere with the rights of foreign correspondents in this country to send information to their people abroad on the subject of Parliamentary criticism.[2]

The hon. member asked the rt. hon. gentleman whether he would give a specific assurance that it was not the intention of his Department to prevent foreign correspondents retailing to their people in any part of the democratic and civilized world information which related to factual criticism addressed by M.P.s to the Government. There was a distinction, which applied to foreign correspondents, between factual criticism, however unpalatable it may be to the Government, or to the United Nations, or to the War effort, and comment on criticisms.

The Minister in reply said that there was no question of consoring speeches made in the House. No speech had ever been censored, and unless some member, through some aberration of the intellect for which he was not physically responsible, said something about military operations—in which case the House would be taken into consultation —there would never be a question of censoring faithfully reported speeches by members in the House.[3]

Continuing, the Minister remarked that even remarks made by Mr. Speaker had been grossly misrepresented in the U.S.A. It was quite important that they should make certain that speeches attributed to hon. members had actually been made by them and that was the sole censorship, if one could call it censorship, or action, for which he, the Minister, was responsible.

Over 11,000,000 words went out of the country every week and they had to be dealt with by 360 censors.[4]

House of Commons (Public Petition Select Committee).[5]—On December 1, 1944,[6] a *Sel. Com.* was appointed:

> to whom shall be referred all Petitions presented to the House, with the exception of such as relate to Private Bills, and that such Committee do classify and prepare abstracts of the same in such form and manner as shall appear to them best suited to convey to the House all requisite information respecting their contents, and do report the same from time to time to the House; and that the Reports of the Committee do set forth, in respect of each Petition, the number of signatures which are accompanied by addresses, and which are written on sheets headed in every case by the prayer of the Petition, or on the back of such sheets, provided that on every sheet after the first the prayer may be reproduced in print or by other mechanical process; and that such Committee have power to direct the printing *in extenso* of such Petitions, or of such parts of Petitions, as shall appear to require it.

Fifteen members were appointed to the Committee, which was given power to send for persons, papers and records, 3 to be the quorum.

[1] *Ib.* 1530. [2] *Ib.* 1531. [3] *Ib.* 1533. [4] *Ib.* 1534.
[5] *See also* JOURNAL, Vols. VI, 97; XI-XII, 83 (*and also* H.C. [1943-44] 80); XIII, 385. [6] 406 *Com. Hans.* 5, s. 312.

First and Second Reports.—These Reports were, on March 28[1] and June 14,[2] brought up, read and ordered to lie on the Table and be printed.

House of Commons (Suspension of Private Bills or Bills to confirm any Provisional Order or Certificate).—On June 7,[3] the following Standing Orders of the House were made on the Motion of the Chairman of Ways and Means and ordered to be communicated to the Lords:

Ordered:

That the Promoters of any Private Bill which has originated in this House or been brought from the House of Lords in the present Session of Parliament shall have leave to suspend any further proceeding thereon in order to proceed with the same, if they think fit, in the next Session of Parliament: provided that the promoters of any such Bill shall give notice in the Committee and Private Bill Office, not later than the day before the close of the present Session of their intention so to suspend further proceedings, or, in the case of any Bill which, having passed this House, is then pending in the House of Lords, notice of their intention to proceed with the same Bill in this House in the next Session; provided also that all fees due upon any such Bill up to that date be paid.

Ordered:

That not later than five o'clock on the third day on which the House sits after the next meeting of Parliament, every such Bill which has originated in this House shall be deposited in the Committee and Private Bill Office, with a declaration annexed thereto, signed by the agent, stating that the Bill is the same, in every respect, as the Bill with respect to which proceedings have been so suspended at the last stage of its proceedings in this House in the present Session; and, as soon as conveniently may be in the next Session of Parliament, every such Bill shall be presented by being laid by one of the Clerks in the Committee and Private Bill Office upon the Table of the House.

Ordered:

That every Bill so laid upon the Table shall be deemed to have been read the First time and to have been ordered to be read a Second time; or, if it has been read a Second time previously to its being suspended, it shall be deemed to have been read a Second time, and shall be recorded in the Votes as having been so read, or so read and ordered, as the case may be; and, if such Bill has been reported by any Committee in the present Session, the Committee stage shall be dispensed with and the Bill ordered to lie upon the Table, or to be read the Third time, as the case may be.

Ordered:

That in case any Bill brought from the House of Lords in the present Session upon which the proceedings have been suspended in this House, shall be brought from the House of Lords in the next Session of Parliament, a declaration signed as aforesaid stating that the Bill is the same in every respect as the Bill which was brought from the House of Lords in the present Session, shall be deposited in the Committee and Private Bill Office before the First Reading of such Bill; and such Bill shall be read the First time and be further proceeded with in the same manner as Bills introduced into this House during the present Session, with this modification, that, if any such Bill has been amended in this House in the present Session, such amendments shall be deemed to have been made in Committee and the Bill, as amended, shall be ordered to lie upon the Table or, if the Bill has been ordered to be read the Third time in the present Session, to be read the Third time.

[1] 409 *Ib.* 1393. [2] 411 *Ib.* 1790. [3] 411 *Com. Hans.* 5, s. 1035.

Ordered:

That the Standing Orders by which the proceedings on Bills are regulated shall not apply to any such Bill in regard to any of the stages through which the same has passed during the present Session, and that no further fees be charged in respect of such stages.

Ordered:

That all Petitions presented in the present Session against any Private Bill or against any Bill to confirm any Provisional Order or Certificate which stood referred to the Committee on the Bill shall stand referred to the Committee on the same Bill in the next Session of Parliament; and that all notices and grounds of objection to the right of Petitioners to be heard within the time prescribed by the Rules of the Court of Referees relating to such notices shall be held applicable in the next Session of Parliament.

Ordered:

That no Petitioners shall be heard before the Committee on any such Bill unless their petition has been presented within the time limited in the present Session.

Ordered:

That in case the time limited for presenting petitions against any such Bill has not expired at the close of the present Session, Petitioners may be heard before the Committee on such Bill, provided their petition be presented previous to, or not later than, seven days after the next meeting of Parliament.

Ordered:

That all instructions to Committees on Private Bills in the present Session, which are suspended previously to their being reported by any Committee, be instructions to the Committee on the same Bills in the next Session.

Ordered:

That any Standing Orders complied with in respect of any Private Bill or Bill to confirm any Provisional Order or Certificate, originating in the House of Lords, upon which the proceedings have been suspended in that House, shall be deemed to have been complied with in respect of such Bill; if the same is brought from the House of Lords in the next Session of Parliament, and any notices published and given, and any deposits made in respect of such Bill for the present Session, shall be held to have been published, given, and made, respectively, for the Bill so brought from the House of Lords in the next Session of Parliament.

Ordered:

That all Standing Orders complied with in respect of any Public Bill introduced, or intended to be introduced, during the present Session shall be held applicable to any Bill for the same objects introduced in the next Session, and where the Examiner has already reported upon the compliance with the Standing Orders in respect of any such Bill he shall only report in the next Session whether any further Standing Orders are applicable.

Ordered:

That all Bills to confirm any Provisional Order or Certificate introduced into this House in the present Session shall be suspended from the close of the present Session, in order to be proceeded with in the next Session of Parliament.

Ordered:

That with regard to any such Bills the entry in the Journal recording the presentation thereof in the present Session shall be read and thereupon the Bill shall be deemed to have been read the first and second time and shall be recorded in the Votes as having been so read (if the Bill shall have been read a second time during the present Session); and if such Bill has been reported

by a Committee in the present Session, the Committee Stage shall be dispens with, and the Bill ordered to be considered or to be read the third time, as t case may be.

On June 8,[1] a Message was received by the Lords from the Commo communicating to the Lords the text of the above Standing Orde passed by the Commons yesterday relative to Private and Provision Order Bills.

House of Commons (Private Bills : Court of Referees).—Th Standing Orders relative to Private Business lay down (S.O.s 89-10 1945 ed.) that there shall be a Court of Referees on Private Bills con sisting of the Chairman of Ways and Means, the Deputy Chairma and the Counsel to Mr. Speaker, with not less than 7 other person who shall be M.P.s and appointed by Mr. Speaker for such period a he may think fit; 3 Referees to constitute a Court.

The practice and procedure of the Court are prescribed by Rule framed by the Chairman of Ways and Means subject to alteration b him as occasion may require (S.O. 90), but not more than one Couns may appear before the Court in support of a Private Bill.

All such rules and alterations, when made, must be laid on th Table of the House. There is no appeal against the decision of th Court.

The remaining Standing Orders deal with the power of the Cou to decide as to *locus standi* of petitioners against a Private Bill o ground of competition; or against the Bill as to the *locus standi* o members of companies, societies or associations; of railway companie in certain cases; of societies or associations representing any trade business or interest in the district to which any Bill relates; of loca authorities or inhabitants; of certain local authorities against lightin and water Bills; of County Councils against water or tramway Bills of river conservancies and owners, etc., of land; of land drainag authorities; of conservators of forests, commons or open spaces; an of owners, etc., in the case of tramway Bills.

Below are given Rules for the Practice and Procedure of the Cou of Referees on Private Bills framed in pursuance of the above-men tioned S.O. 90 presented to the House of Commons March 20, 194 and ordered to be printed:[2]

1. The promoters of any Private Bill, who intend to object to th right of any petitioner to be heard against the same, shall give notic of objection in writing, stating the grounds of their objection, to th Clerk of the Court of Referees and to the Agents for the Petitione not later than the eighth day after the day on which the Petition ha been deposited in the Committee and Private Bill Office; but it sha be competent to the Court to allow such notices to be given, unde special circumstances, although the time above limited may hav expired.

2. When the time for the deposit of Notices of Objections to th

[1] 136 *Lords Hans.* 5, s. 515. [2] H.C. 59 of 1944-45.

locus standi of Petitioners against Private Bills expires during the adjournment of the House, the time for the deposit shall be extended to the first day on which the House meets after the Recess.

3. Notice of objection must be given to the Clerk of the Court of Referees by depositing 12 copies of the notice at the Office of the Court, and must be given to the Agents for the Petitioner by serving a copy of the notice upon them. Every notice of objection *shall be indorsed with the names of the Petitioner's Agents.*

4. *Twelve* copies of all Petitions against Private Bills, to which notices of objection have been given, shall be deposited at the Office of the Court *by the Agents for the Petitioner, and* 12 *copies of the Bill by the Agents for the Promoters* on the day after the notice of objection has been given by the Promoters.

5. A notice of objection may be withdrawn at any time by depositing notice in writing of withdrawal at the Office of the Court and serving a copy thereof upon the Agents for the Petitioner *on the same day.*

6. The cases shall be heard in such order as the Chairman of Ways and Means shall appoint, and according to a list prepared under his direction, and kept in the Office of the Court.

7. Not less than one clear day's notice shall be given by the Clerk to the Court of Referees to the Clerks in the Committee and Private Bill Office of the day appointed for the hearing of any case by the Court.

8. *When a case is called on for consideration*, the Agents for any Petitioner whose right to be heard before Committee is objected to shall be required to produce a certificate of appearance from the Committee and Private Bill Office, in which shall be stated the names of the Petitioner, his Counsel and Agents.

9. At the hearing *the Agents of the Promoters who have given notice of objection shall provide a sufficient number of copies of the Bill and of each notice of objection, and the Agents for any Petitioner whose right to be heard is objected to shall provide a sufficient number of copies of the Petition for the use of each member of the Court.*

10. Notices required to be deposited at the Office of the Court shall be delivered in the said Office between eleven and five of the clock on any day on which the House sits, and between eleven and one of the clock on any day on which the House does not sit.

11. Notices will be deemed to have been duly served upon Agents if left at their Office before six of the clock in the evening of any week-day except Saturday, and before one of the clock on Saturday.

House of Commons (Parliamentary Elections: Universities—Secret Ballot).—On March 1,[1] a *Q.* was asked the Secretary of State for Home Affairs and Home Security (Rt. Hon. H. Morrison) whether he had considered a communication from the Senate of the University of London transmitting and supporting a resolution of the Convocation of the University that Parliamentary elections for Uni-

[1] 408 *Com. Hans.* 5, s. 1352; *see also* Vols. XI-XII, 135; XIII, 127, 133.

versity seats should be conducted by secret ballot, and whether ▮ would take steps to give effect to that resolution. The Minist- replied that he had not received the communication referred to, b▪ he had already under consideration whether in the next Bill on elector matters there should be an amendment of the existing provisio▪ relating to the machinery of University elections for the purpose ▪ securing the object his hon. friend had in view.

House of Commons (Working of Members' Pensions Fund, 19▪ and 1945).[1]—The Article on this subject in the last issue of the JOURN▪ dealt principally with the Government Actuary's Report. The la- annual report by the Comptroller and Auditor-General on the Fu▪ reviewed in the JOURNAL was for the year ended September 30, 1943.

On February 2, 1945, the annual report of the Comptroller a▪ Auditor-General[2] for the year ended September 30, 1944, was, pu- suant to 2 & 3 Geo. VI, c. 49, s. 3 (6), presented to the House ▪ Commons and ordered to be printed.

In regard to the report of the Government Actuary above men tioned, the Comptroller and Auditor-General remarked that, aft▪ consideration of it, the Trustees decided that they were unable ▪ recommend that any change be made in the benefits prescribed by th Act until such time as the Fund reached the accumulative total ▪ £50,000.

On February 5, 1946, the Comptroller and Auditor-General's annu report[3] for the year ended September 30, 1945, was presented to th House, in which he made the following observations on the awar▪ following the Dissolution of Parliament:

> At the date of the Dissolution of Parliament, June 15, 1945, there we chargeable to the Fund 3 pensions to ex-members and 9 to widows of membe As the result of claims received following the Dissolution the Trustees award▪ to ex-members 8 pensions with effect from June 16, 1945, and one no recurrent grant.
>
> In addition a pension was awarded to a widow as from June 29, 1945, wh 2 pensions to ex-members ceased in October and December, 1945, respe tively, leaving 9 awards to ex-members and 10 to widows in issue at January 1946.

The outcome of the account for the 2 years above mentioned given below, together with the corresponding figures for the previo years. The accounts of the Fund for the 2 years in question ha been audited and reported upon by him to Parliament in regard t I. Income and Expenditure Account; II. Investments Account; a III. The Balance Sheets for the 2 years ended September 30, 19 and 1945 respectively. The income still continues to exceed t expenditure by the amounts set out in column 2, which amounts ha been carried to Capital Account, bringing the total of that Accou to the sum shown in column 3; the sum invested is shown in colu

[1] *See also* JOURNAL, Vols. V, 28; VI, 139; VII, 138; VIII, 103; XI-XII, 1 XIII, 175. [2] H.C. (1943-44), 31. [3] H.C. (1944-45), 67.

4, and the corresponding figures are also given below in respect of the previous years since the inauguration of the Fund:

1. Year.	2. Excess of Income over Expenditure. £	3. Capital Account.[1] £	4. Sum Invested. £
1939-40	6,972 10 4	6,972 10 4	4,700 0 0
1940-41	6,917 12 8	13,890 3 0	11,698 10 6
1941-42	7,598 2 0	21,488 5 0	29,561 18 2
1942-43	6,880 3 6	28,368 8 6	25,790 2 1
1943-44	7,160 7 2	35,528 15 8	32,990 2 1
1944-45	6,196 6 11	41,725 2 7	38,045 11 2

On August 23,[2] it was reported that Mr. Clement Davies, Sir Charles Edwards, Sir Ralph Glyn, Colonel Sir Charles MacAndrew, Mr. Montagu and Sir Henry Morris-Jones had been appointed Managing Trustees of the House of Commons Members' Fund in pursuance of s. 2 of the House of Commons Members' Fund Act, 1939.[3]

House of Commons (M.P.s' Salaries during Election Periods).— On April 18,[4] the Prime Minister was asked whether he would consider the continuance of the payment of salaries to M.P.s seeking re-election from Dissolution until the votes had been counted, in view of the present heavy burden of correspondence, etc.

The Rt. Hon. Winston Churchill considered there would be strong objection in principle to the continued payment of their Parliamentary salaries to former members of a Parliament which had been dissolved. In reply to a Supplementary as to whether he would not review the situation in view of the heavy financial burdens involved, Mr. Churchill said he could give no such undertaking.

Another hon. member asked, in view of members of the Government, though no longer M.P.s, continuing to draw their salaries, why distinction should be made.

Mr. Churchill replied that Ministers were paid for the services they discharged and as long as they discharged those services under the Crown they received their payment. M.P.s were paid under an entirely different basis, depending upon a Resolution and the practice of the House. It had nothing to do with Ministerial payment. Ministers were not concerned with Parliamentary payment, because they did not receive Parliamentary payment unless they chose, as some of them had done, to decline to accept the remuneration offered by the Crown.

The hon. member, in a Supplementary, asked whether the Junior Lords of the Treasury, who only functioned when the House was sitting, did not also come under the rule.

The Prime Minister:

> No, Sir. Their services may be claimed at any moment by the Chancellor of the Exchequer for any purpose. All the Lords of the Treasury were at his service, excluding the First Lord, who occupied a somewhat different priority.

[1] Total amount available.—[ED.]
[2] 413 *Com. Hans.* 5, s. 953.
[3] 2 & 3 Geo. VI, c. 49.
[4] 410 *Com. Hans.* 5, s. 204.

House of Commons (Members' Salaries and Income Tax).[1]—On April 26,[2] the Chancellor of the Exchequer was asked whether when the expenses which an M.P. was entitled to deduct from his Parliamentary salary exceeded its amount, the regulations provided for the deduction of such deficiency from the member's other sources of income.

The Rt. Hon. Sir J. Anderson replied: " No, sir. The deduction under the Income Tax Acts in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of an office is allowable only from the assessment upon the emoluments of that office and is not allowable against income from any other source."

House of Commons (Salaries of M.P.s).[3]—On February 6,[4] a *Q.* was asked the Prime Minister whether he would move to set up a *Sel. Com.* to consider and report on the present arrangements in regard to the payment and expenses of members, any recommendations subsequently approved by the House to become operative only after the next General Election.

The same hon. member raised the subject by *Q.* again on March 20,[5] and on May 18,[6] of the increasing burden of expenses on M.P.s, but the Government was not prepared to undertake this matter in the dying months of this (XXXVIIth) Parliament.

House of Commons (Postal Frankage for M.P.s).—On March 10,[7] the Financial Secretary to the Treasury (Rt. Hon. O. Peake) was asked if, in view of the increased burden of correspondence now falling on hon. members and the fact that all letters written by them within the Palace of Westminster were answered officially and written for a public purpose, he would authorize the franking of all such letters; to which Mr. Peake replied in the negative, stating that the question of affording free postal facilities to M.P.s was considered in 1940 and referred the questioner to the answer given by the Chancellor of the Exchequer on November 19, 1940.[8] The whole question of members' expenses was one of the main factors taken into account when the salary was increased in 1937. Mr. Peake also reminded his hon. and gallant friend that a very generous allowance was given for expenses by the Board of Inland Revenue.[9]

On March 27,[10] the Financial Secretary to the Treasury was asked which M.P.s were now afforded facilities for franking mail to their constituents.

Mr. Peake: " None, sir."

In a Supplementary, the questioner then asked if, within fairly recent times, it was accorded to the Whips; to which Mr. Peake replied that the position of Ministers was somewhat different.

Another hon. member asked in a Supplementary if they were to

[1] *See also* JOURNAL, Vols. VI, 25; XIII, 42. [2] 410 *Com. Hans.* 5, s. 1007. [3] *See also* JOURNAL, Vols. VI, 24; VIII, 28; XIII, 42. [4] 407 *Com. Hans.* 5, s. 1928. [5] 409 *Ib.* 629. [6] 410 *Ib.* 2849-65. [7] 409 *Com. Hans.* 5, s. 619. [8] 365 *Ib.* 1829. [9] *See also* JOURNAL, Vols. VI, 25; XIII, 42. [10] 409 *Com. Hans.* 5, s. 1317, 1318.

understand that, so far as personal postage was concerned—*i.e.*, personal matters—Ministers had their letters franked.

Mr. Peake replied that such was not the case, but that he understood that some Ministers, as a matter of practical convenience, had their constituency correspondence dealt with through their offices, in which case their letters were franked.

Several hon. members, by Supplementary, brought up the question of M.P.s having the same privilege; to which Mr. Peake said that no Minister had his personal correspondence franked at Government expense. Ministers got no allowance for expenses of any sort against the income tax on their salaries, and also by taking office Ministers precluded themselves from other methods of supplementing their income, whether by trade, journalism or any other profession.

An hon. member then asked Mr. Speaker if he would, as custodian of the rights of hon. members, take into account the extraordinary position which had now been revealed; to which he said that it was not a question for him but for the Government.

Another hon. member remarked that this was a matter for the House of Commons and that for many years M.P.s had their correspondence franked, but unfortunately it was abused.

The original questioner then said he would raise this matter on the Adjournment.

On April 11,[1] the Postmaster-General was asked if he would state in detail which classes of correspondence to and from M.P.s did not require stamping and for which they should pay.

Captain the Rt. Hon. H. F. C. Crookshank replied that letters from Ministers and their Departments on the official business of those Departments and letters to Ministers and Departments enclosed in envelopes bearing the "Official Paid" medallion did not require stamps. All other letters should be prepaid.

On May 18,[2] the matter was raised by the original questioner on March 27, on the Motion for the Adjournment, and discussed at some length. He did not think that the public realized the position of M.P.s in regard to expenses. They knew of the £600 salary but they did not realize this heavy burden of necessary expenses. In 1920 there was a *Sel. Com.* on the expenses of M.P.s[3] which considered 3 suggestions by which mail might be franked. One was that a franked envelope be enclosed by a Government Department in reply to communications from M.P.s concerning a constituency matter, for use by the M.P. in replying to his constituent; the second was a weekly supply of franked envelopes to each M.P.; and the third was that the Commons Postmaster be empowered to frank a certain number of members' letters per week.

The Committee added that there were objections to each proposal but recommended that facilities should be provided for the free postage of members' letters—say up to 50 per week—and that the franking of

[1] 409 *Com. Hans.* 5, s. 1838. [2] 410 *Ib.* 2849. [3] H.C. (1920), 255.

letters by the Commons Postmaster would involve no extra labour. The hon. member did not expect that all their letters should be franked. They would not, of course, expect franking facilities for use in their homes.

It was suggested that a *Sel. Com.* be set up to inquire into the remuneration of members and their expenses.[2]

The debate ranged also over other subjects, such as the payment of members, rail privileges, etc.

The Financial Secretary to the Treasury, in reply, said that the Cabinet had reaffirmed two clearly defined principles. First, that the personal correspondence of Ministers should be franked at public expense, with similar considerations to long-distance calls and telegrams. The second that correspondence on matters affecting the discharge of a Minister's responsibilities as a Minister or letters written by him as a member of H.M. Government concerning the conduct of public business should be franked. In regard to franking facilities for the private member he could not see unanimity, but what most members had in mind was that M.P.s should be given an adequate salary or expenses allowances to enable them to discharge their responsibilities.

Up to 1840 (during the eighteenth and nineteenth centuries) members enjoyed free frankage, but it had been grossly abused and abolished on the introduction of 1d. postage. Nothing then happened until the *Sel. Com.* of 1920. The Government of that day considered the Report of that Committee, and on May 11, 1921, the Government announced that they had rejected that recommendation of the Committee. There was also a Debate on June 1 of that year, and the Leader of the House (Rt. Hon. Sir Austen Chamberlain) said that it was obviously capable of great abuse, an abuse of which a member might become an unwilling victim. It occurred to Mr. Peake also that without severe safeguards and machinery for enforcing them abuse might creep in. In fact, a sitting member might carry on a continuous election campaign from the Palace of Westminster very much to the disadvantage of the opposing candidates to whom similar facilities were not available. The proper way in this matter was to give M.P.s a fair and adequate remuneration and to allow the individual member to spend it as he saw fit to the best advantage. He was sure that free frankage would have to be subjected to severe restrictions and elaborate safeguards and checks of all kinds which would prove burdensome to hon. members.[3]

House of Commons (Publications and Debates Reports).[4]—On December 13, 1944,[5] the following Motion was made and Question proposed:

> 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

[1] 410 *Com. Hans.* 5, s. 2851. [2] *Ib.* 1257, 1258. [3] *Ib.* 2860-5.
[4] *See also* JOURNAL, Vols. I, 45; II, 18; VI, 157; VII, 36; IX, 89; X, 23; XI-XII, 30; XIII, 153. [5] 406 *Com. Hans.* 5, s. 1282.

distribution of the Notice Papers issued in connection with the Business of the House; and to inquire into the expenditure on stationery and printing for the House and the public services generally.

An amendment was immediately moved by the hon. member for Ormskirk (Commander Stephen King-Hall)—namely, in line 2 to leave out from " to " to the first " in " in line 3, and to insert:

control the arrangements for the reporting and publishing of Debates and to advise Mr. Speaker on any question concerning the accuracy of the Report, to assist Mr. Speaker[1]

The hon. member said that the amendment would leave in the hands of Mr. Speaker all questions concerning the actual, textual accuracy of the reports of their proceedings. On the other hand, the amendment proposed to place fairly and squarely on the shoulders of the *Sel. Com.* all matters relating to the actual publishing of their reports. Members may say, continued the hon. member, that they had got along very well with the present terms of reference since 1911, but a good many things had changed since Parliament had decided to have its own " Official Report " (*Hansard*). Another change had been the rising circulation of *Hansard* from a few hundred to 8,000 copies.[2] The hon. member referred to the Hansard Society (*see Article IX hereof*). He respectfully submitted that Mr. Speaker should not be placed in a position in which he was obliged, by the terms of reference as they now stood, to take part in controversies. The hon. member was suggesting that matters relating to publishing and other things of a like nature should be dealt with by a *Sel. Com.* responsible to the House.[3]

After support by the seconder, the next speaker was of opinion that the Committee should have the right of allocating copies of *Hansard* to hon. members as the House thought fit.[4]

Other prominent points in the debate were: that if the amendment was accepted the hands of the *Sel. Com.* would be considerably strengthened;[5] that in the old days *Hansard* was only of interest to active politicians, but since the War forces had been at work which altered that view; that a situation could be foreseen in which Mr. Speaker might find himself in direct conflict with this *Sel. Com.*, and it would be a bad thing if the House divided not really on the merits of the case but on whether they should give a vote of confidence to Mr. Speaker on a decision he had made; that a small Committee be set up to examine the whole relationship of Parliament to these publications and to public access to them, including the free supply of *Hansard* to public libraries throughout the country.[6]

The Financial Secretary to the Treasury (Rt. Hon. O. Peake) (under which Department that of H.M. Stationery Office is administered) opened his remarks by saying that his contribution to the debate was not given on behalf of the Government. This was a Sessional Committee appointed by the House of Commons. Its terms of reference

[1] *Ib.* [2] *Ib.* 1283. [3] *Ib.* 1285, 1286. [4] *Ib.* 1290. [5] *Ib.* 1291. [6] *Ib.* 1293.

were settled by the House, and it was a purely House of Commons matter. The Motion to reappoint the Committee was put on the *O.P.* for convenience by a Government Whip. Mr. Peake stated that he was speaking as one of the Ministers answerable in the House for H.M.S.O.[1] The decision to abandon the issue of free bound volumes of *Hansard* was taken in 1940, not on the initiative of the Treasury, but of the *Sel. Com.*, and that at all times the Treasury had been only too pleased to fall in with the wishes of the House in the matter.[2] Up to 1909 contracts were let out to private contractors to do the work, but from 1909 until to-day a scheme had been in operation which had worked well and given satisfaction. There were 3 parties to this arrangement. First of all Mr. Speaker, who was in complete control of the reporting and the reporting staff. Then there was H.M.S.O., for which the Chancellor and himself were answerable in the House[2] and were concerned with the printing and publication. In the third place there was the *Sel. Com.*, whose duties included that of assisting Mr. Speaker in these arrangements.

Let them look at the terms of reference of the Committee as originally settled in 1910 and as they remained for 33 years, which were:

> to assist Mr. Speaker in the arrangements for the official report of debates; and to inquire into the expenditure on stationery and printing for this House and the public services generally.[3]

Originally the latter part of the terms of reference took precedence; but a change took place in 1910, when the duty of assisting Mr. Speaker was given priority of order. Mr. Peake drew the attention of the House to the very great importance of the second part of the terms of reference:

> to inquire into the expenditure on stationery and printing for this House and the public services generally.

That meant that, in relation to the Stationery Office, the Committee did the work, rolled into one, of the Public Accounts Committee and the *Sel. Com.* on National Expenditure.

Last year,[4] at the request of the *Sel. Com.*, the terms of reference were altered to read as now on the *O.P.*, the words " and publishing " being introduced for the first time. Then the following new words were added:

> and in regard to the form and distribution of the Notice Papers issued in connection with the Business of the House.

The important change made last year was that the Committee extended their powers of assisting Mr. Speaker, in addition to the arrangements for reporting, to the arrangements for publishing *Hansard*.[5]

The effect of the amendment now proposed by its mover would be to give to the *Sel. Com.* the sole executive power in the whole

[1] *Ib.* 1296. [2] *Ib.* 1297. [3] *Ib.* 1299. [4] *See* JOURNAL, Vol. XIII, 153
[5] 406 *Com. Hans.* 5, s. 1299, 1300.

field of reporting and publishing *Hansard*. They would control the arrangements and in fact become the board of directors of a reporting and publishing agency. Moreover, they would not be obliged to report to the House and the House could only control the Committee subsequently by means of passing instructions. Mr. Speaker would, of course, be deprived of the authority which he had previously exercised over the reporting staff. The appointment, for example, of a new editor, new sub-editor or new reporter would become a question not for Mr. Speaker but for the *Sel. Com.*[1]

The only function left to Mr. Speaker under the terms of the amendment would be to receive advice from the Committee on any question concerning the accuracy of *Hansard*. What Mr. Speaker would do on receiving that advice from the Committee as to the accuracy of *Hansard* he did not know. Clearly the great advantage of Mr. Speaker himself being concerned with the accuracy of the report was that he, or his Deputy, was constantly in the Chair, but if the *Sel. Com.* were to be the body previously concerned with the accuracy of *Hansard* Mr. Peake thought they would find themselves in a very peculiar position. It seemed to him, therefore, that Mr. Speaker would be placed in an impossible position. He would not be responsible for the accuracy of the report and would have no power to give any direction to the reporters or the staff; he was to receive advice from the *Sel. Com.* on the question whether *Hansard* was accurate or not. Mr. Peake did not think that that was a proposition which would appeal very much to the House. The House should be very chary of giving executive powers to a *Sel. Com.*[2] The ordinary functions of a *Sel. Com.* were to make inquiries, to probe into matters, to sift matters, and thereon to report to the House. The only *Sel. Com.* they had with executive powers was the Kitchen Committee, and there had been considerable criticism[3] of that Committee as the only Committee exercising executive powers.

It was true that, at the present time, the *Sel. Com.* called the Controller of H.M.S.O. before them and examined, questioned and suggested to him. It would be quite a different thing for him to be a servant of a *Sel. Com.* of the House. No man could serve two masters. The advice of this Committee to Mr. Speaker on many issues in the past had been extremely valuable. He hoped the House would ponder long before it placed this Committee in a position of arbitrary power with executive duties, quite independent of any controlling authority.[4]

The mover of the amendment then said that after hearing his rt. hon. friend, and as the subject had received a preliminary ventilation, which it required, and particularly after what his rt. hon. friend had said about the second part of the terms of reference, which he quite agreed had never been used, he asked leave to withdraw his

[1] *Ib.* 1301. [2] *Ib.* 1302. [3] *See* JOURNAL, Vol. XIII, 45.
[4] 406 *Com. Hans.* 5, s. 1303, 1304.

amendment, which was granted, and the main Question was put and agreed to.

When Mr. Deputy Speaker began to put the question as to the names of those to be nominated for the Committee, an hon. member rose on a point of order to ask for guidance as to how he could make an observation. He did not want to object to each name, but wished to make an observation on the general composition of the Committee. He might have to do it by objecting to one name, which he would prefer to avoid.[1]

To this Mr. Deputy Speaker replied that it would be best if the hon. member dealt with his point on one name only, so that it would seem less invidious. Mr. Deputy Speaker suggested that he should read out one name on the list and that the hon. member should then make his observation:

That Sir Reginald Clarry——

The hon. member then indicated that they should have on this Committee somebody more representative of House of Commons activity. Three of them were connected with the printing trade, and the matter went deeper than the printing trades, and all came from the London district. Some provincial members had something to do with the House of Commons occasionally. He would ask that someone whose standpoint was a little wider than the syndicalist mind might be helpful.

Another hon. member, in support, observed that on the occasions on which the work of this Committee had been brought to the attention of the House it had been found that the decisions taken by the Committee had not always been those which the House would have wished it to take. One of these, although a minor one, had been the stamping of the Crest of the House of Commons on the notepaper of the House.

To this Mr. Deputy Speaker said that he had allowed a very wide debate. They were discussing one name.

Question—That Sir Reginald Clarry be a member of the Committee put and agreed to.

Ten other members were then also nominated, and the Committee was given power to send for persons, papers and records; power to report from time to time, 3 to form the quorum.

House of Commons (Hansard Volumes).[2]—On February 22,[3] Mr. Speaker informed the House that the daily delivery of the Votes to members residing within a radius of 3 miles of the House had been resumed as from February 27. In regard to free issues of *Hansard* volumes, the *Sel. Com.* on Publications and Debates Reports had advised that such was not possible at present. Several hon. members, however, urged Mr. Speaker to give the question of the free

[1] *Ib.* 1304. [2] *See also* JOURNAL, Vols. VIII, 27; X, 23; XI-XII, 30; XIII, 154.
[3] 408 *Com. Hans.* 5, s. 967.

issue of *Hansard* volumes further consideration; to which Mr. Speaker said that he should like to see such Committee's Report before receiving a deputation of members.

On March 23,[1] Mr. Speaker announced that he had decided that a free issue of the bound volumes of *Hansard* be obtainable by hon. members on application, but that he regretted the concession could not be made retrospective beyond the beginning of the present Session. Whereupon the Financial Secretary to the Treasury (Mr. Peake) remarked how happy the Treasury Ministers would be to see that the wishes of the House on this matter, " as expressed through you, Mr. Speaker, are carried out."

House of Commons (Parliamentary Catering).[2]—On November 30, 1944,[3] it was moved:

> That a Select Committee be appointed to control the arrangements for the Kitchen and Refreshment Rooms in the department of the Serjeant-at-Arms attending this House.

Mr. T. E. N. Driberg (Maldon) raised, as a point of order, that before the House agreed to the appointment of this Committee no permanent appointment be made to the future vacancy in the office of Supervisor of the Refreshment Department of the House, pending further demobilization of the Forces.

Mr. Bowles (Warwickshire: Nuneaton) opposed the reappointment of the Committee before the House had had an opportunity of discussing the facilities and services provided by the Committee.

Mr. A. Bevan (Ebbw Vale) supported that view, as he did not see why the House should submit itself to the prolonged masochism of the Kitchen Committee, and opposed the reappointment of the Committee on grounds of general incompetence. The meals were bad, expensive and dull. One could go to any " British Restaurant " and get better food more cheaply, and he saw no reason why they should bear this any longer.

[*It being six o'clock, the Debate stood adjourned.*]

On December 5,[4] the Adjourned Debate on the *Q.* [November 30] was further adjourned till to-morrow, and on December 6[5] the Adjourned Debate [November 30] was further adjourned till the morrow.

On March 16,[6] power was given the *Sel. Com.* to appoint a sub-committee to confer with a sub-committee of the *Sel. Com.* of the House of Lords appointed to consider the House of Lords offices, such sub-committee to have power to send for persons, papers and records, the quorum of the Commons sub-committee to be two.

To be communicated to the Lords.

On December 12, 1944,[7] the Debate adjourned from November 30 was resumed, and without going too fully into the detail of the 21-column

[1] 409 *Ib.* 1153. [2] *See also* JOURNAL, Vols. I, 11; II, 19; III, 36; IV, 40; V, 31; VII, 41; VIII, 29; XIII, 45. [3] 406 *Com. Hans.* 5, s. 186. [4] *Ib.* 485. [5] *Ib.* 683. [6] 409 *Ib.* 586. [7] *Ib.* 1176.

debate, the following were some of the points raised: that the members of the Kitchen Committee took too limited a view of their functions;[1] there had been no recognition of the fact that during the last 20 to 40 years there had occurred an infiltration of comparatively poor people into the House; that if an M.P. wanted to have more than 2 guests in the dining-room he had to have another M.P. with him;[2] that the relationship of the kitchen to the dining-room, the hours they had to sit, the uncertainty of the numbers there and sittings, made it impossible to conform their arrangements with the balance sheet;[3] they wanted to be able, when people came from other Parliaments in the world, to entertain them and make them familiar with their point of view, in seemly surroundings and at a decent table;[4] what had always been the real difficulty about providing amenities through the Kitchen Committee, or any other body in the House, was the extraordinary system of control of this building (*Palace of Westminster*).

There were 5 separate authorities—the line of demarcation of whose duties had never been constitutionally defined—responsible for this House. In the first place, observed one hon. member, there was Mr. Speaker, " and it was not an act of effusion on my part to say that your control has always taken the form of accepting any suggestions to you by any body of members and there had never been any difficulty in presenting them." Secondly, there was the Ministry of Works; next the Metropolitan Police; fourthly and fifthly came the 2 bodies who effected the Motion now before them—the Lord Great Chamberlain and the Serjeant-at-Arms. The former was an immovable and hereditary official responsible to nobody, in some respects not even to the Crown, and the latter was not appointed on the recommendation of the House but directly on a recommendation of the Crown;[5] that the Kitchen Committee was to be commended for the efforts they had made in face of these difficulties to provide the best amenities possible;[6] that the Kitchen Committee had not the use of all the rooms they had before the War; two of the buffets had had to be closed, one as a result of enemy action and the other for other purposes, which latter also applied to the strangers' smoking-room, now used by the servants of the House;[7] complaints books were provided for M.P.s;[8] M.P.s contributed 1*d*. a meal taken in the dining-room, by which £3,290 had accumulated for the servants' pension fund, and an M.P. who died 30 years ago had left £1,000 for the benefit of servants of the House.

Another hon. member remarked that there was an alternative—namely, to do as they did in " another place " and not appoint a Kitchen Committee at all, but hand the whole thing over to a private contractor who, it was assumed, made a profit or he would not carry on; the private contractor would say, " Here is an enterprise on which I am on velvet—no rents to pay, no rates to pay, no house charge."[9] " Not only have I a highly distinguished and important duty, but I can run

[1] *Ib.* 1177. [2] *Ib.* 1178. [3] *Ib.* 1179. [4] *Ib.* 1180. [5] *Ib.* 1181.
[6] *Ib.* 1182. [7] *Ib.* 1183. [8] *Ib.* 1184. [9] *Ib.* 1186.

this thing at a profit. I can give better food, cheaper than it can be got at any place in London, but, of course, there is one snag—the irregularity of hours and the irregularity of days and months." "But I think he would say 'I can get over that'."[1]

They had all heard the famous phrase, continued the hon. member—"The House of Commons is the finest club in Europe." Now one of the best points in a club was that there was no tipping, "but they had to do it in this place." They did not mind because they knew that their servants were not properly paid: but they would like to stop tipping. The House, led by the Kitchen Committee, should set an example. The fact was that catering staffs liked tips, and nothing in the world was going to stop it. Why should they not have a guaranteed wage all the year round, and, if they liked to take other jobs during Recess at higher wages, then some arrangements could be made. Year after year they talked about these problems and nothing happened. "Even then", said the hon. member, "I think my private contractor, having, as I say, this velvety job, could deal with that problem."[2] [*The hon. member in his speech referred to the prosecution he laid against the Kitchen Committee in* 1934 *in connection with the sale within the precincts of Parliament of liquor without a licence.*[3]]

The Chairman of the *Sel. Com.* (Mr. Bracewell-Smith) said that food and speeches went well together. "You make a bad speech and you have bad food and you do not know which to blame." He was glad that the hon. member for Ebbw Vale seemed to have changed his attitude since November 30, when he spoke of the *Sel. Com.* being incompetent and lacking in gastronomic imagination, and that the meals—not some meals but all meals—were dull, expensive and bad. Hon. members would remember with some satisfaction the delightful functions that used to be given before the War in the rooms on the Terrace. They would remember entertaining their constituents to strawberry teas. Anyhow, then the facilities were there and food was unrestricted. However, War broke out and the routine of the House was somewhat altered in consequence. They had the blitz of 1940-41, when a great deal of space had to be taken from the kitchen department and their sphere of service was somewhat restricted. This department applied for its food to the local food office. They had to apply in accordance with the number of meals they served and the food was granted in accordance with the amount anyone else got. They could not get an increased allowance of food except from the food office, and therefore they were entirely in the hands of the Minister.

The hon. member then returned to the period of 1940-41—to the days of May 10, when they had to transfer their equipment and staff to "another place". Some members of the staff were without homes and had to travel to the House and get away at night, as everyone else did, and the conditions of service were very difficult indeed. They

[1] 406 *Ib.* 1186, 1187. [2] *Ib.* 1888, 1889. [3] *See* JOURNAL, Vol. III, 32.

must remember that they were limited in space. They had no rooms on the Terrace now. Their space was limited on account of the blitz, and so on.

In regard to the appointment of a new catering manager, he could assure the House that they would not exclude those serving with the Forces, who were not able to apply at the present time. Members, however, must come first and guests second under War-time conditions.

To give some instances of the War-time difficulties. There was one occasion when members were called together by wireless at 10 o'clock. At 6 o'clock a meal was ready for them. When they were without gas or water all the food had to be cooked elsewhere, but their loyal staff "kept the home fires burning". There was another occasion when the whole establishment, staff and equipment, had to be transferred to another place within an hour. That was done and a meal was on the table within an hour. Those were a few of the things the Committee could enumerate. He hoped the Committee would be reappointed and that the House would allow the chairman to be appointed by the Committee, and also that the Committee would be able to come to their decisions without interference from any member of the House.[1]

An hon. member observed that the problem was one of space, and he suggested that for the next 12 months at least they could have the floor area of the bombed Chamber. Why, therefore, should not a temporary structure be erected there where guests could sit down in a sort of tea-room on the floor of the old House of Commons? He was sure that all sorts of people would be willing to provide the personnel.[2]

The *Q.* was then put and agreed to, after which the necessary Orders were made as to the personnel of the 17 M.P.s, the powers of the *Sel. Com.*, its quorum, etc.[2]

On January 23,[3] a *Q.* was asked as to a table in the members' dining-room being regularly reserved for a Minister; to which the chairman of the Kitchen Committee replied that it had never been the practice for tables to be reserved.

Reports.—On April 18,[4] a Special Report[5] from the *Sel. Com.* was brought up, read and ordered to lie on the Table and be printed.[6]

On April 4, 1946, a Special Report[7] from this Committee appointed after the Dissolution was brought up, read and ordered to lie on the Table and be printed. This Report covered the year ended December 31, 1945.

The Report states that the receipts and number of meals show an increase over 1944, although the actual number of days on which the House sat was slightly less than in that year.

[1] *Ib.* 1192-6. [2] *Ib.* 1197. [3] 407 *Ib.* 671. [4] 410 *Ib.* 222.
[5] H.C. 68 of 1944-45. [6] The statistical and other information in regard to this Report was, however, given in Vol. XIII, 45-9. [7] H.C. (1945-46), 115.

Carrying on from the statistics given in Vol. XIII in respect of 1940-44, those for 1945 were:

	1945 £	s.	d.
Income	47,145	17	5
Expenditure	47,688	14	8
+ or −	−542	17	3
Wages, etc.	17,689	14	11
Grant-in-aid from Treasury	*nil.*		

It was significant of the change in the business that, of the total income for 1945 of £47,145 17s. 5d., no less than £22,754 11s. 10d.—almost half—was taken in the period October 9-December 31, 1945, coming in the 1945 part of the First Session of the new (XXXVIIIth) Parliament.

The number of meals (including teas and snack meals) served during the year 1945 was 295,669, showing an increase over 1944 of 146,945.

In regard to the comparison in wages, salaries, health and pension and unemployment insurance, in the previous year £4,438 4s. 6d. was paid in periods when Parliament was adjourned or prorogued as against £2,667 9s. 11d. in 1944.

In the past a small percentage of the staff was paid wages throughout the year. In addition, a small number were paid a retaining fee, usually of half-salary, during the time Parliament was not sitting, and the remainder were paid only for actual periods of work. With the exception of 1 or 2 part-time staff employed, all employees were now paid for 52 weeks a year.

After providing for all liabilities the amount standing to the credit of Capital Account in the Balance Sheet, represented by Stock on hand, Cash in hand and at Bank and sundry debtors, was £8,904 2s. 4d.

The Report also states that a body consisting of 3 members of the Kitchen Committee and 3 members of the staff had been formed for the consideration of staff welfare and amenities and to deal with complaints of the staff that may arise.

References to the Kitchen Committee in respect of that part of the First Session of the XXXVIIIth Parliament falling in 1946 will be dealt with in the volume (XV) of the JOURNAL reviewing that year.

House of Commons (Stationery).—On March 13,[1] an hon. member asked why M.P.s were charged for House of Commons stationery which they used outside the House while if used inside the House it was supplied free; and if the Minister would arrange for the stationery used outside the House to be also provided free.

The Financial Secretary to the Treasury (Mr. Peake) replied that from time immemorial stationery had been available for the use of members within the Palace of Westminster. He had no responsibility for stationery which members used outside the House, except that since 1910 members who desired to use, outside the House, stationery with the House of Commons die had been able to purchase it through

[1] 409 *Com. Hans.* 5, s. 30; *see also* JOURNAL, Vols. III, 83; VI, 157; XIII, 154.

the Serjeant-at-Arms, and as it was supplied by H.M.S.O. the rates at which it was charged to members were favourable in comparison with retail purchase. He saw no reason to alter this long-standing arrangement.

Canada: House of Commons (Amendment to Motion).—On March 27,[1] when debate was resumed on the Prime Minister's (Rt. Hon. Mackenzie King) Motion: That it is expedient that the Houses of Parliament do approve of the following Resolution:

WHEREAS the Government of Canada has been invited by the Government of the United States of America, on behalf of itself and of the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the Republic of China, to send representatives to a conference of the United Nations to be held on April 25th, 1945, at San Francisco in the United States of America to prepare a charter for a general international organization for the maintenance of international peace and security, and

WHEREAS the invitation suggests that the conference consider as affording a basis for such a charter the proposals for the establishment of a general international organization which have been made public by the four Governments which participated in the discussions at Dumbarton Oaks, Washington, and

WHEREAS the Government of Canada has accepted the invitation to send representatives to this Conference,

THEREFORE BE IT RESOLVED—

(1) That this House endorses the acceptance by the Government of Canada of the invitation to send representatives to the Conference;

(2) That this House recognizes that the establishment of an effective international organization for the maintenance of international peace and security is of vital importance to Canada, and, indeed, to the future well-being of mankind; and that it is in the interests of Canada that Canada should become a member of such an organization;

(3) That this House approves the purposes and principles set forth in the proposals of the four Governments, and considers that these proposals constitute a satisfactory general basis for a discussion of the charter of the proposed international organization;

(4) That this House agrees that the representatives of Canada at the Conference should use their best endeavours to further the preparation of an acceptable charter for an international organization for the maintenance of international peace and security;

(5) That the charter establishing the international organization should, before ratification, be submitted to Parliament for approval.

To this Motion, the following amendment was duly moved and seconded:

That the Resolution be amended by striking out clauses three (3) and four (4) respectively, renumbering clause five (5) as clause four (4) and substituting for clause three (3) the following:

(3) (*a*) That this House is of opinion that an acceptable charter for an international organization for the maintenance of international peace and security should be constructed on a pattern in which the full national sovereignty of each co-operating nation is assured, and in which free peoples are freely associated for the mutual benefit of all striving for the attainment of a common ideal of peace, freedom and security.

[1] 1945 C.J. 51, 52.

(*b*) And this House therefore disapproves of the monetary stabilization technique emanating from the Bretton Woods Conference designed to fetter all peoples to the gold standard and which would result in rendering the Canadian economy subservient to external control.

Mr. Speaker ruled the Amendment out of order on the ground that it introduced in the main Motion new and abstract proposals which could only be considered on a distinct Motion after Notice.

Canada: House of Commons (Adjournment—Motions (Urgency)).—On April 6,[1] an hon. member asked leave to move the adjournment of the House under S.O. 31, for the purpose of discussing an urgent public matter, namely (here are set out paragraphs referring to the long adjournment of the House; quoting similar Motions passed during previous Sessions; the opening of one Session on the day following the prorogation of the previous Session; quoting the functions of Parliament; quoting the number of War matters of vital importance which had been referred to Parliament; and that the Government should take immediate steps to extend the life of the present Parliament for one year).

Mr. Speaker, however, ruled that leave could not be granted as the statement read by the hon. member failed to show that there was any urgency in discussing the question of extending the life of the present Parliament.

The same hon. member, on April 11,[2] moved a similar Motion with a similar object, upon which Mr. Speaker gave a similar ruling.

Canada: House of Commons (Parliamentary Candidates).—The following Order in Council (P.C. 2556) was issued by the House of Commons as a Sessional Paper (No. 166) on April 12, 1945:

At the Government House at Ottawa,
Thursday the 12th day of April, 1945.

Present:

His Excellency
The Governor-General in Council.

Whereas by Order in Council P.C. 4075 dated 30th May, 1944, approval was given to the Order annexed thereto entitled "Political Activities and Candidature for Parliament and Legislative Assemblies of Members of the Armed Forces";

And whereas it is deemed desirable in the public interest that special provision, beyond that contained in the Order aforesaid, be made in respect of members of the Naval, Military and Air Forces of Canada who are candidates at a Dominion General Election or Provincial Elections or any by-election;

Therefore, His Excellency the Governor-General in Council, on the recommendation of the Minister of National Defence, concurred in by the Minister of National Defence for Air and the Minister of

[1] 1945 C.J. 76. [2] *Ib.* 84.

National Defence for Naval Services, and pursuant to the provisions of the War Measures Act, is pleased to make and doth hereby make the following Order:

ORDER

1. This Order shall apply to all members of the Naval, Military and Air Forces of Canada (except members of the Permanent Naval, Military and Air Forces of Canada) serving on active service or while serving in consequence of their having been called out for training, service or duty who are candidates as herein defined.

2. " Candidate " for the purpose of this Order means and includes any person who has been selected as a candidate for election as a member of the House of Commons at a Dominion General Election or by-election or as a candidate for election as a member of a Provincial Legislative Assembly and who has been certified by the Dominion Headquarters or Provincial Headquarters of the political party to which he professes to belong as being an official candidate of that party or, in the event that any such person does not belong to any political party, who has furnished to his commanding officer, for transmission to the Department of National Defence, a statutory declaration declaring himself to be a candidate at such election.

3. A candidate, on due application to his commanding officer, may, subject to the exigencies of the service, on or after the date of dissolution of the House of Commons or of the Legislative Assembly for which he is a candidate for election or, in the case of a by-election, on or after the date he is selected as or declares himself to be a candidate at such by-election, be transferred to the Naval Divisional Headquarters, Military District Depot or Air Force Command Headquarters, nearest to the electoral district in which he is a candidate for election and shall forthwith upon reporting to such Naval Divisional Headquarters, Military District Depot or Air Force Command Headquarters, be granted leave of absence without pay and allowances for a period terminating not later than two days after the day fixed for the Dominion General Election, Provincial Election or by-election as aforesaid. When it is unnecessary to transfer a candidate as provided in this paragraph, the leave of absence which may be granted to him shall, subject to the provisions of this paragraph, commence on the date requested in his application.

4. The provisions of the Order entitled " Political Activities and Candidature for Parliament and Legislative Assemblies of Members of the Armed Forces ", made and established by Order in Council P.C. 4075 dated 30 May, 1944, shall, subject to the provisions of this Order, apply to " candidates " as herein defined.

A. D. P. HEENEY,
Clerk of the Privy Council.

Australia : Queensland (Remuneration of M.P.s).—With reference to Vol. 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 payment 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."

Salary of private members increased from £650 to £850 *p.a.* Salary of Leader of the Opposition increased from £850 to £1250 *p.a.* " 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.)

Salary of the Speaker increased from £1150 to £1500 *p.a.* Salary of Chairman of Committees increased from £850 to £1100 *p.a.* Ministers' salaries increased from £1150 to £1500 *p.a.* Premier's salary increased from £1450 to £2000 *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: Western Australia (Payment of Members on Select Committees, Commission or Honorary Ministers).—An Act[2] was passed during 1945, s. 3 of which provides that notwithstanding anything to the contrary in any other Law a member of either House who is appointed to a Select or Joint Committee, or a Royal Commission, or as Honorary Minister shall not vacate his seat or be disqualified, for accepting expenses necessarily or reasonably incurred by him in discharge of such duties as payment from the Crown of an expenses allowance prescribed by regulation which the Governor is authorized to make under this section.

Australia: Western Australia—Legislative Assembly (Standing Orders Amendments).—In 1944, the Legislative Assembly of this State Parliament made the following amendments to its Standing Orders:

Places of Members.—S.O. 61 provided that M.L.A.s were entitled to retain the seats occupied by them when taking their seats for the first time after their election, so long as they continued members. This Standing Order has now been amended to read:

> 61. A member occupying a seat prior to an election shall, provided no change of Government is involved, be entitled to occupy such seat if again returned, unless he indicates, by notifying the Clerk, his desire to change to another seat then vacant. A member elected for the first time, or in the event of a change of Government, shall make his choice of seat by notifying the Clerk; and, if such seat is then vacant, it shall be reserved for him.

Notices of Question.—S.O. 109 has been amended so as to allow M.L.A.s to hand in such Notices to the Clerk at the Table not later than 30 minutes after the House assembles except on the last sitting day of the week, when they may be handed in on Fridays any time up to noon.

Member not to speak twice.—S.O. 120 is not to be construed as preventing any member from completing an amendment initiated by him while so speaking to the Question.

Precedence to Question of Order or Privilege.—S.O. 141 provided that until such matters were decided all other Questions shall be suspended, but it has now been amended so as to permit Mr. Speaker, with the concurrence of the House, to defer his decision, whereupon the Question then under discussion is adjourned *sine die*.

[1] Contributed by the Clerk of the Parliament.—[Ed.]
[2] Constitution Acts Amendment Act Amendment Act (No. 4), 1945.

First Reading.—S.O. 267. First Reading is now to be proposed by Mr. Speaker immediately after Motion for leave has been carried.

Bill do Pass.—S.O. 306. The putting of the Question after 3 R. "That this Bill do now pass and that the title be ——" is to be discontinued.

Appointment of Select Committees.—S.O. 337. Members to serve on a *Sel. Com.* are now to be nominated by the mover; only should any member so demand are they to be selected by ballot.

New Zealand : General Assembly (Disqualification of Members).—In 1942, provision was made in Finance Act (No. 2),[1] s. 23, that:

> While this section continues in force, the provisions of the Legislature Act 1908, or of the Electoral Act, 1927, or of any other Act, as to the disqualification of members of the General Assembly[2] or of candidates for election as members of Parliament shall not apply with respect to any payment that has been or may hereafter be received out of public moneys—
> (*a*) by way of payment for any personal property compulsorily acquired under the Act or regulations:
> (*b*) by way of compensation under any Act or regulations for any damage, loss, or injury suffered by reason of the exercise of any power in respect of any real or personal property.
> This section shall continue in force until the expiration of one year from the termination of the present War, and shall then expire.

New Zealand : House of Representatives (Reading of Speeches).[3]——With reference to the Article in Vol. XIII, p. 223, of the JOURNAL the following are the only applicable Rulings of which there is a record:

> Unless the Bill before the House is of a very technical nature the Minister should express his own opinion and not quote from a written statement.[4]
> The Rule with regard to the quotations is that, though quotations may certainly be made, when there is so much quotation that practically the whole of a speech is being read from someone else's document it is out of order. Quotations must be interspersed with some of the member's own remarks.[5]
> A member may not allege that another member read his speech.[6]
> The House must accept the assurance of a member that he is not reading his speech.[7]

New Zealand : House of Representatives (Changes in Electoral Law during 1945 Session).[8]—By the Electoral Amendment Act, 1945 provision was made that after each population census (normally quinquennial) the Dominion is to be divided by a Representation Commission into 76 European electorates according to distribution of "adult" population (which definition excludes Maoris, persons under 21 years, and persons detained in mental institutions, prisons or military defaulters' detention camps). By the same Act the Commission is authorized to make an allowance by way of addition or subtraction of adult population not exceeding five hundred where in it

[1] 6 Geo. VI, No. 14. [2] *I.e.*, both Houses of Parliament.—[ED.] [3] Contributed by the Clerk of the House of Representatives.—[ED.] [4] 234 *N.Z. Hans.* 211 (Mr. Speaker Statham). [5] 174 *Ib.* 960 (Mr. Speaker Lang); 217 *Ib.* 495 (Mr. Speaker Statham). [6] 236 *Ib.* 673 (Mr. Speaker Statham). [7] 224 *Ib.* 182 (Mr. Speaker Statham). [8] Contributed by the Clerk of the House of Representatives.—[ED.]

opinion districts containing the exact quota cannot be formed consistently with considerations of topography, communications, community of interest and (except in making the first division under that Act) existing boundaries of electoral districts.

Notes.—1. Prior to this Amendment the electoral boundaries were fixed in relation to the " total " population.

2. The Amendment abolishes what was known as the " country quota " by which previously in the allocation of electorates an addition was made to rural populations so that the number of rural electorates, in proportion to their population, was higher than urban electorates. The country quota was computed on the basis that 28 *p.c.* was added to the rural population, which for electoral purposes meant population other than that contained in a city or borough of over 2,000 inhabitants or in any area within 5 miles of the chief post-offices of the 4 main cities. The country quota first appeared in 1881, when 33⅓ *p.c.* was added to the country population. In 1887 it was reduced to 18 *p.c.* In 1889 it was increased to 28 *p.c.*, and in 1945 it was abolished.

3. The above Amendment did not affect Maori representation. Under the Electoral Law Maoris return 4 members, one each for the Northern, Western, Eastern and Southern Districts. Maoris are qualified to vote only at elections for the 4 members representing the Maori race. A half-caste may register on the roll of a European electoral district; and if so may not then vote at an election of a Maori member. There is no compulsory registration for Maori electors and no electoral rolls, but a secret ballot was introduced in 1937.

New Zealand : House of Representatives (Remuneration and Free Facilities to M.P.s).[1]—With reference to Vol. I, p. 104, of the JOURNAL, the honorarium of members was raised in 1944 to £500 *p.a.*, and in addition there was made payable a tax-free allowance of £250 *p.a.* for travelling expenses. This was provided by ss. 22-27 of the Finance Act (No. 3), 1944. Section 23 restricted the operation of this part of the Act until March 31 next following the end of the War, but this section was repealed by s. 47 of the Finance Act (No. 2), 1945, and the increases became permanent.

The free issue of official stamps to members was increased from £2 to £3 per month pursuant to s. 14 of the Finance Act, 1940, which amended s. 151 of the Public Revenues Act, 1926, under which the previous issue was made.

New Zealand : Parliamentary Catering Services.—With reference to Vol. III, p. 97, of the JOURNAL the traditional name of " Bellamy's " has now been changed to " Catering Department ", but notwithstanding the official change the institution is still popularly referred to by its former name. The accounts are now subject to Government audit, the services of the private auditor being discontinued.[1]

[1] Contributed by the Clerk of the House of Representatives.—[ED.]

Union of South Africa (Constitutional : Representation of Natives).—During the 1945 Session the Native Education Finance Act (No. 2 of 1945) was passed, the Schedule of which under s. 5 of the Ac repealed s. 28 (*a*) (ii) of the Representation of Natives Act (No. 12 o 1936), which sub-paragraph provided that before the commencemen of each ordinary Session of Parliament or as soon as possible thereafte a Minister shall place before the Natives' Representation Council a statement showing the provision which it is proposed to make fo native education on the Estimates of Expenditure for the ensuin financial year in respect of the moneys to be appropriated by Parliamen to the South African Native Trust Fund established under the Nativ Trust and Land Fund Act (No. 18 of 1936).

The Representation of Natives Act amended the Union Constitutio (South Africa Act, 1909—9 Edw. VII, c. 9) by precluding the addi-tional (3) members of the House of Assembly and of the Cape Provincia Council respectively elected to represent the natives, from voting fo an election of Senators under s. 25 of the Constitution, Senato and M.L.A.S. elected under that Act hold their seats for 5 yea notwithstanding any dissolution.

Union of South Africa (Constitutional : Registration of Nativ Voters).[2]—Section 2 of the Electoral Laws Amendment Act (No. 4 of 1945) excludes the registration of voters for the election o representatives of natives in the House of Assembly and the Cap Provincial Council, from the operation of ss. 3 to 29 of the Ac dealing with the registration of voters on the roll for European re-presentatives and also Coloured representatives in the Cape Province.

Union of South Africa : Joint Standing Orders (Bilingual Version Discrepancy in Money Bills Passed both Houses).[3]—In S.O. 130 (*a*) (Joint) and Assembly S.O. 177 (Joint) adopted by both Houses, May 7 1923, provision is made for the correction of versional discrepancie in Bills which have passed both Houses, of which the following is a recent instance taken from the Minutes of the Senate.

Mr. President said:

> In terms of Standing Order No. 130 (*a*) (Joint), I beg to draw the attentio of the House to certain discrepancies between the English[4] and Afrikaans versions which have been discovered in certain provisions of the Custo Amendment Bill which the Senate, under s. 60 of the South Africa Act, 190 may not amend. This Bill has now passed both Houses of Parliament. Unde the Standing Orders this Bill must be returned by the Senate to the Honourab the House of Assembly with a notification of the proposed versional correctio It will be necessary, therefore, for the Minister to move that a Message b transmitted to the Honourable the House of Assembly as follows:

Message from the Senate to the Honourable the House of Assembl

The Senate transmits to the Honourable the House of Assemb

[1] *See also* JOURNAL, Vols. V, 35; XII-XII, 56. [2] *See* JOURNAL, Vols. V, 3 XI-XII, 56. [3] Both the English and Dutch (Afrikaans) languages have eq rights under s. 137 of the Constitution.—[ED.] [4] 1945 MIN. 181; *see also* JOURN Vols. IV, 106; VI. 210. [5] 1945 MIN. 187.

the Customs Amendment Bill, passed by the Honourable the House of Assembly and which has now also been passed by the Senate.

The Senate, however, under its Standing Order No. 130 (*a*) (Joint) notifies the following proposed versional corrections to the Honourable the House of Assembly—namely:

In the Afrikaans Version only of *Clause Seven*, page 5, line 50, after " of " to insert " alternatiewe "; in the Afrikaans Version only of *Clause Fifteen*, page 7, line 59, after " of " to insert " by wanbetaling "; in the Afrikaans Version only of *Clause Nineteen*, page 9, line 29, after " Hoofwet " to insert " onder korting van regte ", and in line 46 to delete " 97 " and substitute " 99 ".

The Senate, 29th May, 1945.

RESOLVED: That a Message be transmitted accordingly. (—— seconded by ——.)

The Assembly return Message received by the Senate on May 30[1] read:

The House of Assembly returns to the Honourable the Senate the Customs Amendment Bill [A.B. 54B—'45] passed by the House of Assembly and which has also been passed by the Honourable the Senate.

The House of Assembly having considered the versional corrections notified by the Honourable the Senate under its Standing Order No. 130 (*a*) (*Joint*)—namely:

[*Here the corrections are set out as above.*]

—has agreed to the same and now desires the concurrence therein of the Honourable the Senate.

House of Assembly, 29th May.

On May 30, it was thereupon moved in the Senate as an unopposed Motion, " that the Message from the Honourable the House of Assembly be now considered," after which it was moved—" That this House concurs with the House of Assembly in said corrections."

The reply Message from the Senate read:

The Senate transmits to the Honourable the House of Assembly the Customs Amendment Bill, passed by the Honourable the House of Assembly and also by the Senate, in which certain discrepancies between the English and Afrikaans Versions had under Standing Order No. 130 (*a*) (Joint) been notified to the Honourable the House of Assembly and in which Bill the Honourable the House of Assembly has now made the necessary amendments, in which amendments the Senate has concurred and endorsement thereof made in the copy herewith sent.

The Senate further transmits a fair copy of the said Bill passed by the Honourable the House of Assembly, and which has now also been agreed to by the Senate, and desires that the Honourable the House of Assembly will cause the same to be certified as correct and will return it so certified to the Senate.

The Senate, 30th May, 1945.

Message was then sent by the House of Assembly to the Senate transmitting the Bill certified, after which the Senate by Message sent the Bill to the Assembly for information. That House last in possession of a Bill when agreed to by both then transmits the Bill, now

[1] *Ib.* 188.

certified both by the President of the Senate and the Speaker of
House of Assembly, to the Prime Minister's Department for tra-
mission to the King's Deputy, announcement being made in ea
House by a Minister that His Excellency the Governor-General
this case " the Officer Administering the Government "), in the na
and on behalf of His Majesty the King, had been pleased to give
consent to the following Bill. [*Here stating Short Title.*]

Union of South Africa: Senate (President's Casting Vote).[1]—
June 8,[2] on consideration of the Electoral Laws Amendment Bill
amended in *C.W.H.*, an amendment was proposed to insert cert
words and to substitute other words. On the Question being pu
" That the words proposed to be deleted stand part of the Clause,"
division was claimed, the voting being Contents 12, Not-contents
whereupon Mr. President gave his vote with the Not-contents, " stat
that the House would have an opportunity of re-committing the B
in respect of Clause 17 and again voting on the amendment."

The Amendment was therefore negatived.

**Union of South Africa: Senate (Acceleration or Postponeme
of Sitting).**[3]—The following is the form of Resolution used und
S.O. 16 (*a*):[4]

That whenever during the forthcoming adjournment of the Hou
it appears to the satisfaction of Mr. President that the public inter
or public business requires that the House should—

(*a*) meet at an earlier time during such adjournment; or

(*b*) meet at any later time than the day to which it has been adjourn

—Mr. President may give notice to Honourable Senators that he is
satisfied, and thereupon the House shall meet at the time stated in su
notice and shall transact its business as if it had been duly adjourn
to that time.

**Union of South Africa: House of Assembly (Constitutiona
Financial Relations with Provinces).**[5]—During the 1945 Session t
financial relations between the Union and the Provinces as regula
by ss. 81 (*Transfer of powers to Provincial Executive Committee*
85 (*Powers of Provincial Councils*); 89 (*Constitution of Provincial Reve
Fund*); and 118 (*Commission of Inquiry into Financial Relations betw
Union and Provinces*), of the South Africa Act, 1909 (9 Edw. V
c. 9), and subsequent legislation arising therefrom, were consolida
by the Financial Relations Consolidation and Amendment Act (No.
of 1945) with certain modifications, such as—

(*a*) provision for the payment of a general subsidy amounting to 50
of the nett expenditure of each Province (*see* s. 6) instead of alloca

[1] *See also* JOURNAL, Vols. II, 68; VII, 30; X, 59. [2] 1945 MIN. 219. [3] *Ib.* 33,

[4] S.O. 16 (*a*), which was adopted April 3, 1922, reads:

After a resolution has been passed providing that the House shall, at its rising
that or any future day, be adjourned over any period of not less than five sitting d
the following Motion may be submitted to the decision of the House: (*Here fol
the Resolution as above.*)

[5] Contributed by the Clerk of the House of Assembly.—[ED.]

sources of revenue and special subsidies and appropriations by Parliament;

(b) removal of certain anomalies from existing legislation with regard to provincial tax on companies (*see* s. 8);

(c) empowering Provincial Councils to levy income tax as well as a hospital contribution on natives (*see* s. 10 and First Schedule);

(d) granting power of control and legislation to the Provinces in respect of the establishment and control of water supply schemes (*see* s. 13 and Second Schedule); and

(e) empowering the Administrator to authorize any specified educational institution to retain and apply revenue for the purpose of meeting its expenditure, instead of paying it into the Provincial revenue fund (*see* s. 28 adding a new sub-section (2) to s. 89 of the South Africa Act).

The Acts and sections of Acts repealed are given in the Schedule to the Bill.

Union of South Africa: House of Assembly (Adjournment Motion (Urgency)).—On May 15,[1] an hon. member moved under S.O.s 33 and 34—

That the adjournment of the House on a matter of urgent public importance—namely: the circumstances surrounding the loss of lives, and injuries to home-coming Union ex-prisoners of war, in an aeroplane accident at Kisumu on May 11, and the necessity of avoiding similar accidents in the future, by ensuring the use only of the safest type of plane and preventing overloading.

Mr. Speaker said that the hon. member had seen him in connection with the proposed Motion, but, in view of the statement made in reply to Question No. XXXIII asked that morning to the effect that an inquiry was being made into the circumstances connected with the accident referred to and also in view of the fact that a Motion for the adjournment of the House on a definite matter of urgent public importance must be moved at the earliest possible opportunity,[2] Mr. Speaker regretted he was unable to accept the Motion.

Union of South Africa: House of Assembly (Delegated Legislation).[3]—On March 20,[4] a Motion was moved by the hon. member for Woodstock (Mr. J. H. Russell):

That this House, while realizing the necessity for delegating certain legislative and judicial powers to the executive Government, especially during a period of War, is of opinion that the time has arrived to consider what measures should be adopted after the present War to supervise and adequately control the powers thus delegated and to preserve the constitutional principles embodied in the Act of Union,[5] which provide for the sovereignty of Parliament and the supremacy of the law; and the House therefore asks the Government to consider the steps which should be taken in regard to this important matter.

To which, during debate, the following amendment was moved by the hon. member for Durban (Umlazi) (Mr. A. Goldberg): to omit all the words after "That" and to substitute:

[1] 53 *Assem. Hans.* 7237; *see also* JOURNAL, Vols. X, 157; XI-XII, 214.
[2] 1939 VOTES, 140. [3] *See also* JOURNAL, Vols. I, 22; IV, 12; VI, 55; VII, 30, 58, 161; VIII, 26; X, 83; XI-XII, 15, 45; XIII, 14, 64, 160, 186. [4] 52 *Assem. Hans.* 3767-3816. [5] 9 Edw. VII, c. 9.

this House is of opinion that the time has arrived for the adoption of su measures as will ensure adequate supervision and control of all powers delega by Parliament, so as to preserve the sovereignty of Parliament and the suprema of the law, and to that end requests that a Select Committee be appointe with power to take evidence and call for papers, charged with the duty carrying on a continuous examination of all statutory regulations and orde and other instruments of delegated legislation, which Committee shall repc from week to week whether in its opinion any such is obscure or contai matter of a controversial nature or should for any other reason be brought the special attention of the House.

An amendment was also moved by the hon. member for Fouresmit (Dr. T. E. Dönges, K.C.): to omit all words after " That " and sub stitute:

this House views with alarm the growing tendency towards bureaucracy an the undermining of the sovereignty of Parliament and the supremacy of la on the part of the Government, and resolves that it is expedient that Parliame should provide guarantees to check
(*a*) the abuse of the powers of delegated legislation;
(*b*) the tendency to exclude recourse to courts of law from judicial an quasi-judicial decisions of Ministers or departmental tribunals;
(*c*) any encroachment by the Executive on the powers of Parliament an for this purpose the House appoints a Select Committee to inquire int and report upon the best way of attaining this object.

At 4.10 p.m. the business under consideration was interrupted b Mr. Speaker in accordance with the Sessional Order adopted o January 25 and S.O. 26 (1) and the debate was adjourned; to be resume March 23. The Motion, however, lapsed upon the prorogation o Parliament.

Union of South Africa: House of Assembly (Executive Govern ment Control over Expenditure).[1]—In conformity with the Rulin given by Mr. Speaker during 1940-41[2] the Governor-General's recom mendation is now given to the recommendations of the Pension Committee before the Report of the Committee is considered.

On June 2, 1945,[3] the Minister of Finance in making the form announcement stated that the recommendation had been withheld i respect of 2 items in the Committee's Report. Later in the day, whe the House was in Committee on the Report, the Chairman stated th in the absence of the Governor-General's recommendation he wa unable to put the 2 items or to allow debate on them. On bein questioned as to the reasons for the Governor-General's recommenda tion being withheld, the Minister of Finance stated that he was quit prepared to give the reasons, but as debate on them would at th stage be out of order he undertook to bring the question before th Standing Rules and Orders Committee with a view to the adoption o procedure to be followed under similar circumstances in future.

It was suggested that, if similar circumstances arose in the futur

[1] Contributed by the Clerk of the House of Assembly.—[ED.] [2] *See* JOURNA Vols. X, 54; XI-XII, 52. [3] 1945 VOTES, 855.

the Minister, in making the announcement that the Governor-General's recommendation had been withheld, should, with leave of the House, make a short statement as to the principles upon which the refusal was based and that members who wished to debate them should do so on the Motion " That Mr. Speaker leave the Chair " when the Order is read for the House to go into Committee on the Report of the Pensions Committee. On this occasion it was always open to members to discuss relevant questions of principle as distinct from the merits contained in the Report.[1]

Union of South Africa: House of Assembly and Provincial Councils (Electoral).—The Electoral Laws Amendment Act (No. 40 of 1945) amends the laws relating to the election of members of the Union House of Assembly and Provincial Councils. Its main object is to bring the laws up to date preparatory to their consolidation. Continuous is substituted for biennial registration of voters, thus also effecting a considerable financial saving. The last biennial registration in 1941 cost over £100,000, in addition to stationery, etc. A voter leaving his present electoral division has to notify the electoral officer of his old division, upon which his vote is automatically transferred to his new one, this transfer applying also to by-elections. In the large cities it is usual to find that 40-50 *p.c.* of the voters have removed, and there are about 1,400,000 voters in the Union. Electoral officers are now to function in place of magistrates in the hearing of objections, and appeal is to be made to the local electoral officer, with right of further appeal to the Chief Electoral Officer for the Union. If the voter is not satisfied with that decision he can appeal to a Judge in chambers. In the case of a non-European voter (Natal or Cape Provinces) the electoral officer may authorize a magistrate to deal with the objection in regard to satisfying the authorities as to being able to sign his name and write his address and occupation.

A complete roll will be kept at the magistracy of each Division and political parties will be informed of alterations as well as transfers. A sick or infirm voter will be able to get a declaration signed and vote in another constituency. Provision is made for substitution in the case of the death or illness of a returning officer during the progress of an election. Candidates may be nominated for election at any time after the issue of the proclamation ordering the election and not only in the Nomination Court. Nomination may be withdrawn before the closing of that court. In order to guard against parcels or packages of election documents going astray, the new Act provides that such documents and ballot papers shall be retained by the returning officer and the counterfoils of ballot papers sent to the electoral officer, thus preserving secrecy of the ballot. Under the Act the Chief Electoral Officer takes the place of the Minister in the operation of the Act.

Returns of election candidates' expenses have now to be handed in within 42 days after the day on which the candidate was returned.

[1] May, XI, 383, 609.

Such returns remain open for inspection at the office of the returning officer or some convenient place during 1 year (instead of 2 years) after their receipt by the returning officer, upon the payment of a nominal fee. After that year the papers are destroyed.

Political meetings may not be held in any building in which intoxicating liquor can be obtained, and on the day of election all bars within the "area" are closed. "Area" includes all adjoining constituencies.

Postal voters are still to be allowed 5 days and they may personally deliver or post their completed ballot papers, etc., to the returning officer, or may hand them to the officer before whom they complete them. Persons detained in work-colonies are now disfranchised. Voters' lists are to be prepared in groups. Every voters' list will begin with the names of women.

Southern Rhodesia (Subsistence Allowances and Free Facilities to M.P.s).[1]—The following information has been contributed by the Clerk of the Legislative Assembly:

Subsistence Allowances.—The amount paid to members resident more than 25 miles from the Chamber (£50 *p.a.* since 1930) has been increased to £100 *p.a.*, by amendment of Rule 2 of Appendix G to the Standing Rules and Orders—Volume I, Public Business. This increase will come into effect in 1946 on the election of the VIth Parliament, following on another recommendation of the Standing Rules and Orders Committee.[2]

Travelling Facilities.—The privilege of free passes over the Rhodesia Railways (half the cost of which is borne by the Parliamentary Vote) has been extended to cover passage by aircraft of Southern Rhodesia Air Services, within the Colony, the reduced charge for which is debited to the House Vote.

Franking Correspondence and Telephone Calls.—For some years members of Parliament have enjoyed franking facilities for correspondence and telegrams on Parliamentary business, similar to those of members of Parliament in the Union of South Africa, and free local trunk telephone calls within the Colony, from telephones in the Legislative Assembly building, during a Session only.

Refreshments.—These are supplied free of charge at meetings of Select Committees, and in the afternoons, also during night sittings. Refreshments are provided by a local restaurant.

Southern Rhodesia (Parliamentary Running Costs).—With reference to the particulars given in regard to this subject in the JOURNAL, Vol. III, p. 84, the following are those revised for 1945:

The maintenance of the Legislative Assembly has risen considerably since 1934, when the last figures appeared in the JOURNAL. For 1945 these figures were:[3]

[1] *See also* JOURNAL, Vols. III, 84; IV, 39; VI, 66; IX, 49.

[2] *Second Report S.R. & O. Com.* (1945), §§ 2 and 3; VOTES 331; 25 *S. Rhod. Hans.* 2884.

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

No. of Members.	*Total Vote in 1945 Estimates.*	*Total Cost of Printing.*	*Total Cost of "Hansard."*
30	£22,212[1]	£2,937[2]	£5,035

British India: Central Legislature (Present Composition).—The Council of State consists of 58 members, of which 26 are nominated (14 official and 12 non-official) and 32 non-official elected members.

The following is the representation of the unreformed Central Legislative Assembly, a survival of the 1919 Constitution (for legislative reference thereto see p. 260, n. 2, *infra*) as returned at the General Election of 1945-46, the total membership being 162, and the number of elected non-officials 102:

Madras	16	Central Provinces and Berar	6
Bombay	16	Assam	4
Bengal	17	Delhi	1
United Provinces	12	Ajmer-Merwara	1
Bihar and Orissa	12	North-West Frontier Province	1

The nominated element numbers 40 (22 officials and 18 non-officials). There were 46 unopposed returns and the total number of votes cast was 585,954.

India (Government Policy).[3]—On June 14,[4] in the House of Commons on 3 *R.* of the Consolidated Fund (Appropriation) Bill, the Secretary of State for India (Rt. Hon. L. S. Amery) made a statement on behalf of H.M. Government on the subject of India. The Statement was published as a White Paper,[5] and the Minister quoted from it as follows:

1. During the recent visit of Field-Marshal Viscount Wavell to this country, H.M. Government reviewed with him a number of problems and discussed particularly the present political situation in India.

2. Members will be aware that since the offer by H.M. Government to India in March, 1942, there has been no further progress towards the solution of the Indian constitutional problem.

3. As was then stated, the working out of India's new constitutional system is a task which can only be carried through by the Indian peoples themselves.

4. While H.M. Government was at all times most anxious to do their utmost to assist the Indians in the working out of a new constitutional settlement, it would be a contradiction in terms to speak of the imposition by this country of self-governing institutions upon an unwilling India. Such a thing is not possible, nor could we accept the responsibility for enforcing such institutions at the very time when we were, by its purpose, withdrawing from control of British Indian affairs.

5. The main constitutional position remains therefore as it was. The offer of March, 1942,[6] stands in entirety without change or qualification. H.M. Government still hope that the political leaders in India may be able to come to an agreement as to the procedure whereby India's permanent future form of government can be determined.

[1] Does not include increased members' allowances in 1946, to be referred to in Vol. XV of the JOURNAL covering that year. [2] Cost of printing *Hansard* only. All other printing is paid for by the Government Stationery Office and no details are available. [3] *See* JOURNAL, Vols. IV, 76; IX, 51; X. 70; XI-XII, 219; XIII, 87. [4] 411 *Com. Hans.* 5, s. 1831-73; *see also* 136 *Lords Hans.* 5, s. 612. [5] Cmd. 6652. [6] *See* JOURNAL, Vol. XI-XII, 219.

(When the Minister had reached this (para. 5) of the Statement an hon. member took exception to the Minister reading the Statement when it was already available in the Vote Office. But opinion being divided on the procedure to be followed, and as Mr. Speaker said that it was for the Minister to decide how to make his speech, the Minister continued reading the Statement.)

The Minister then continued reading the White Paper as follows:

6. H.M. Government are, however, most anxious to make any contribution that is practicable to the breaking of the political deadlock in India. While that deadlock lasts not only political but social and economic progress is being hampered.

7. The Indian administration, overburdened with the great tasks laid upon it by the war against Japan and by the planning for the post-war period, is further strained by the political tension that exists.

8. All that is so urgently required to be done for agricultural and industrial development and for the peasants and workers of India cannot be carried through unless the whole-hearted co-operation of every community and section of the Indian people is forthcoming.

9. H.M. Government have therefore considered whether there is something which they could suggest in this interim period, under the existing constitution, pending the formulation by Indians of their future constitutional arrangements, which would enable the main communities and parties to co-operate more closely together and with the British to the benefit of the people of India as a whole.

10. It is not the intention of H.M. Government to introduce any change contrary to the wishes of the major Indian communities. But they are willing to make possible some step forward during the interim period if the leaders of the principal Indian parties are prepared to agree to their suggestions and to co-operate in the successful conclusion of the war against Japan as well as in the reconstruction in India which must follow the final victory.

11. To this end they would be prepared to see an important change in the composition of the Viceroy's Executive. This is possible without making any change in the existing statute law except for one amendment to the Ninth Schedule to the Act of 1935. That Schedule contains a provision that not less than three members of the Executive must have had at least ten years' service under the Crown in India. If the proposals of H.M. Government meet with acceptance in India, that clause would have to be amended to dispense with that requirement.

12. It is proposed that the Executive Council should be reconstituted and that the Viceroy should in future make his selection for nomination to the Crown for appointment to his Executive from amongst leaders of Indian political life at the Centre and in the Provinces, in proportions which would give a balanced representation of the main communities, including equal proportions of Moslems and Caste Hindus.

13. In order to pursue this object, the Viceroy will call into conference a number of leading Indian politicians who are the heads of the most important parties or who have had recent experience as Prime Ministers of Provinces, together with a few others of special experience and authority. The Viceroy intends to put before this conference the proposal that the Executive Council should be reconstituted as above stated and to invite from the members of the conference a list of names. Out of these he would hope to be able to choose the future members whom he would recommend for appointment by His Majesty to the Viceroy's Council, although the responsibility for the recommendations must of course continue to rest with him, and his freedom of choice therefore remains unrestricted.

14. The members of his Council who are chosen as a result of this arrangement would of course accept the position on the basis that they would wholeheartedly co-operate in supporting and carrying through the war against Japan to its victorious conclusion.

15. The members of the Executive would be Indians with the exception of the Viceroy and the Commander-in-Chief, who would retain his position as War Member. This is essential so long as the defence of India remains a British responsibility.

16. Nothing contained in any of these proposals will affect the relations of the Crown with the Indian States through the Viceroy as Crown Representative.

17. The Viceroy has been authorized by H.M. Government to place this proposal before the Indian leaders. H.M. Government trust that the leaders of the Indian communities will respond, for the success of such a plan must depend upon its acceptance in India and the degree to which responsible Indian politicians are prepared to co-operate with the object of making it a workable interim arrangement. In the absence of such general acceptance existing arrangements must necessarily continue.

18. If such co-operation can be achieved at the Centre it will no doubt be reflected in the Provinces and so enable responsible Governments to be set up once again in those Provinces where, owing to the withdrawal of the majority party from participation, it became necessary to put into force the powers of the Governors under s. 93 of the Act of 1935. It is to be hoped that in all the Provinces these Governments would be based on the participation of the main parties, thus smoothing out communal differences and allowing Ministers to concentrate upon their very heavy administrative tasks.

19. There is one further change which, if these proposals are accepted, H.M. Government suggest should follow.

20. That is, that External Affairs (other than those tribal and frontier matters which fall to be dealt with as part of the defence of India) should be placed in the charge of an Indian member of the Viceroy's Executive so far as British India is concerned, and that fully accredited representatives shall be appointed for the representation of India abroad.

21. By their acceptance of and co-operation in this scheme the Indian leaders will not only be able to make their immediate contribution to the direction of Indian affairs, but it is also to be hoped that their experience of co-operation in government will expedite agreement between them as to the method of working out the new constitutional arrangements.

22. H.M. Government consider, after the most careful study of the question, that the plan now suggested gives the utmost progress practicable within the present constitution. None of the changes suggested will in any way prejudice or prejudge the essential form of the future permanent constitution or constitutions for India.

23. H.M. Government feel certain that, given goodwill and a genuine desire to co-operate on all sides, both British and Indian, these proposals can mark a genuine step forward in the collaboration of the British and Indian peoples towards Indian self-government and can assert the rightful position, and strengthen the influence, of India in the counsels of the nations.

The Minister then spoke in explanation of points in the Statement and said that they could only transfer their ultimate control over India to a Government or Governments capable of exercising it. They could not hand India over to anarchy or to civil war. Their responsibility to the people of India themselves forbade that course, and indeed their responsibility to the world forbade it. On the other hand, they could not impose a constitution that would break up the moment their authority was no longer there to sustain it.

Mr. Amery then quoted Dr. Ambedkar, the recognized leader of the Scheduled Castes and the Labour member in the Viceroy's Executive, as arguing that only an Indian constitution, " framed by Indians for Indians and with the voluntary consent of Indians ", could command the necessary obedience and respect, and Mr. Amery then stated that:

> It is useless for the British to frame a constitution for India, which they will not remain to enforce. . . . I therefore am firmly of the opinion that if Indians want Dominion status they cannot escape the responsibility of framing their own constitution.

So far, continued the Minister, no progress had been made in that direction, and the internal deadlock, essentially a deadlock as between Hindu India and Moslem India, remains unsolved. He trusted, nevertheless, that the right solution[1] would emerge, and certainly H.M. Government would at all times be anxious to give such assistance as might contribute to its attainment. The ideal to which they had always looked forward was that of an All-India Union in which the States would play their full part. At the same time, they had also recognized that agreement between Hindus and Moslems on any form of Indian unity might be unattainable. Any interim advance, therefore, must in no way prejudge the question whether the ultimate settlement is based on a united or divided India or affect the existing position or future freedom of choice of the States. That meant it must be within the present constitution, for there was no change in that constitution which would not be regarded as giving a bias in favour of one or other final solution. There could be no question, therefore, of making the Executive responsible, in our Parliamentary sense, to the Legislature. That would at once, in Moslem eyes, imply the control of a unified India by a Hindu majority. Nor could there be any question of doing away with the existing power of the Governor-General to overrule a majority view of his Council, if in his opinion, in the words of the Act:

> . . . the safety, tranquillity, or interests of British India are, or may be, essentially affected,

nor of his consequential responsibility to the Secretary of State and to Parliament for its exercise. " That power ", said the Minister, " I should explain is a power in reserve, not an instrument in normal use."[2]

Mr. Amery also mentioned the proposal to appoint a United Kingdom High Commissioner in India and referred to the enlargement of the Executive Council and the wider representation thereon.[3]

British India (Private or Hybrid Bills).—Neither in the Central Legislature nor in those of the Governors' Provinces is there classification of Private or Hybrid Bills as the terms are understood at Westminster. There is one common procedure for all Bills, which are

[1] 411 *Com. Hans.* 5, s. 1838. [2] *Ib.* 1839. [3] *Ib.* 1840-2.

classified as Official and Non-official Bills. Bills sponsored by Government members are also known as Government Bills in contradistinction to Non-official Bills introduced by non-Government members. Special days are allotted for Non-official Bills.

British India : Central Legislative Assembly (Detention of Members).—On May 3,[1] the Secretary of State for India (Rt. Hon. L. S. Amery) was asked whether he was now in a position to state how many members of the Indian Legislative Assembly were serving terms of imprisonment; and of those released, how many were precluded from attending or speaking in the Assembly, and for what period it was intended that the disability should persist.

Mr. Amery replied in the affirmative. None of the 200 members of the Legislature was serving a term of imprisonment. One member of the Council of State and 3 M.L.A.s were at present under detention. Of the 3 members who had been released from detention, none was precluded from attending or speaking in the House.

British India (Language Rights in Legislatures).—This subject has already been partly dealt with in the JOURNAL in regard to the Central Legislature[2] and the Provincial Legislatures of Madras, Bengal, United Provinces and the Punjab,[3] but the various practices may now be brought up to date as described below.

Central Legislature.—The procedure[4] in New Delhi as given in Vol. IV of the JOURNAL can now be further elucidated as follows:

When any member is permitted to address the Assembly in *a vernacular*, he is himself responsible for supplying to the Secretary of the Assembly as promptly as possible the text of his speech in that vernacular. If the speech is delivered in *Hindi* or *Urdu*, it is translated into English by the official translator and only the translation is printed in the proceedings, in its proper sequence or as an appendix according to convenience; but if the speech is in any other vernacular the member is further required to furnish the Secretary with an English translation thereof, which is similarly included in the printed proceedings.[5]

Governors' Provinces.—The Rules in all the Provincial Legislatures also provide that their proceedings shall be conducted in the English language, but that if a member is unacquainted, or not sufficiently acquainted, with that language, he may address the Chamber in the languages given below respectively, as recognized in the particular Provincial Chamber referred to:

Madras : Tamil, Telugu, Malayalam, Kanarese, Hindustani. (L.C. and L.A. Rules 46.)

Bombay : Gujarati, Marathi, Kanarese, Urdu. (L.C. and L.A. Rules 14.)

Bengal : Bengali, Hindustani. (L.C. and L.A. Rules 9.)

[1] 410 *Com. Hans.* 5, s. 1570; *see also* JOURNAL, Vols. IX, 64; X, 25, 27, 191; XIII, 90.
[2] Vol. IV, 110. [3] *Ib.* 111. [4] C. of State S.O. 50 (I.L.R. 14); C.L.A. S.O. 59 (I.L.R. 14). [5] Contributed by the Secretary of the Central Legislative Assembly.—[ED.]

United Provinces : Hindu, Urdu. (L.C. and L.A. Rules 19.)

Punjab : Urdu, Punjabi. (L.A. Rule 51.)

Bihar : (Council) Hindu, Urdu, Bengali; (Assembly) Hindustani. (L.C. Rule 22; L.A. Rule 29.)

Central Provinces and Berar : Hindi, Marathi, Urdu. (L.A. Rule 19.)

Assam : Bengali, Assamese, Hindu, Urdu. (L.C. and L.A. Rules 9.)

N.W. Frontier Province : Urdu, Pashtu. (L.A. Rule 43.)

Orissa : Oriya. (L.A. Rule 23.)

Sind : Sindhi. (L.A. Rule 44.)

Reservations.—The following reservations, however, have to be made to the above:

Madras.[1]—There has been a slight change in the matter of publication of speeches delivered in the vernaculars. As members speaking in the vernaculars have not always been supplying copies of their speeches for publication, a brief summary of every vernacular speech is noted down by the reporter in English and a transcript of this is retained in the proceedings unless the concerned member subsequently gives an English or vernacular version of his full speech, in which case the latter is printed.[2]

Bombay.—In this Province power is given to Mr. President or Mr. Speaker, as the case may be, to call on any member to speak in any language in which he is known to be proficient.[3]

Bengal.—In both Chambers the President or Speaker may permit the member to speak in any other language than English.[4]

United Provinces.—In the Legislative Council Mr. President may, at his discretion, permit or call upon any member to speak in Urdu, Hindi or English, and in the Assembly Mr. Speaker may call upon any member to speak in any language in which he is known to be proficient.[5]

The Punjab.—Any member may speak in Urdu or Punjabi or, with the permission of Mr. Speaker, in any other language of the Province.[6]

Bihar and Assam.—In both Legislative Councils and Assemblies Mr. President may call on any member to speak in any recognized language of the Province in which he is known to be proficient.[7] In the Assemblies Mr. Speaker has power to permit any member to speak in Hindustani should Mr. Speaker consider it necessary in the interest of the debate.[8]

Central Provinces and Berar.—A member may address the Assembly in any other recognized language, but Mr. Speaker has the right to call on any member to speak in any language in which he is known to be proficient.[9]

Members unacquainted or insufficiently acquainted with English are

[1] *See also* JOURNAL, Vol. IV, 111. [2] Contributed by the Secretary of the Legislature.—[ED.] [3] L.C. and L.A. Rules 14. [4] L.C. and L.A. Rules 9. [5] L.C. and L.A. Rules 19. [6] L.A. Rule 51. [7] L.C. Rule 22. [8] Bihar L.A. Rule 20; Assam L.C.R. and L.A.R. 9. [9] L.A. Rule 19.

supplied with translations of necessary papers in the recognized vernacular, and the speeches made by members in those languages are printed in the debates in the language in which they are made.[1]

N.W. Frontier Province.—While Mr. Speaker may, as in Bihar and Assam, call upon any member to speak in any language in which he is known to be proficient, it lies in Mr. Speaker's discretion to allow any speech immediately after its delivery to be translated in abstract by an official translator from English to Urdu or Pashtu, as the case may be, into either or both of the other 2 languages.[2]

Orissa.—With the permission of Mr. Speaker, a member may address the Assembly in Oriya.[3]

Sind.—While a member may address the Assembly in Sindhi, Mr. Speaker is empowered to call upon any member to speak in any other language in which he is known to be proficient.[4]

British India : Council of State (Acceleration or Postponement of Meeting).—During the course of a Session Mr. President has power to call the House together earlier or later than the date to which the House has been adjourned.[5]

British India (Rejection of Finance Bill : Power of Governor-General in Council).[6]—On February 28, 1945, immediately after the presentation of the General Budget for 1945-46, the Hon'ble the Finance Member introduced the Indian Finance Bill, 1945.[7] On March 14,[8] he moved that the Bill be taken into consideration, but after prolonged discussion the Motion was negatived on March 26 (Ayes, 50; Noes, 58). On March 27, the Hon'ble the President read to the House a Message from H.E. the Governor-General recommending the passage of the Bill in the form recommended by him. The Hon'ble the Finance Member then moved for leave to introduce the Indian Finance Bill in the form recommended by the Governor-General, but leave was refused (Ayes, 50; Noes, 57).

The Bill was then presented to the Council of State on March 28, 1945, together with a Message from His Excellency, and was eventually taken into consideration and passed in the recommended form on March 29, 1945.

Thereafter the Act was assented to by the Governor-General under the provisions of Clause (*b*) of sub-section (1) of s. 67B of the Government of India Act,[9] as set out in the Ninth Schedule to such Act, and it was expressed to be made by the Governor-General under the provisions of sub-section (2) of the same section.[10]

British India : Central Legislative Assembly (Distribution of Legislative Power).[11]—In moving 2 *R.* of the India (Estate Duty) Bill in the House of Commons on February 16, 1945,[12] the Secretary of State

[1] *Ib.* [2] L.A. Rule 43. [3] L.A. Rule 23. [4] L.A. Rule 44. [5] Contributed by the Secretary of the Council of State.—[Ed.] [6] *See also* JOURNAL, Vols. VII, 80; IX, 55; and Indian Legislative Rules 36A and 36B. [7] 1945 *Assem. Hans.* 879. [8] *Ib.* 1524-34. [9] 26 Geo. V & 1 Edw. VIII, c. 2. [10] Contributed by the Secretary of the Legislative Assembly.—[Ed.] [11] *See also* JOURNAL, Vols. IV, 96; VIII, 61; IX, 51. [12] 408 *Com. Hans.* 5, s. 552.

for India (Rt. Hon. L. S. Amery) said that its purpose was to remedy an oversight in the drafting of the Government of India Act, 1935, more particularly in response to the repartition of taxation between the Central Government and the Provinces. Duties of this character, though levied at the centre, were, under the financial schemes of the Indian federal structure, actually allocated to the Provinces. It was subsequently suggested that such an Estate Duty might not be within the competence of the Government of India or of Provincial Governments because the list of taxes as between the centre and the Provinces in the Act of 1935 referred only to Succession Duties.

It was suggested that a Succession Duty levied on that part of an estate passing to a particular beneficiary would not cover a duty on the estate as a whole. The Government of India submitted the matter to the Supreme Federal Court for an opinion, and that Court, by a majority of its judges, decided that the doubt cast upon the power of the Government of India and of the Provincial Governments was well founded, and that Estate Duty could not be introduced or passed on agricultural estates in the Provinces or at the centre upon estates other than agricultural.

Section 1 (1) inserts a reference to Estate Duty after para. 56 of the Federal Legislative List, the following para.:

> 56A. Estate duty in respect of property other than agricultural land.

A corresponding reference in the Provincial Legislative List is similarly inserted as:

> 43A. Estate duty in respect of agricultural land.

Sub-section (2) introduces a reference to Estate Duty in s. 137 of the Act, which provides for the distribution to the Provinces of certain taxes, and sub-section (3) defines Estate Duty.

The Bill originated in the Lords, passed through the Commons without amendment and became 8 & 9 Geo. VI, c. 7.

British India: Central Legislative Assembly (Government Defeats).[2]—On March 8,[3] in reply to a *Q.* in the Commons, the Secretary of State for India (Rt. Hon. L. S. Amery) said that he understood from Press reports that the Government of India had been defeated 6 times in the present Budget Session of the Legislative Assembly. The first occasion was a vote of censure relating to the grievances of Indians in South Africa; the second issue was that of the methods used for the sale of National Savings Certificates by Government agents in Bihar; the remaining 4 issues arose in connection with the Railway Budget.

On April 18,[4] in reply to a *Q.* in the Commons, Mr. Amery said that in the past 10 years 11 Finance Bills were submitted to the Indian Legislative Assembly. On 4 occasions the Bill was passed by th

[1] 26 Geo. V and 1 Edw. VIII, c. 2.

[2] *See also* JOURNAL, Vols. VII, 80; IX, 5[illegible]

[3] 408 *Com. Hans.* 5, s. 2225.

[4] 410 *Ib.* 397.

Assembly without amendments or with amendments which the Government were prepared to accept.

Mr. Amery reminded the questioner that the Indian Constitution was not the same as theirs, and that the assent of the Assembly was not in every circumstance essential to the passing of a Measure.

British India : Central Legislative Assembly (Parliamentary Catering Services).—With reference to the Article (XI) on this subject in Vol. III, p. 99, for the last sentence of the paragraph the following should be substituted:

If any Select or Joint Committee Meetings of the Central Legislature, consisting of at least 10 persons, of whom not less than 4 are non-officials, are convened, tea and light refreshments can be served to members at Government expense.[1]

British India : Central Legislative Assembly (Admission of Visitors to Galleries in the Chamber).—Detailed information in regard to the conditions under which these admissions are granted have been received from our members in most of the Indian Legislatures, but they have never been put on record. The following are those of the Central Legislative Assembly at New Delhi, and will perhaps serve as a general example:

RULES FOR THE ADMISSION OF VISITORS TO THE GALLERIES OF THE LEGISLATIVE ASSEMBLY CHAMBER.

In exercise of the powers conferred by S.O. 35 of the Legislative Assembly Standing Orders, and in supersession of the existing rules and orders on the subject, the President of the Legislative Assembly, with the approval of the Governor-General, has been pleased to make the following rules for the admission of visitors to the galleries of the Assembly Chamber during the sittings of the Assembly:

1. Ordinarily there shall be five classes of galleries—namely,
   (*a*) President's Gallery, which shall be placed at the disposal of the President;
   (*b*) Council of State Gallery for the exclusive use of the members of the Council of State;
   (*c*) Public Gallery for the use of members of the public generally;
   (*d*) Ladies' Gallery for the exclusive use of ladies; and
   (*e*) Distinguished Visitors' Gallery.

2. Admission to the President's Gallery shall be by cards which may be issued by the President in his discretion at any time.

3. Admission to the galleries, other than the President's Gallery and the Council of State Gallery, shall be by an order of the Secretary, and no stranger shall, without an admission card, enter the galleries.

4. Applications for admission cards to the Public and Ladies' Galleries must be made to the Secretary only through members for persons who are personally known to them, or, in *select cases*, for those who have been introduced to members by persons who are personally known to them.

5. Save in so far as is provided in Rule 16 of these rules, applications for cards for each day's meeting shall be made separately on the printed forms prescribed for this purpose.

6. For applications for admission cards to the Public Gallery and the Ladies'

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

Gallery the form set out in Appendix I to these rules, printed on white paper, shall be used.

7. Save in so far as is provided in Rules 7A, 8 and 13 of these rules, admission cards to the Public Gallery and the Ladies' Gallery will be issued up to *one clear day* before the date of the meeting.

Explanation.—Cards for a meeting to be held on a Wednesday will be issued up to the previous Monday evening *but not later*; but as Sunday is a closed holiday, cards for a meeting to be held on a Tuesday will be issued on the previous Saturday.

7A. In the case of a person to whom an admission card has once been issued under Rule 7 during a Session, further admission cards may be issued to such person subsequently during the same Session if application is made not later than the day previous to the meeting for which the admission card is required. Such application must be accompanied either by the previous admission card or a reference to the exact date of the earlier application.

8. In the case of a member's personal friend or relation *who happens to visit the place of Session for a very short period and in whose case it is not possible to comply with the condition laid down in Rule* 7, the special application form set out in Appendix II to these rules, printed on yellow paper, shall be used. Such applications must be handed in at the Notice Office before 5 p.m. on the working day previous to the date of the meeting for which the admission cards are required.

9. Ordinarily not more than *two* admission cards will be allowed under Rule 4 to each member for a particular meeting unless there is room in the galleries. In addition, two more admission cards, and not more than two, may be issued for any particular meeting to a member, if accommodation permits, for personal friends or relations under Rule 8:

Provided that the number of admission cards may further be restricted on special occasions when there is no room in the galleries.

10. Applications which do not supply in full the particulars required in accordance with the printed instructions on the application forms prescribed in Rules 6 and 8 will not be complied with.

11. Admission cards will be handed over either to the members applying for them or will be sent to their residential addresses, but they will in no case be made over to any other person.

12. Admission cards are *not transferable* and they shall in no circumstances be passed on to unauthorized persons. They are issued subject to the holder observing the conditions endorsed thereon.

13. Admission cards in the names of the wives, sons and daughters of members can be obtained by application on any of the prescribed forms at any time.

14. The Secretary shall, under the orders of the President, maintain a list of persons who may be admitted to the Distinguished Visitors' Gallery. Rules 6, 8 and 10 relating generally to the submission of applications shall not ordinarily apply in regard to the Distinguished Visitors' Gallery.

15. Cards of admission to the Distinguished Visitors' Gallery may be obtained by members on application to the Secretary on the form set out in Appendix I. The Secretary shall, subject to the orders of the President control the admission to the Distinguished Visitors' Gallery. In special cases if the President so directs, admission cards to this Gallery may be issued through the Secretary also.

16. The President may, in his discretion, authorize the Secretary to issue special Sessional cards for admission to the Distinguished Visitors' Gallery to *ex*-members of the Assembly and members of the various Branches of the Empire Parliamentary Association.

16A. The President may, in his discretion, issue an *ordinary* Sessional card for admission to the Distinguished Visitors' Gallery to a person who may be admitted to that Gallery under Rule 14.

17. (*a*) At ordinary meetings of the Assembly none but members of the Council of State shall occupy the Council of State Gallery.
(*b*) The President may, when the Council of State is not in Session or on special occasions, *e.g.*, Governor-General's address to both Houses, or joint sittings, utilize the Council of State Gallery for other visitors.

18. The President may, at any time, suspend these Rules in the case of any particular meeting or meetings and substitute therefor any special rules which he may deem fit.

19. The President may, in his discretion, cancel any admission card to any of the galleries.

20. Any matter not provided for in these Rules shall be regulated by the President at his discretion.

(*Appendix I above mentioned, not reproduced.*)

British India: Central Legislative Assembly (Corrections)—*Appeal against Mr. Speaker's Ruling.*—In the Article (XII) on this subject in Vol. I, p. 58, line 9, the number of the authority there quoted should have been Indian Legislative Rule No. 15 (Decision on Points of Order) in respect of both the Council of State and the Central Legislative Assembly, not as there quoted, "S.O. 58 of the Council of State and 63 of the Legislative Assembly." In both Chambers the President has the power to decide all points of order as they arise and his decision is final.

Time Limit of Speeches.—In the Article (XIV) on this subject in Vol. I, p. 75, line 18, the number of the authority there quoted should have been Indian Legislative Rule No. 46 (General Discussion) in respect of both the Council of State and the Central Legislative Assembly, not as there quoted (Co. S.O. 70; Assem. R. 154).

Strangers.—In the Article (VII) on this subject in Vol. III, p. 77, footnote 1 should read: January 20, 1930, Vol. I, 1930, pp. 1, 750, 844. Footnote 2 therefore falls away and footnote 3 becomes footnote 2.

British India (Failure of Constitutional Machinery in Governor's Provinces of Madras, Bombay, United Provinces, Bihar, Central Provinces and Berar, and Orissa).[1]—On April 20,[2] in the House of Commons, the Secretary of State for India (Rt. Hon. L. S. Amery), in moving the following 6 Motions in regard to the continuance in force of the Governors' Proclamations issued under s. 93 of the Government of India Act, 1935, said that the purpose of the Motions was to extend the authority of the House of Commons for another 12 months to the system of direct rule in the above-mentioned Provinces (*for Orissa see below*) which came about in 1939, under circumstances familiar to the House.

The House had deliberately limited that authority to 12 months, in order to emphasize the fact that the situation was regarded as provisional and abnormal. Such period was of course a maximum period, and at any time before the expiration of the 12 months, if in any of

[1] *See also* JOURNAL, Vols. IV, 92, 95; XIII, 87.
[2] 410 *Com. Hans.* 5, s. 636-44.

those Provinces political leaders were prepared to come forward, ready to form a Ministry prepared to support the War, and gave a reasonable assurance of stable support in the legislature, it would be the duty of the Governor to constitute such a Ministry. At the moment, however, there was no immediate sign of a desire to bring about a change.

The form of Motion in regard to the Province of Madras was:

> 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 Madras on 30th October, 1939, and of his Proclamation varying the same issued on 15th February, 1943, copies of which were presented on 28th November, 1939, and 16th March, 1943, respectively.

The corresponding dates in respect of the Provinces of Bombay were November 4, 1939, February 15, 1943, November 28, 1939, and March 16, 1943; of the United Provinces, November 3, 1939, December 1, 1939, February 12, 1943, November 28, 1939, January 16, 1940, and March 10, 1943; of Central Provinces and Berar, November 10, 1939, December 2, 1939, November 28, 1939, and January 16, 1940; of Bihar, November 3, 1939, December 3, 1939, February 13, 1943, November 28, 1939, January 16, 1940, and March 10, 1943.

On December 12, 1943,[1] the Resolution passed in respect of Orissa read:

> That this House approves of the continuance in force of the Proclamation issued under s. 93 of the Government of India Act, 1939, by the Governor of Orissa on 30th June, 1944, a copy of which Proclamation was presented on 25th July, 1944.

All 6 Motions were put and agreed to on the dates given.

British India: Bengal (Procedure Conferences).—The Secretary of the Bengal Legislative Assembly informs us that from time to time conferences are held in Delhi of all the Presidents and Speakers of the various Legislatures in British India. At these conferences the Secretaries of the Legislatures also attend. Various points of procedure are discussed. These conferences have been found very useful, and Mr. K. Ali Afzal suggests that the possibility of holding conferences of the Clerks-at-the-Table may be considered. It may be held in the same manner as the Empire Parliamentary Association holds its conferences in different parts of the Empire. It appears to Mr. Afzal that such conferences would not only help the officers and members of the House to develop healthy Parliamentary practice on the lines of the procedure of Westminster, but would also popularize the work of the Society in different countries and may thus help the Society financially. The Government of the country where the conference would be held may be expected to give assistance.

British India: Bengal (Members' Salaries).—The salaries of members of both the Legislative Council and of the Legislative Assembly have been increased from *Rs.* 150 *p.m.* to *Rs.* 200 *p.m.* by

[1] 406 *Com. Hans.* 5, s. 1176.

the Bengal Legislative Chambers (Members' Emoluments) Amendment Act, 1945.

British India : Bengal (Form of Proclamation for Suspension of s. 93 of the Constitution).[1]—

NOTIFICATION.

No. 2888.—31st March 1945.—The following Proclamation by His Excellency the Governor, dated the 31st March 1945 is published for general information:

Proclamation.

Whereas the Governor of the Province of Bengal is satisfied that a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of the Government of India Act, 1935 (hereinafter referred to as " the Act "):

Now, therefore, in the exercise of the powers conferred by s. 93 of the Act and with the concurrence of the Governor-General, the Governor by this proclamation—

(*a*) declares that all his functions under the Act shall be exercised by him in his discretion;

(*b*) assumes to himself all powers vested by or under the Act in the Provincial Legislature and all powers vested in either Chamber of that Legislature but not so as to affect any power exercisable by His Majesty with respect to Bills reserved for his consideration or the disallowance of Acts;

and he hereby makes the following incidental or consequential provisions which appear to him to be necessary or desirable for giving effect to the objects of this Proclamation—namely:

(1) The operation of the following provisions of the Act is hereby suspended—namely, ss. 50 and 51, s. 59 so far as it relates to or requires consultation with Ministers, ss. 62 to 67 (both inclusive) and 70 to 74 (both inclusive), the proviso to s. 75, the proviso to sub-section (1) of s. 76, sub-sections (1) and (2) of s. 78 and so much of sub-section (3) thereof as relates to salaries and allowances of Ministers, ss. 79 to 82 (both inclusive), so much of sub-section (1) of s. 83 as relates to the passing of a Resolution by the Provincial Legislative Assembly; sub-section (2) of s. 83; ss. 84 to 90 (both inclusive) and so much of s. 169 as relates to the laying of reports before the Provincial Legislature;

(2) In exercising legislative powers under or by virtue of this Proclamation the Governor, acting in his discretion, shall prepare such Bills as he deems necessary, and declare as respects any Bill so prepared either that he assents thereto in His Majesty's name, or that he reserves it for the consideration of the Governor-General; and the reference in sub-section (2) of s. 76 to the day on which a Bill was presented to the Governor shall be construed as a reference to the day on which a Bill was so reserved by him;

(3) Any expenditure from the revenues of the Province, whether expenditure charged by the Act on those revenues or not, and whether incurred before or after the making of this Proclamation, shall be deemed to have been duly authorized if it is included in an annual estimate of expenditure or a supplementary estimate of expenditure published in the official gazette of the Province;

(4) While this Proclamation is in force it shall, notwithstanding anything in any rules made under the Act relating to elections, be unnecessary for an election to be held for the purpose of filling any casual vacancy in either Chamber of the Provincial Legislature;

[1] *See also* JOURNAL, Vols. VIII, 63; X, 74; XIII, 87.

(5) Any reference in the Act to Provincial Acts, Provincial laws, or Acts or laws of a Provincial Legislature shall be construed as including a reference to Acts made under or by virtue of this proclamation, and the Bengal General Clauses Act, 1899 (Bengal Act I of 1899), and so much of the General Clauses Act, 1897 (X of 1897), as applies to Provincial laws, shall have effect in relation to any such Act as if it were an Act of the Provincial Legislature.[1]

Calcutta,
The 31st March 1945.

R. G. CASEY,
Governor of Bengal.
L. G. PINNELL,
Secretary to the Governor of Bengal.

British India: Central Provinces and Berar (Procedure, etc.)[2]—*Closure.*—With reference to Vols. I, 66, V, 54, and XI-XII, 65, of the JOURNAL, Rule 13 (1) and (2) of the Legislative Assembly provides that any time after a motion has been made a member may move for the Closure, and, unless it appears to the Speaker that such motion would infringe the rights of reasonable debate, the Speaker puts the question to the House without any debate. If the Closure motion is accepted by the House, the motion or motions before the House is/are put to the vote after allowing such right of reply as is admissible under the rules. A motion for Closure cannot be moved while a member is continuing his speech.

Disorder in the House.—With reference to Vol. II, 103, of the JOURNAL, Rules 40, 42 and 43 of the Legislative Assembly provide that: (*a*) in the case of disorder by an individual member, the Speaker has power to ask the member to withdraw for the remainder of that day's sitting, and a member so ordered a second time in the same Session may be directed by Mr. Speaker to absent himself from the sitting for any period not longer than the remainder of the Session in accordance with Rule 42.

(*b*) In the case of a general disorder the Speaker has in law all powers necessary for the purpose of enforcing his decisions and of preserving order, and in the case of a grave disorder to suspend any sitting for a time to be named by him.

Disputed Election Returns.—With reference to Vols. III, 60, IV, 9, of the JOURNAL, it is stated in the Constitutional Manual, Vol. II, p. 49, that under s. 291 of the Constitution Act (the Government of India Act, 1935) the decision of doubts and disputes arising out of, or in connection with, elections to the Provincial Legislature falls *inter alia* to be governed by an Order-in-Council. It is accordingly regulated by the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936. Under this Order an election petition can be presented to the Governor by any candidate or elector on any ground, and by an officer on specified grounds, in accordance with the prescribed requirements. If the Governor finds that the prescribed requirements are complied with, he appoints as Commissioners 3 persons who are, or have been, or are eligible to be

[1] Contributed by the Secretary of the Legislative Council.—[ED.]
[2] Contributed by the Secretary of the Legislative Assembly.—[ED.]

appointed, Judges of a High Court and one of them as President (the practice is to appoint a Judge of the High Court as President). Thereafter all applications and proceedings in connection with the petition are dealt with by, and carried on by or before, the Commissioners. The Commissioners submit their report to the Governor, who makes the final order in terms of the recommendations.

Election of Speaker.—With reference to Vols. II, 114, III, 10, 11, IV, 21 and 35, X, 44, XI-XII, 47, of the JOURNAL, under L.A. Rule 6 (3) of the Constitutional Manual, Vol. III, the Secretary to the Legislature (corresponding to the Clerk of the House) does not preside during the election of the Speaker. That duty is performed by a member appointed by the Governor under s. 65 (3) of the Government of India Act, 1935, when the offices of Speaker and Deputy Speaker are vacant, and by the Deputy Speaker when only the office of Speaker is vacant. No difficulties have arisen in this matter.

Method of taking Divisions.—With reference to Vol. I, 104, IX, 29, and XI-XII, 67, of the JOURNAL, Appdx. E of the Constitutional Manual, p. 36, provides that a division is taken by members dividing in the " Ayes " or " Noes " Lobby, as the case may be, and signing the voting sheets. There are no tellers. When a division is demanded, the division bell is set in motion for 2 minutes. The members resume their seats within those 2 minutes, and then the doors leading to the Chamber and the Lobbies from outside are closed. The Question is then again put and the members are asked to divide.

Mode of putting Amendments.—With reference to Vols. I, 91, and XI-XII, 67, of the JOURNAL, L.A. Rule 82 provides that amendments are ordinarily considered in the order of the clauses to which they relate.

In regard to a number of amendments to the same clause, the matter is one for the discretion of the Speaker. If the subject-matter of several amendments permits this being done, all are moved, one following the other after the number of the clause is called, and a general debate takes place on the clause, together with the amendments moved, the order for putting them to the vote of the House being decided by the Speaker at the time of putting the Question. Where this is not practicable, the most comprehensive amendment is, as a matter of practice, allowed to be moved first and decided upon.

Parliamentary Catering.[1]—The Legislature in this Province ordinarily sits between noon and 5.30 p.m., and no arrangements for serving dinners are needed. There are two refreshment rooms, managed by contractors, which cater for the members and their friends. No expenditure is incurred from the budget of the Legislature. The rates of articles supplied in the refreshment rooms are subject to approval by the Secretary generally.

Remuneration and Free Facilities to M.L.A.s.—With reference to Vols. IV, 39, and XI-XII, 64, 67, of the JOURNAL, the Central Provinces and Berar Payment of Salaries Act, 1937 (since temporarily repealed),

[1] *See* Index hereto.—[ED.]

provided for the payment of *Rs.* 75 per month as salary to member. The rules made under the Act also provided for the payment of travelling allowance as follows:

Journey by rail ..	..	2 inter-class fares + 1 third-class fare for servant.
Journey by road	..	As for a first-class Officer.
Halting allowance	..	*Rs.* 2-8-0 a day.

Besides the above, they were permitted to ocupy rest houses intended for them at the headquarters free of charge when on duty. They were also permitted to occupy rest houses free of charge in the constituency when on tour for purpose of educating the electorate.

Seating of Members.—With reference to Vols. III, 78, IV, 10, 36, of the JOURNAL, the seating of members in the Legislative Assembly rests entirely with the Speaker.

"*Strangers.*"—With reference to Vols. III, 70, IV, 39, VI, 215, IX, 28, 56, "Strangers" are admitted to the galleries by admission tickets, which are given to members, who issue them after counter-signature. Notwithstanding the possession of an admission ticket, any visitor is liable to be asked to leave the precincts in the discretion of the Speaker.

Supplementary Question.—Rule 52 of the Legislative Assembly provides that any member may put a Supplementary Question on a Question being called, for the purpose of further elucidating any matter of fact regarding which any answer is given.

Time Limit of Speeches.—With reference to Vol. XI-XII, 64-6 L.A. Rule 27 provides that a mover of a motion and the Minister in charge of the subject may speak for 30 minutes and any other member for 15 minutes. This time limit may be exceeded by the permission of the Speaker. No time limit is fixed for speeches on Bills.[1]

British India: Sind (Amendment of Rules).—At its sitting on February 28, 1944, the Legislative Assembly made the following amendments to the Rules:

A. *Rule 45: War-time Rules of Debate.*—Rule 45 was amended by adding to (2) (i) of such Rule the words "or when His Majesty is at war with any foreign State, to any information likely to assist the enemy or to any fact, reference to which would be calculated to disclose information likely to assist the enemy";

B. *Questions.*[2]—The following new Rule 67A was inserted to follow 6 (Questions requiring the Governor's consent):

67-A. (1) When His Majesty is at war with any foreign State no question shall be asked the asking of which would be calculated to disclose information likely to assist the enemy.

(2) If the Speaker is of opinion that a question may be one the asking which would be calculated to disclose information likely to assist the enemy he shall, as soon as may be after the receipt of the notice of the question, forwa

[1] The above paragraphs contributed by the Secretary of the Legislative Assemb —[ED.] [2] Contributed by the Secretary of the Legislative Assembly.—[ED.]

to the Governor a copy thereof and, unless the Governor (whose decision in the matter shall be final) decides that the question may be put, it shall not be entered in the list of business.

(3) Notwithstanding the fact that the Speaker has made no reference under sub-rule (2), if the Governor considers that any question or part of a question is one the asking of which would be calculated to disclose information likely to assist the enemy, he may communicate to the Speaker his decision, which shall be final, and on receipt of such communication the question shall not be entered in the list of business, or, if it has been so entered, the Speaker shall decline to allow the question to be put.

(4) The Speaker shall disallow any supplementary question the asking of which would be calculated to disclose information likely to assist the enemy;

C. *Governor's Consent and Resolutions.*—The following new Rule 89-A was inserted to follow Rule 89 (Governor's consent to Resolutions, where required):

89-A. (1) When His Majesty is at war with any foreign State, no Resolution shall be moved the discussion of which would be calculated to disclose information likely to assist the enemy.

(2) If the Speaker is of opinion that a Resolution may be one the discussion of which would be calculated to disclose information likely to assist the enemy, he shall, as soon as may be after the receipt of the notice of the Resolution, forward to the Governor a copy thereof and, unless the Governor (whose decision in the matter shall be final) decides that the Resolution may be moved, it shall not be entered in the list of business.

(3) Notwithstanding the fact that the Speaker has made no reference under sub-rule (2), if the Governor considers that any Resolution or part of a Resolution is one the discussion of which would be calculated to disclose information likely to assist the enemy, he may communicate to the Speaker his decision, which shall be final, and on receipt of such communication the Resolution shall not be entered in the list of business, or, if it has been so entered, the Speaker shall decline to allow the Resolution to be moved;

D. *Governor's Disallowance Motions.*—The following new Rule was inserted to follow Rule 111 (Governor's power to disallow):

111-A. The provisions of rule 89-A shall, so far as may be, apply to Motions and Motions for adjournment of the business of the Assembly, for the purpose of discussing any matter of urgent public importance;

E. *Assembly Records.*—The following sub-Rule (4) was added after 174 (3):

(4) When His Majesty is at war with any foreign State, the report prepared under sub-rule (3) shall be sent to the Governor before it is published and if the Governor certifies that any portion of the report contains information likely to assist the enemy that portion of the report shall not be published in the *Official Gazette* or otherwise.

India: Chamber of Princes (Future Development of States).[1] —On December 13, 1944,[2] in the House of Commons the following *Q.* stood on the *O.P.* in the name of an hon. member:

100. To ask the Secretary of State for India if he is in a position to make a statement regarding representations made by the Chamber of Princes to the Viceroy concerning the future development of their territories.

[1] *See also* JOURNAL, Vols. IV, 33, 76-99; V, 53; VI, 70, 73; VII, 90; VIII, 67, 74, 81; IX, 51, 59, 138; XI-XII, 69; XIII, 91-93.

[2] 406 *Com. Hans.* 5, s. 1243.

The Secretary of State for India (Rt. Hon. L. S. Amery) thereupon made a statement to the effect that in September, 1944, a small deputation of Princes led by the Chancellor of the Chamber was received by the Crown Representative. The matters discussed covered a wide field, and a formal reply was sent on December 2, on behalf of the Crown Representative, to the points raised by the deputation. On the 3rd *idem*, just before the date fixed for the Session of the Chamber of Princes, the Chancellor informed the Viceroy that he, the Pro-Chancellor and 19 members of the Standing Committee had resigned their offices and membership of that Committee. No question arose as to accepting or not accepting these resignations as the appointments were made by the Chamber itself, but they inevitably caused a postponement of a Session of the Chamber. The Viceroy had, however, received an assurance from the Princes concerned that their resignation would not affect their determination to do their utmost to help in the prosecution of the War. Discussions on the future development of the Indian States and its relation to post-War development in British India were instituted with representatives of the Chamber in October, 1944, but the discussions were only at a preliminary stage. The Government of India was aware of the necessity of so shaping their post-War development plans that benefits would, as far as possible, accrue to the whole country, and not to British India only.

On March 1,[1] *Q.s* (Nos. 30 and 31) were asked in the House of Commons whether, in regard to the resignations, the normal functioning of the Chamber had been interrupted, and what steps were being taken to expedite its postponed Session; and whether the attention of the Secretary of State for India had been drawn to the statement issued by H.H. the Nawab of Bhopal on December 17, to the effect that the Princes had refrained from making a public statement because they did not wish to cause unnecessary embarrassment; also whether the Minister would make an early statement in regard to further developments.

Another hon. member asked a similar *Q.* (No. 32).

Mr. Amery replied in the affirmative to Nos. 30 and 31, but said that as regards the remainder he was not in a position to make a statement at present.

Indian States: Mysore (Constitutional).[2]—Constitutional reform in this Indian State has already been described in the JOURNAL. The late Maharaja (Colonel H.H. Sir Sri Krishnaraja Wadigar Bahadur, G.C.S.I., G.B.E.), shortly before his death in 1941, inaugurated the 2 Houses of the Legislature—the Representative Assembly and the Legislative Council—constituted under the Government of Mysore Act, with an inspiring speech wishing success to the new scheme of constitutional reforms and concluding with the hope that

> our beloved State may, in the days to come, make yet more rapid progress in all directions, and that the new Constitution may help to train the people

[1] 408 *Ib.* 1548. [2] *See also* JOURNAL, Vols. VII, 91; VIII, 70; IX, 59; XIII, 92.93

in the virtues of citizenship which are the only enduring foundation and ultimate justification of any political system.

The new Constitution provided for the appointment of at least 2 non-official Ministers from among the elected members of the Legislative Council and the Representative Assembly. Officials do not vote in the Assembly, but in the Council the official members are in a decided minority. The duration of the 2 Houses as constituted for the first time under the Reforms of 1940 has been concluded and fresh elections to both Chambers have taken place.[1]

When addressing the Representative Assembly on the opening of the Budget Session on June 1, the Dewan (Pradhanasiromani N. Madhava Rau, C.I.E.), in concluding his address, expressed his appreciation of the zeal of the first non-official Ministers appointed, for the progress and prosperity of the State and their helpful co-operation in the work of administration.[2]

The *Mysore Information Bulletin* of June, 1945,[2] publishes the names of the Dewan and the Ministers of Revenue, Agriculture, Education and Public Health, Law and Public Works, the last 3, Dr. T. C. M. Royan, M.D., Mr. O. S. Nasrulla Sheriff, M.A., LL.B., and Mr. L. Siddappa, B.A., LL.B., being appointed by H.H. the Maharaja under s. 8 (3) of the Government of Mysore Act in place of other Ministers upon relinquishment of office. The same notice also allocates the portfolios of the Dewan and the 2 other Ministers. All 5 Ministers also sit as Chairmen of Boards dealing with certain departments of the Administration.

Burma (Failure of Constitutional Machinery).[3]—On May 17,[4] in the House of Lords, the Parliamentary Under-Secretary of State for India and Burma (Rt. Hon. the Earl of Listowel) moved:

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

The noble Earl said that, as a result of the occupation of the greater part of Burma by the Japanese, it became impossible to govern the country in accordance with the Act and the Governor had assumed all functions of government from December 9, 1942, under s. 139 of the Act. Such section also provides that a Proclamation by the Governor continues in force for 6 months, after which a Resolution of both Houses of Parliament is required to approve its continuation in operation for further periods of 12 months, subject to a total period of 3 years. As War conditions still did not permit a resumption of Parliamentary government in Burma, a further Resolution was now necessary to prolong the validity of the existing Proclamation.

Question put and agreed to.

[1] *Mysore Information Bulletin*, February, 1945, 37.
[2] *Ib.*, June, 1945, 180.
[3] *See also* JOURNAL, Vols. XI-XII, 74; XIII, 93.
[4] 136 *Lords Hans.* 5, s. 228.

The same Resolution was passed by the Commons on June 1.[1]

Burma (Constitutional: Temporary Provisions).[2]—The Gove ment of Burma (Temporary Provisions) Bill originated in the Lord the 1944-45 Session, and after passing through its various stages sent down to the Commons. In moving 2 *R.* in that House June 1,[3] the Secretary of State for Burma (Rt. Hon. L. S. Ame said that the object of the Bill was to provide for an unavoidable st in the transition from the immediate military administration of Bur to the restoration of self-government which Burma enjoyed before Japanese invasion and then to the attainment of full and complete se government within the British Commonwealth, known as Domini status.

Under Clause 1 (1) of the Bill, continued the Minister, a permiss period of 3 years provided for the continuance of the Governor's pow under s. 139 of the Constitution, but it would be the Governor's du to revert to Parliamentary government under the main Act direc conditions for its re-establishment existed—namely, as soon as Legislature could be elected and a Ministry constituted.[4] Clause 2 provided for the liberalizing of the direct Government under t normal operation of s. 139 and made it possible for the Governor create a Government of the Executive Council type in which, subje to his final control, and to his responsibility to the Secretary of Sta his colleagues would have a definite part in the decision and executi of policy. At the outset this Council would be a small body draw from a number of his officials, who already included Burmese as w as Europeans. It was the Governor's intention to expand it by t inclusion of non-official Burmese public men. The Council might the first instance exercise both administrative and legislative powe followed by an interim Legislative Council enjoying a wider measu of popular support. The constitution and powers of both the bodies, continued Mr. Amery, and the relation between them woul as the Bill provided, come before this House in the shape of Orders Council. The main purpose was to lead up to the restoration of se government under the 1935 Act.[5]

When that state was reached it would be for the Burmese peop themselves to bring about by agreement among themselves and wi H.M. Government the final stage of complete Commonwealth statu As regarded the agreements with H.M. Government referred to para. 9 of the White Paper,[6] these were mainly the normal inciden of the transfer of powers to the Government of a completely sel governing Burma.

Mr. Amery then referred to the Scheduled Areas, including t Shan States, and the various primitive tribes inhabiting the mou tainous and densely forested regions along the India frontier. Th

[1] 411 *Com. Hans.* 5, s. 550. [2] *See also* JOURNAL, Vols. X, 76; XI-XII, XIII, 93. [3] 411 *Com. Hans.* 5, s. 495. [4] *Ib.* 499. [5] 26 Geo. V & 1 Edw. VIII, c. 3. [6] *Cmd.* 6635.

Shan States were governed by their own Chiefs under a system of indirect rule, and formed a separate self-supporting unit of a federal character. These peoples strongly desired to be dealt with separately from Burma proper. They should therefore remain under the direct authority of the Governor until they were in a position to associate on more equal terms with the rest of Burma.[1] The remaining stages of the Bill were taken on the same day, the Bill duly becoming 8 & 9 Geo. VI, c. 30.

The White Paper above mentioned, which was presented to the House on May 17, opens with a general description of Burma, its economic life, system of government, separation from India, the Act of 1935, the Scheduled Areas, working of the 1937 Constitution, Burma and the War, Burma under Japanese rule, the Government of Burma in India, reconstructive planning, the services and the period of military administration.

Part II of the White Paper contains a Statement of Policy, of which a brief outline has already been given by Mr. Amery in his speech on 2 R.

In regard to the setting up of a Government of Burma in India, on the evacuation of Burma by the British Forces in May, 1942, the Governor was directed to proceed to India. Two of his Ministers, the Premier and Finance Minister, and his senior officials also went to India and a large number of Government servants made their way there. Since it had been impossible to evacuate some of its main elements, it was decided to keep the Government of Burma in being. By the courtesy of the Viceroy they set up offices at Simla to deal with a number of administrative questions which required attention, such as the case of refugees, service questions, the administration for the time being of those frontier areas of Burma which remained under British control, and making plans and preparations for rehabilitation and reconstruction in Burma after its recovery.[2]

Colonial Empire (Constitutional Changes).—On January 31,[3] a *Q.* was asked the Secretary of State for the Colonies, whether he would give an assurance that the House would be given an opportunity of discussing any further important constitutional changes in the Colonies before they were implemented, bearing in mind the fact that a public announcement of the intentions of the Secretary of State was apt to be construed in the Colonies as committing him to seeing that the changes were carried out.

Colonel the Rt. Hon. Oliver Stanley replied that he fully realized the importance of giving the House complete information at the earliest possible moment of any such major changes proposed and of affording full opportunities for consultation and consideration. It had been the practice to make a full statement of policy in such case. If in any particular case there was a general desire for a debate, he would welcome it. A considerable time must necessarily elapse between the

[1] 411 *Com. Hans.* 5, s. 500-2. [2] *Cmd.* 6635, § 27. [3] 407 *Com. Hans.* 5, s. 1472.

announcement of policy and its implementation, and during the period opportunities were open to the House for discussion.

Gold Coast (Constitutional).[1]—On December 20, 1944,[2] in reply to a noble Lord who

> rose to call attention to statements in the Press regarding substantial changes proposed in the Gold Coast Legislature, and to move for Papers,

the Parliamentary Under-Secretary of State for the Colonies (Rt. Hon. the Duke of Devonshire) said that the present constitution provides for a Council consisting of the Governor as President, with an original and casting vote, 5 *ex officio* members of the Executive Council, 1[illegible] nominated official members, 6 provincial members chosen by the 3 Provincial Councils in the Colony, 3 municipal members, elected by ballot for Accra, Sekondi and Cape Coast, and 5 European unofficial members. Three is an official majority.

Recommendations for constitutional reform had recently been submitted to his rt. hon. friend the Secretary of State by the Governor after full consultation with representatives of African political opinion and those proposals had received the Minister's approval in principle. It was proposed to grant an unofficial majority on the Legislative Council and to include as the Council representatives of Ashanti as well as of the Colony, with a corresponding extension of its legislative authority. Under the new proposals the Council would consist of the Legislative Council as President (but 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, and 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; then 4 members for Ashanti who would be elected by the Ashanti Confederacy Council, 5 municipal members—namely, 2 for Accra and 1 each of Cape Coast, Sekondi-Takoradi and Kumasi, elected by ballot, and 6 nominated members appointed by the Governor, who would, in addition, have power to appoint extraordinary members not entitled to vote.

The Governor would be granted reserve powers permitting 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.[3]

The result of these changes was that an official majority would be changed into a substantial unofficial majority. It was hoped that the new Constitution would come into operation in 1945, but the Northern Territories would not come under the Legislative Council until then

[1] *See also* JOURNAL, Vols. XI-XII, 79; XIII, 96. [2] 134 *Lords Hans.* 5, s. 473.
[3] *Ib.* 474.

unofficial representation on it was possible; for the present the Governor would continue to legislate for them.

The significance of according an unofficial African majority was that out of 18 elected unofficial Africans 13 would be elected by the Joint Provincial Council of the Ashanti Confederacy Council and consequently would represent what might perhaps be called the more traditional opinion in Africa. The municipal members would be elected on lines resembling those obtainable in the United Kingdom, while the provincial members would be elected on predominantly African lines.

The system of election by the Provincial Council (which consists of the Head Chiefs whose headquarters are situated within the Province) was that each member of a Provincial Council had 1 vote for every unit of 10,000 inhabitants in his division, but the members of those Councils were by no means so authoritative as they might sound. These Chiefs are in fact very sensitive to African public opinion within their own States, and are liable to be " de-stooled " if they pursued a policy sufficiently unpopular among their own people. It might therefore be expected that their influence in the Legislative Council, while to some extent based on tradition, would nevertheless closely reflect popular opinion in their own States.[1]

Kenya Colony and Protectorate (Electoral).[2]—In response to the *Questionnaire* for this Volume, a copy of " The Legislative Council Ordinance " (No. XXVI of 1935) has been received from the Clerk of that Council, and, although the Ordinance came into force before the year under review in this issue, it discloses several provisions of particular interest, not only to those concerned in the actual government of extensive regions peopled by different races, but to readers of the JOURNAL generally.

What is known as Kenya Colony and Protectorate covers a land and inland water area more than twice that of the British Isles, but carries only about one-sixteenth their population. The population of the Territory is predominantly non-European, consisting, as it does, of nearly 4,000,000 Africans, over 56,000 Indians, 19,000 Arabs, 5,000 Goans and 32,000 Europeans (1944 estimate).

Kenya Colony and Protectorate is administered by a Governor with an Executive and Legislative Council. Under the reorganization of the administration of Kenya which has recently been put into operation, there has been a regrouping of certain departments, and the membership of the Executive Council now is: Chief Secretary, who is also the member for Development and Reconstruction; the Attorney-General, who is member for Law and Order; the Financial Secretary, who is member for Finance; the Chief Native Commissioner; the member for Agriculture, Animal Husbandry and Natural Resources; the member for Health and Local Government; the Deputy Chief Secretary as representing Administration and Departments and services

[1] *Ib.* 475. [2] *See also* JOURNAL, Vol. VIII, 96.

not covered by other members; and 3 unofficial members. The Governor has the right to nominate others to the Council.

These official members also hold seats on the Legislative Council, which consists of the Governor as President; 11 *ex officio* members; not more than 9 nominated official members (1 representing the Arabs); 17 members elected as follows: 11 by the European and 5 by the Indian voters respectively, according to defined electorates, and 1 by the Arab voters, in the last-mentioned instance the Territory as a whole forming the constituency. There are also 2 nominated unofficial members, at present both Africans, representing the interests of the African community. The other *ex officio* M.L.C.s are the Commissioner for Lands, Mines and Surveys; Director of Medical Services; Director of Agriculture; Director of Education; General Manager of Kenya and Uganda Railways and Harbours; Director of Public Works; and Commissioner of Customs.

The Executive Council of the Colony is also the Executive Council of the Protectorate (a strip of territory along the coast of the mainland dominion of the Sultan of Zanzibar, from whom it is rented), and the Legislative Council of the Colony may legislate for the Protectorate.[1]

The Legislative Council Ordinance, 1935, which did not come into operation until January 1, 1937, consists of 34 sections and 4 schedules, most of which latter deal with the delimitation of the electorates; the machinery for the registration of voters and their annual revision; the election of candidates; and voting.

Provisions are included in the body of the Ordinance dealing with registration; secrecy of the ballot; treating; undue influence; bribery; corrupt practices; and the penal provisions.

A brief description will now be given of some of the remaining provisions.

Elected M.L.C.s.—Section 3 provides for the 17 elected members, and the electoral areas for the European and Indian members are defined in Parts A and B respectively of Schedule I, the electorate of the one Arab member being as above, which is Part C of Schedule I.

Under s. 12, a candidate for election to the Legislative Council must have been a registered elector ordinarily resident in the Colony for at least one period of 2 years before his nomination. He may not be in permanent Government employment or serving it for a term of years. Neither may he be in the employ of a Municipality or Municipal Board nor have received a 6 months' sentence for a criminal offence without a pardon, but in this respect the Governor in Council is empowered in any particular case to remove such last disqualification. Neither may a candidate have been in receipt of Government or local authority relief within the last 12 months immediately preceding his nomination. He must also be able to write and speak the English language.

Section 13 provides that the nomination of every candidate must be supported by not less than 7 persons, other than his proposer and

[1] D.O. and C.O. List, 1940.

seconder, who must all be registered electors for that particular area. The proposer and seconder for the nomination of a candidate for election must also certify in the Nomination Paper that the candidate "has such a knowledge of the English language as will enable him to take part in the proceedings of the Council." [Sched. III, Form A, Rule 2 (3).]

Special provision is made in Rule 8 that, if only the exact number of candidates to be elected is nominated, they shall be declared elected. A candidate may, before noon on nomination day, withdraw his candidature in writing to the Returning Officer. [Sched. III, Rule 9.]

In the Indian electoral areas a symbol of identification is allotted to each candidate, and when publishing the names of the candidates such symbols must also be published. [Sched. III, Rule 11.]

In the Indian electoral areas the names of the candidates must be printed in English, Gujarati, Urdu, Gurumukhi and Hindu.

In event of the death of a candidate before polling day a fresh election must take place. [Sched. III, Rule 12.]

In case of an equality of votes when the addition of a vote would entitle any candidate to be declared elected, the decision is made by lot. [Sched. III, Rule 33.]

Every candidate must make a deposit of 1.000 *Sh.*, which is forfeited should a candidate fail to obtain ⅛ of the total votes polled for the area, but the Governor may, in cases where he considers that the forfeiture would create a hardship, order such deposit to be refunded the candidate.

Government Contracts.—No person may become a candidate "who has undertaken either directly or indirectly himself or by anyone in trust for him any contract with a Government Department for which the consideration exceeds seventy-five pounds" unless at least 14 days before the election date he publishes in a newspaper in the electoral area for which he is a candidate a notice of the fact of such contract, giving particulars thereof.

Should any elected M.L.C. undertake any such contract either directly or indirectly as above, he must inform the Clerk of the Legislative Council of the fact, giving particulars thereof for publication in the *Gazette*. [S. 12 (3) (4).]

The election of any M.L.C. who fails to comply with the above provisions becomes invalid and he is liable on conviction to the same penalty as for treating—namely, a fine not exceeding £50 and 7 years' disfranchisement as a voter, or from being eligible as a candidate.

Franchise.—To qualify for the franchise a person must not be under 21 years of age and a British subject of European origin or descent, or a British subject of Indian origin or descent, or an Indian under the suzerainty or protection of His Majesty, or, if an Arab, a British subject under the protection or suzerainty of His Majesty and able to write Arabic or Swahili in Arabic characters. "British subject" is defined in s. 2 as including persons who have been naturalized under any

Imperial statute or under any enactment of a British Possession as well as a natural-born subject of His Majesty.

The following are disqualifications for the franchise: Being under 21 years of age; sentenced to 12 months or more of imprisonment for a criminal offence and not have received a pardon (such disqualification, however, to cease 2 years after expiration of the sentence); of unsound mind; in receipt of Government or local authority relief; an undischarged bankrupt; non-residence in the Colony for at least one period of 12 consecutive months prior to application for the vote; or non-residence in his electoral area for less than 3 months.

Elections.—The ballot is secret, and those officiating at an election are subject to imprisonment for contravention of the law in this respect. Detailed provisions in connection with elections are contained in Schedule III to the Ordinance. Each voter has only one vote for each of any number of persons not exceeding the number to be elected for the particular area. [S. 17.]

Nomination day is appointed by the Governor by Notice in the *Gazette* and must not be less than 21 days after such Notice. [S. 35.]

Should no candidate be nominated for any electoral area, the Governor may, in his discretion, nominate an eligible person for election therefor. [S. 18.]

Under Schedule II provision is made for the registration of votes, for claims, annual revision of the voters' roll, and objections. The Form of Claim must be signed by the applicant, or his thumb-print given thereto. Punishments are provided for persecution, treating, undue influence, bribery (a section of 8 paragraphs deals with this).

The very fullest instructions to the voter are given on the front of the ballot paper and the utmost protection is given to the secrecy of the ballot. Special provision is made for the voting of illiterates. The decision of the Returning Officer as to any question arising in respect of any ballot paper is final. [Sched. III, 31.]

On the form of application for a voter in an Indian electoral area, the number and date of passport, or driving licence, or poll-tax receipts, or trading licence, or birth certificate, must be given. [Sched. II, Form B.]

In the application to the District Commissioner by an Arab voter, questions must be asked the applicant as to nationality, age, criminal offence, relief, bankruptcy, the date he first entered the Colony, and whether the applicant can write Arabic or Swahili in Arabic characters. [Sched. II, Form C.]

Voting by Post.—The Rules governing this procedure are set out in Schedule IV and apply to any elector who can satisfy a District Commissioner, either orally or in writing, that he resides at least 10 miles from the nearest polling station at which he is entitled to vote; or, that he has reason to believe that on polling day he will not be within 10 miles thereof; or, that on account of ill-health and infirmity he will be prevented from voting. [Sched. IV, Rule I.]

Should the voter not be within the Colony he encloses his ballot paper in the envelope provided and posts or otherwise transmits it to the Returning Officer as soon as possible. [Sched. IV, 4 (2), (3).]

Disputed Election Returns.—These are dealt with in s. 31, and application must be made within 15 days of the publication of the result of the poll.

Dissolution.—Subject to the power of the Governor to dissolve the Legislative Council at any time by Proclamation, s. 14 provides for such dissolution on the expiration of 4 years from the date of each general election, to take place on the first convenient date after such dissolution.

Duration of Appointment.—A member elected at a general election holds his seat, subject to the provisions of the Ordinance, for 4 years thereafter, or until the dissolution of the Council to which he is elected, whichever is the sooner. [S. 16.]

In the case of a by-election, an elected member or a member nominated under s. 18 holds his seat until the dissolution of the Council to which he is elected or nominated. [S. 21 (2).]

Resignation.—An elected M.L.C. resigns his seat in writing. [S. 19.]

Absence.—Should an elected M.L.C. leave the Colony without resigning his seat, the Governor may nominate any duly qualified elector to act as M.L.C. during such absence, but should any such M.L.C. be absent from the Colony for 9 consecutive months then his seat becomes vacant. [S. 20.]

Interpretation.—On any question as to the intention, construction, or application of the Ordinance and Rules thereunder, the decision of the Governor in Council is final. [S. 33.][1]

Newfoundland (Elected National Convention).[2]—On January 30,[3] in the Lords, Lord Ammon asked a *Q.* of which he had given *Private Notice.* It was:

> to ask H.M. Government when it expected to be in a position to make a further statement with regard to Newfoundland,

to which the Secretary of State for Dominion Affairs (Viscount Cranborne—*Lord Cecil*) replied that, first, the continuance of the War with Germany postponed the setting up of machinery for deciding the constitutional future of the Island; and, secondly, it equally precluded any immediate attempt to forecast the economic prospects of the Island after the War. It had been the clearly expressed view of Parliament and generally recognized in Newfoundland that when the Newfoundland people came to pronounce on the constitutional future much must depend on the degree of confidence with which they would be able to count on the Island continuing to be self-supporting in normal peace-time conditions. Many of the factors of which account would have to be taken by them in reaching any economic or financial assess-

[1] Revised by the Acting Clerk of the Legislative Council.—[ED.] [2] *See also* JOURNAL, Vols. II, 8; IV, 35; V, 61; VII, 106; XI-XII, 77. [3] 134 *Lords Hans.* 5, s. 703.

ment of the Island's future were still speculative and hypothetical. The noble Viscount had therefore come to the conclusion that the wiser course would be to recognize the realities of the War situation and defer the production of detailed proposals until later in the year, when the situation should be clearer. The inevitable postponement would not, however, interfere in the slightest degree with the progress of the Newfoundland Government's reconstruction plans for the immediate post-War period. That Government had ample funds for advancing any schemes and no such schemes would be held up. Indeed a start had already been made, and as soon as War conditions allowed others were ready to be put into operation. Nor would the postponement of H.M. Government's detailed statement affect its determination to proceed as early as circumstances would permit with the constitutional policy already announced.

On May 2,[1] in the Lords, Lord Ammon moved to ask the following 2 *Q.s*:

> To ask His Majesty's Government whether there is to be any constitutional change in Newfoundland to enable the people to take part in the election of the personnel of the Government of that country.
>
> To ask His Majesty's Government whether a statement can be made as to any proposals for the future economic development of Newfoundland.

The Parliamentary Under-Secretary of State for Burma and India (Rt. Hon. the Earl of Listowel) replied that a full statement would be made by the Secretary of State for Dominion Affairs later in the year, dealing with both the constitutional aspect and also Newfoundland's reconstruction needs.

After several intervening *Q.s* as to the expected statement of Government policy towards Newfoundland, the Prime Minister (Rt. Hon. C. R. Attlee) made a statement in the House of Commons on December 11,[2] of which the following is a *résumé*:

The Imperial Government propose setting up a National Convention of Newfoundlanders elected broadly on the basis of the former Parliamentary constituencies, at which all adults will be entitled to vote and absent candidates will be required to be *bona fide* residents in the districts they seek to represent.

The Convention will be presided over by a Judge of the Supreme Court with the following terms of reference:

> To consider and discuss amongst themselves, as elected representatives of the Newfoundland people, the changes that have taken place in the financial and economic situation of the Island since 1934, and bearing in mind the extent to which the high revenues of recent years have been due to war-time conditions, to examine the position of the country and to make recommendations to His Majesty's Government as to possible forms of future government to be put before the people at a national referendum.

An expert will be appointed by the Imperial Government to advise

[1] 136 *Ib.* 153. [2] 417 *Com. Hans.* 5, s. 210.

as to constitutional matters and procedure and frame a statement as to the Island's financial and economic situation.

The object of the procedure laid down by H.M. Government is to enable the people of the Island to come to a free and informed decision as to their future form of government.

Trinidad and Tobago: Legislative Council (Constitutional).[1]—The Trinidad and Tobago (Legislative Council) Amendment Order in Council of August 3, 1945, published in a Supplement to the *Trinidad Royal Gazette*, Vol. 114, No. 76, of September 6 of that year, amends the Trinidad and Tobago (Legislative Council) Order, 1924 ("The Principal Order"), and the Trinidad and Tobago (Legislative Council) Orders in Council, 1924 to 1942, which are now cited together as the Trinidad and Tobago (Legislative Council) Orders in Council 1924 to 1945.

Clause III of the Principal Order is revoked and a new interpretation clause substituted.

The Principal Order reconstituting the Legislative Council as now amended will be described (the Clause number being given in each case), in so far as it more directly affects the Legislature and its members. The Preamble recites the Letters Patent of October 1, 1880, and the Orders in Council of November 17, 1888, and October 20, 1898.

A new Clause III (Interpretation) is substituted for that in the Principal Order, defining "His Majesty", "Secretary of State", "Governor", "the Council", "Minister of Religion", "office of emolument", and "clear income", of which the last 4 will be quoted hereafter under their relative headings.

Legislative Council.—This Council is to consist of 3 official and 15 unofficial members with the Governor as President (IV). The Governor may summon to the Council Heads of Departments, should the business of the Council render their presence desirable, and they may take part in any proceedings thereon, except with the right to vote (IX).

The Governor may also make provisional appointments to be held during the King's pleasure, in cases of vacancy among official or nominated M.L.C.s, the period terminating upon a substantive appointment (X).

The Council may transact business notwithstanding vacancies (XLIII). The quorum is 6, excluding the Governor or presiding member (XLV).

At least one Session of the Council must be held in every year without an interval of longer than 12 months between Sessions (L).

The Council is summoned, prorogued or dissolved by the Governor by Proclamation (L, LI), but in the first place must be dissolved after 3 years from the published date of return of the first elected M.L.C. in the *Gazette*, unless sooner dissolved. Thereafter its duration is to

[1] *See also* JOURNAL, Vol. XIII, 97.

be 5 years from the date of publication in the *Gazette* of the return of the first elected M.L.C. at the last preceding election, unless sooner dissolved.

The Council may transact business notwithstanding vacancies among its members (XLIII) and the Royal Instructions must be conformed with (XLVII).

President.—The Governor acts as President of the Legislative Council, or in his absence such M.L.C. as he may appoint, or in default thereof or in absence of such M.L.C. the member present first in the order of precedence (XIV).

The Governor has only a casting vote, but another member presiding has both a deliberative and a casting vote (XLVI).

Official Members.—These are the persons from time to time discharging the functions of the respective offices of Colonial Secretary, Attorney-General, and Financial Secretary of the Colony (V).

Unofficial Members.—These are to consist of not more than 6 persons not holding offices of emolument under the Crown in the Colony, as the Governor may from time to time appoint [VI (1)] and 9 persons to be elected as hereinafter described [VI (2)].

(*a*) *Nominated Members.*—These hold their seats during the King's pleasure subject to vacation at the next dissolution of the Council, or before, should the seat have, under the Order, to be vacated [VIII (1)]. Nominated M.L.C.s are eligible for re-election [VIII (3)].

Should a Nominated M.L.C. absent himself without sufficient cause or persist in such absence after admonishment by the Governor, he may suspend him until the King's pleasure be known (XI). Any suspensions by the Governor remain in force until revoked by him (XIII).

Permanent appointment of a Nominated M.L.C. to any office of emolument under the Crown in the Colony renders his seat vacant. Should, however, such appointment be only temporary, he may retain his seat, but shall while so disqualified not sit as an M.L.C. [XII (17)]. Vacation of the seat of a Nominated member of the Council is also brought about by absence therefrom for 3 months without leave of the Governor previously obtained; foreign allegiance or citizenship; bankruptcy; assignment to his creditors; sentence to death; penal servitude or to over 12 months' imprisonment [XII (2)].

(*b*) *Elected M.L.C.s.*—Nine M.L.C.s are elected on a franchise and qualifications, 2 to represent the City of Port of Spain, 2 the County of Victoria and 1 each the Counties of St. George (excluding Port of Spain), Caroni, St. Patrick, St. David - St. Andrew - Nariva and Mayaro and the Ward of Tobago (XVII).

The qualification for M.L.C. is 21 years; British subjecthood, residence in the Colony for at least 2 years immediately prior to nomination or domicile in the Colony and resident therein, all at date of nomination; a registered voter, ability to speak, read and write English or able to speak English but is incapacitated by blindness or other

physical cause from being able to read or write it; income in his own right of at least $960 *p.a.*; or owner in his own right of unencumbered real estate (including leasehold) of at least $5,000, or of clear income[1] in his own right of at least $480 *p.a.* from real estate (new XVIII). Thus women are now to be eligible for membership equally with men. Qualification for membership by residence or ownership of property within the constituency has been removed and property and income qualification have been considerably reduced (new XVIII).

Disqualifications are: office of emolument[2] under the Crown; minister of religion;[3] returning officer for his constituency; undischarged bankrupt; sentence in any part of the King's Dominions or any territory under his protection of death, penal servitude or imprisonment for more than 12 months, and has not either served his imprisonment or received a free pardon; or of unsound mind, or detained as a criminal lunatic (new XVIII).

Unqualified persons are liable to a fine of £20 for every day they so sit and vote as M.L.C.s, recoverable by action in the Supreme Court at the suit of the Attorney-General (XIX).

The seat of an elected M.L.C. becomes vacant on death, resignation (in his own hand to the Governor) or disqualification as above mentioned (XX as amended).

Questions as to qualification as an M.L.C. on vacation of seat are determined by the Supreme Court (XXI).

Franchise.—To meet the new conditions for registration as a voter in any one electoral district a person must be an adult; a British subject; resident in the Colony for at least 2 years prior to date of registration; domiciled and resident therein at such date; and residence in the constituency in which he claims registration for not less than 6 months immediately prior to registration (new XXII). Thus qualification for women voters has been reduced from 30 to 21 years, residence in the constituency is now only 6 months and property and income qualifications have been abolished, and the voter need not now understand the spoken English language (new XXII).

Disqualifications for a voter are bankruptcy, sentence in any part of the King's Dominions or any Territory under his protection of death, penal servitude or imprisonment for more than 12 months and has not either served his imprisonment or received a free pardon; of unsound mind or detained as a criminal lunatic (new XXIII).

Electoral.—Clauses XXIV-XXX deal with registration of voters;

[1] "Clear income" is defined (III) as gross income received for own use less allowable deductions in arriving at chargeable income, *vide* the Income Tax Ordinance or regulations. [2] "Office of emolument" is defined in the Order as not including a pension or other allowance to an officer who has ceased to be in the service of the Crown, and does not include any office in so far as it is declared by any law for the time being in force in the Colony not to be an office of emolument for all or any of the purposes of this Order (new III).—[Ed.] [3] "Minister of religion," as defined in the Order, means any person in holy orders and any other person the functions of whose principal occupation includes teaching or preaching in any congregation for religious worship (new III).—[Ed.]

writs of election; polling and ballot; casting vote for returning officer; disputed election petitions, their trial and powers of the Chief Justice in regard thereto.

New Clause XXXI empowers the Legislative Council to legislate for the qualifications and registration of voters; qualification of candidates; delimitation of constituencies; Council elections; election offences; election petitions; questions regarding membership of the Council; and any matters not specifically referred to above or regulated by Clauses XVII, XXI-XXX, and XXXII-XLI, both inclusive, and for any amendment or repeal of those Clauses.

Clauses XXXII-XLI deal with bribery; treating; undue influence; and penalties for all 3; personation and penalty therefor; disqualification for bribery, etc.; penalties for illegal practices at elections; offences in respect of ballot papers, etc.; and infringement of secrecy.

Clause XLII provides that in Clauses XXXII-XLI males shall include females.

It is also provided that the first general election must be held within 6 months of the coming into operation of the Order of 1945, and a general election must be held within 2 months after every dissolution of the Council as the Governor may by proclamation appoint.

Precedence.—Clause XIV lays down the precedence of M.L.C.s as: Official M.L.C.s (other than provisional appointments) in the order in which their offices are mentioned in Clause V; such provisionally appointed members, according to date of appointment; unofficial M.L.C.s during length of time of continuous membership, and should that be equal then in alphabetical order. The membership of elected M.L.C.s dates according to the date of return of first writ and Nominated M.L.C.s on date of their instrument of appointment. Dissolution intervals are not taken into account (XIV).

Procedure.—The power to make and amend the Standing Rules and Orders is vested in the Governor with the advice of the Council, but such Rules, etc., may not be repugnant to this or any other Order in Council, Letters Patent or Royal Instructions. These Rules, etc., however, are subject to King's disallowance.

All Questions proposed for debate in the Council are decided by a majority of votes, the casting vote being as already given under " President " (XLVI). But Public Money Bills, Votes, Motions, etc., may only be proposed by the Governor or be expressly allowed or directed by him (XLIX).

Oath or Affirmation is required of all M.L.C.s before taking their seats (XV). Minutes of proceedings must be kept (XLIII).

Private Bills.—Clause XIII of the Royal Instructions of June 6, 1924, provides that every Bill, not being a Government measure " intended to affect or benefit some particular person, association or corporate body ", shall contain a section saving the rights of " Us, Our Heirs and Successors, all bodies politic and corporate and all others, except such as are mentioned in the Bill and those claiming by,

from, or under them ". No such Bill shall be introduced into the Legislative Council until due notice has been given by not less than 3 successive publications of the Bill in the *Gazette*, and the Governor is to certify that such has been done.

Miscellaneous.—Letters Patent constituting the office of Governor and Commander-in-Chief by Royal Instructions are both dated June 6, 1924. Under the former, the Governor has reserved powers (VII); these are enumerated in the latter (XII).

British West Indies (Constitutional and Closer Union).[1]—On June 13,[2] the Secretary of State for the Colonies (Colonel the Rt. Hon. Oliver Stanley) was asked whether he had reached a decision on the recommendation of the West India Royal Commission that political federation, while not of itself an appropriate means of meeting the pressing needs of the West Indies, was nevertheless the end to which policy should be directed.

Colonel Stanley replied that he had recently addressed a despatch to the Governors of the Colonies concerned stating that, while he recognized that it was impracticable to set up immediately a federal organization, he considered that the aim of British policy should be the development of federation at such time as the balance of opinion in the various Colonies was in favour of the change. His despatch, which indicated certain possibilities of action in pursuance of that policy, was being published that day and a copy placed in the Library of the House.

The Moyne Commission.—In 1939 a statement of this Commission's Recommendations was published[3] until such time as circumstances permitted publication of the full Report, and in Vol. IX of the JOURNAL a description was given of the activities of the Commission, with an outline of their Report.

The full Report of this Commission was, however, published[4] in June, 1945.

This JOURNAL, however, is only concerned with the Constitutional side of the Report, and a brief *résumé* of the Commission's recommendations in that regard in Cmd. 6607 is given below, each one being followed by the respective " Action " paragraph thereon as given in Cmd. 6656.

Constitutional and Closer Union

The Commission does not support either of the extreme proposals put before them for the grant of immediate and complete self-government based on universal suffrage, or for a wide increase of the authority of Governors which would convert the existing system into a virtual autocracy. At the present stage the Commission attaches more importance to the truly representative character of Legislative Councils than to any drastic change in their functions.

[1] *See also* JOURNAL, Vols. III, 27; VII, 108; IX, 62. [2] 411 *Com. Hans.* 5, s. 1682. [3] *Cmd.* 6174. [4] *Cmd.* 6607.

The Commission does not consider that political federation is itself an appropriate means of meeting the pressing needs of the West Indies, but it is the end to which policy should be directed.

The Commission is of opinion that the representation of West Indian as of Colonial interests generally at Westminster is inadequate, and that the pressure of business on Parliament makes it impracticable to provide for this within the framework of present Parliamentary procedure. A more hopeful plan would be the association of Colonial delegates with the work of any standing Parliamentary Committee which may be created to consider Colonial Affairs. [Cmd. 6607, Chapters XVIII and XXII, and XXV, §§ 53-55.]

Action.—The Commission states that in general these recommendations are accepted by H.M. Government as a basis of their polciy. A despatch to the Governors of West Indian Colonies is quoted, the basic aim being the ultimate goal of self-government. The difficulty is pointed out of small units maintaining complete independence. Many conditions, however, make it impracticable to set up a federal organization immediately, without enforcing it against the wishes of any large section of the community, but at the same time removing obstacles to federation. If all the Legislatures declare themselves in favour of the aim then it may be possible that a conference of West Indian delegates be held at a later date to consider proposals for a closer association between the West Indian Colonies. [Cmd. 6656, pp. 93, 94.]

Recommendation.—That care should be taken to ensure that all important sections and interests of the community receive adequate representation in the Executive Councils. [Cmd. 6607, Chapters XXII, § 8; XXV, § 56 (*a*).]

Action.—His Majesty's Government and Colonial Governments accept this recommendation, which is already followed in making appointments to Executive Councils, subject to what they consider should be the overriding consideration—namely, that the persons selected for appointment should be those who by reason of their personal character, knowledge and experience are considered best fitted to advise on matters affecting the interests of the community. [Cmd. 6656, p. 94, § 28 (*a*).]

Recommendation.—That consideration should be given to the adoption of a committee system on an advisory basis to give elected representatives an insight into the practical details of government. [Cmd. 6607, Chapters XXII, §§ 4-6; XXV, § 56 (*b*).]

Action.—In *Barbados* the Executive Committee, on which sit 4 members of the House of Assembly, is established by the Act of 1891 and is responsible for advising Government on all matters of Government policy affecting finance and legislation.

In *British Guiana*, Legislative Council Advisory Committees were established in 1943 in relation to Agriculture (with Fisheries), Education and Public Works. The Chairman of each Committee is an unofficial member of the Executive Council. Membership of each committee allows for 4 or 5 members of the Legislative Council

and the head of the department concerned. The committees concern themselves with broad questions of policy, and more particularly with financial and legislative provision necessary for departmental activities; they are thus in a position to keep the Legislative Council fully informed of the reasons underlying Government's policies and decisions, and, through the Council, the general public itself. The experiment has so far proved very satisfactory, and it is intended to appoint additional Legislative Council Committees in due course.[1]

In *Jamaica* the new Constitution provides for an Executive Council of 10, under the chairmanship of the Governor, 5 of whom will be members of the wholly elected Lower House. This Council will be the principal instrument of policy. In addition, arrangements have been made for the adoption of the committee system by the House of Representatives.[2]

In *Trinidad* there is already a system of Advisory Boards and Committees, to which elected members of Legislative Council have in the past been and continue to be appointed.[3]

In the *Windward Islands*, extensive use is already made of committees, including elected members of Legislative Councils.[4]

In *British Honduras* and the *Leeward Islands*, however, it has not so far been possible to adopt any formal committee system owing to the present stage of development of those Colonies and the small number of persons interested in public affairs. [Cmd. 6656, p. 94, § 28 (*b*).]

Recommendation.—That official representation in Legislative Councils should be confined to the Colonial Secretary, the Treasurer and the Attorney-General and the resulting vacancies filled by nominations in the spirit recommended in (*a*) [§ 28 (*a*)] above. [Cmd. 6607, Chapters XXII, § 7; XXV, § 56 (*c*).]

Action.—This recommendation has been implemented in all the Colonies concerned except in the Leeward Islands General Legislative Council. In *British Honduras*, the third official appointment to the Legislative Council will remain vacant for the time being as the posts of Colonial Secretary and Financial Secretary are at present combined. In the *Leeward Islands*, official representation on the Presidential Legislative Councils is confined as recommended, but the General Legislative Council is in a special position and the question of revising its constitution is connected with the consideration now being given to the possible federation of the Leeward and Windward Islands (see the statement under recommendation 29 (*f*) below).

In *Barbados* the only official representative in the Legislature is the Colonial Secretary, who acts as Government spokesman in the Legislative Council. [Cmd. 6656, p. 95, § 28 (*a*).]

Recommendation.—That in order to secure that the elected element in Legislative Councils shall be as truly representative as possible, the

[1] *See also* JOURNAL, Vols. III, 27; IV, 34; VII, 109; IX, 62; XI-XII, 79; XIII, 94.
[2] *See also ib.*, X, 81; XI-XII, 77; XIII, 198. [3] *Ib.* X, 82; XIII, 97, and *Action* in this issue. [4] *See also* JOURNAL, Vol. III, 27.

object of policy should be the introduction of universal adult suffrage. Some of us hold that this should be introduced forthwith; others that it should be reached by gradual stages, and to this end recommend the appointment of local committees to consider the extension of the franchise, both for local and for central government. Such committees should keep in close touch with their counterparts in other West Indian Colonies, and should consider carefully whether, as is strongly desirable, their recommendations would assure substantial equality between the sexes. [Cmd. 6607, Chapter XXII, §§ 12-17; XXV, § 56 (*d*).]

Action.—Universal adult suffrage has been introduced in *Jamaica* and is about to be introduced in *Trinidad*.

In *British Guiana*, on the recommendation of a local Franchise Commission, and in *Barbados*, the financial qualifications for the franchise have been substantially reduced. For the present it is not considered desirable to lower the franchise qualification further in *British Honduras*, but legislation has been passed extending the franchise to women on the same terms as men.

In the *Leeward* and *Windward Islands* no action has yet been taken pending the consideration of the possibility of federation (see the statement under recommendation 28 (*f*) below). [Cmd. 6656, p. 95, § 28 (*d*).]

Recommendation.—That in all West Indian Colonies a careful examination should be made at an early date of the possibility of reducing substantially the margin between the qualifications for registration as a voter and those for membership of the Legislative Council, the latter being in many cases unnecessarily high. [Cmd. 6607, Chapters XXII, §§ 18 and 19; XXV, § 56 (*e*).]

Action.—In *Jamaica* under the new Constitution no property or income qualification is required of candidates for election.

In *British Guiana* and *Trinidad* approval has been given to the recommendations of the local Franchise Commission in the former Colony, and Committee in the latter, for the substantial reduction of the financial qualifications for membership of the Legislative Council, and these changes are about to be put into effect.

In *British Honduras* the qualifications for membership of the Legislative Council have been reduced to the same level as those for registration as a voter.

In *Barbados* no steps have yet been taken to reduce the qualifications for membership of the House of Assembly, though women have now been made eligible for membership on the same qualifications as men.

In the *Leeward* and *Windward Islands* no action has yet been taken pending the consideration of the possibility of federation (see the statement under recommendation 28 (*f*) below). [Cmd. 6656, pp. 95, 96, § 28 (*e*).]

Recommendation.—That a practical test of the advantages of federation should be made by combining the Leeward and Windward Islands

in one federation on the lines of that existing in the former group. [Cmd. 6607, Chapters XVIII, § 12; XXV, § 56 (*f*).]

Action.—The proposal to federate the Leeward and Windward Islands in one federation raises many complicated administrative, financial and political questions on which there is considerable local feeling. The improvement of inter-island communications which has proved so difficult under War-time conditions (see in this connection the statement under Section 6: Communications) is also essential (as the Royal Commission recognized) to any workable federation. Proposals are at present under active consideration, and the question was among those considered by a conference of delegates from the Windward Islands Legislatures held in January, 1945. H.M. Government hope shortly to be in a position to put forward a detailed scheme for public consideration locally. [Cmd. 6656, p. 96, § 28 (*f*).]

Recommendation.—That means be found for devoting more Parliamentary time to the discussion of Colonial affairs and, if it is decided to proceed with the establishment of a Standing Parliamentary Committee to consider Colonial affairs, to devise means for the association of delegates from the Colonies concerned with the work of that Committee. [Cmd. 6607, Chapters XXII, § 20; XXV, § 56 (*g*).]

Action.—His Majesty's Government do not feel able to accept this recommendation for the reasons explained in the course of a debate in the House of Commons on July 20, 1944. It is most desirable to associate members of Parliament as closely as possible with Colonial work, but the establishment of a joint select committee would tend to restrict knowledge of Colonial affairs to members of the committee rather than to increase the interest of the general body of members of Parliament. [Cmd. 6656, p. 96, § 28 (*g*).]

Zanzibar Protectorate (Constitutional).[1]—On November 8, 1944,[2] the Secretary of State for the Colonies was asked whether any non-official Europeans on the Legislative Council were nominated solely by the Governor; whether any system of election of such members existed; whether the Governor invited names from representative bodies before making nomination; and whether he would review the existing arrangements and bring them more up to date.

Colonel the Rt. Hon. Oliver Stanley replied that in Zanzibar such members were appointed by the Sultan on the advice of the British Resident. From documents we have received from His Excellency the British Resident at Zanzibar, the Legislative Council was constituted in 1926 under the Council's Decree (Cap. 28) of the Revised Laws of Zanzibar, 1934, which deals also with the Executive Council.

Under " The Council's Decree " (Cap. 28) an Executive and a Legislative Council are established (s. 2).

Executive Council.—This Council consists of His Highness the Sultan (Seyyid Sir Khalifa bin Harub, G.C.M.G., G.B.E.) as President, the British Resident as Vice-President, the Chief Secretary, Attorney-

[1] *See also* JOURNAL, Vol. XIII, 99. [2] 404 *Com. Hans.* 5, s. 1375.

General, Provincial Commissioner (Decree 15 of 1942) and Financial Secretary, *ex officio*, and such other Government officials as from time to time appointed by H.H. the Sultan, by and with the advice of the British Resident and by an instrument under the hand of the Sultan and the Seal of the Protectorate, styled official members of such Council (s. 3). Provision is also made for the temporary appointment for any special occasion of Extraordinary Members (s. 4); for temporary appointments (s. 5), and for resignations, etc. (s. 6); precedence of members (s. 7) and their affirmation (s. 8). Section 9 provides for the appointment by the British Resident of the Clerk of the Executive Council. The Council is summoned by the British Resident (s. 10) and may not proceed to business unless at least 2 members, exclusive of the presiding member, are present. H.H. the Sultan presides at all meetings of this Council or in his absence the British Resident or the senior member (s. 11). H.H. the Sultan consults with the Executive, excepting only in cases which, in his judgment, may be of such a nature that his service would sustain material prejudice by consulting the Council, or when matters to be decided are too unimportant to require their advice, or too urgent to admit of their advice being given by the time within which it may be necessary to act. In all such urgent cases, the measures so adopted must be communicated to the Council at the earliest possible period (s. 13).

Only H.H. the Sultan and the British Resident are entitled to submit questions to this Council but with certain rights to other members (s. 14). The Sultan has reserved powers to act in opposition to the Council, except in cases involving death sentence, but any member of the Council may require particulars thereof to be recorded in the minutes (s. 15). Proclamations, etc., are signed by the Clerk (s. 16) and countersigned by the British Resident (Decree 14 of 1936). Records of all cases tried by His Highness' Court involving capital sentence must be submitted to the British Resident (s. 17) and to the Council before being carried into effect (s. 18). Section 19 deals with the regulation of power of pardon in capital cases.

Legislative Council.—This Council consists of the British Resident as President, Chief Secretary, Attorney-General, Provincial Commissioner (Decree 15 of 1942) and Financial Secretary *ex officio* and such other officials holding office in the Protectorate as the Sultan may, with the advice of the British Resident, appoint; and not exceeding 7 non-officials similarly appointed (s. 20 and Decree 4 of 1946) for 3 years (s. 21). Temporary appointments may be made in both cases (s. 22). Provision is made for resignation; suspension of members and cancellation of appointments (s. 23) as well as for the appointment of extraordinary members for special purposes (s. 24). A quorum is 3 (s. 25). A precedence is laid down for members and temporary members (s. 26 and Decree 14 of 1936). They are also required (s. 27) to affirm or declare according to Form 3 of the Schedule to the Decree, which, in the case of a Legislative Councillor, reads:

I........having been appointed a member of the Legislative Council of the Protectorate of Zanzibar hereby solemnly affirm/declare that I will without fear or favour and to the best of my ability and judgment serve His Highness the Sultan in the office of Legislative Councillor.

Members of the Executive Council are required also to make an affirmation or declaration in somewhat similar form, including the requirement to freely give counsel and advice to H.H. the Sultan or, in his absence, to the British Resident " for the good management of the affairs of the Protectorate," and also as follows:

That I will not directly nor indirectly reveal such matters as shall be debated in the Council and committed to my secrecy but that I will in all cases be a true and faithful Councillor.

Affirmation or declaration is also laid down in the Schedule for the Clerk of the Executive Council and the Interpreter of the Legislative Council.[1]

The Legislative Council has power and authority, subject to the veto of the Sultan, to make laws for the administration of justice, the raising of revenue and " generally for the peace, order and good government of the Protectorate and of all His Highness' subjects therein " (s. 28).

Section 29 reserves power of legislation to the Sultan " for the peace, order and good government of the Protectorate ".

Questions in the Legislative Council are decided by a majority and the British Resident, or other member presiding, has both a deliberative vote and, in case of an equality of votes, also a casting vote (s. 32).

Provision is made for Standing Rules and Orders (s. 33), but only the British Resident may propose any matter affecting Government revenue (s. 34). All laws are styled " Decrees " and the enacting words are:

Enacted by His Highness the Sultan of Zanzibar by and with the advice and consent of the Legislative Council thereof (s. 35).

Decrees are headed with the name and seal of the Protectorate. H.H. the Sultan signs and seals his assent, the date whereof is given. All Decrees are made " IN THE NAME OF THE MOST MERCIFUL GOD ", signed by the Clerk and countersigned by the British Resident, with the date thereof.

A Private Bill is defined by s. 36 as every Bill intended to affect or benefit some particular person, association or corporate body, and must contain a saving clause saving the rights of the Sultan, his heirs and successors, all bodies politic and corporate, and all others except such as are mentioned in the Bill and those claiming by, from, or under them. No such Bill may be introduced into the Legislative Council until notice has been given by not less than 2 successive publications of the Bill in the *Gazette* (s. 36).

[1] Schedule to the Decree.

Sessions of the Legislative Council are held at such time and places as the British Resident by notice appoints, but there shall be one every year and not an interval of more than 12 months between sessions (s. 41).

Section 43 prescribes the Seal of the Protectorate.

The Council's Decree of 1934 was amended by Decrees Nos. 14 of 1936, 15 of 1942, and 4 of 1946, some of which are noted above, and by Decree No. 18 of 1942 Seyyid Abdulla bin Khalifa bin Harub bin Thweini bin Said, C.M.G., was appointed a member of the Executive Council with precedence next after the British Resident.

O. C.

July 28, 1946.

II. PRIVATE BILL PROCEDURE IN THE IMPERIAL PARLIAMENT

By O. C. Williams, C.B., M.C., D.C.L.,
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Introductory.—Every citizen of this country, whenever he mounts an omnibus or tram or gets into a railway train, whenever he turns on a water tap supplied from a company's main, ignites a gas burner or switches on a company's electric current, whenever he walks on a well paved and lighted street, saunters on an esplanade, or listens to a band playing in a municipal bandstand, and in many other actions of his daily life, is profiting from the results of Private Bill legislation. Equally, when his land or his right of way is compulsorily purchased by a corporation or company, when the street in which he lives is temporarily broken up, when he is compelled to notify infectious disease, when he is forced to observe by-laws relating to the storage of food or the manufacture of ice-cream, or when he is fined £5 for unjustifiably pulling a communication cord, and so forth, he is being affected, inconvenienced or hampered, in part if not exclusively, through the results of Private Bill legislation. And the statutes which embody this legislation, printed every session as the " local and personal " Acts, are part of the public law of the land. Yet the average citizen is comparatively ignorant of the process by which these local and personal Acts become law, and still more ignorant of the Parliamentary procedure involved in the process. This ignorance is intelligible, because this process is largely technical, needing professionals—town clerks, engineers, financial advisers, barristers, solicitors and Parliamentary agents—to prepare and carry through the schemes embodied in such Acts, and the Parliamentary procedure, most of which takes place outside the Chamber and therefore, in these days, receives very little publicity, is also somewhat technical and complicated, being embodied in a collection of Standing Orders which constitutes a fairly complete code of Parliamentary law. While there are only 94 Standing Orders of the House of Commons relating to public business, there are at present 237 relating to private business, while just previous to their revision in 1945 there were 279. The general public have no need to trouble their heads with this code, and indeed many Members of Parliament, who take no active part in Private Bill legislation, have but a hazy conception of its details. Allusions to it, therefore, in popular books about Parliament are somewhat scanty and summary; nor is this surprising, since the subjects of Private Bill legislation, however intimately they affect the amenities and conveniences of social life, are, generally speaking, not subjects of political controversy. Also, when a debate does occur in the House upon a Private Bill, or upon Private Bill procedure, it is conducted under the same rules of order as regulate any other debate. The mysteries of private legislation are confined to the committee rooms, and even more, in the House of Commons, to

the Committee and Private Bill Office, the rooms of the Chairman of Ways and Means, the Deputy Chairman and the Speaker's Counsel, to the chambers of counsel who practise at the Parliamentary Bar and to the offices of the Parliamentary agents.

A certain veil of mystery, though by no means so thick as a first perusal of the Private Bill Standing Orders might suggest, will probably continue to shroud these functions of Parliament. Yet, quite apart from the fact that, from the time of the industrial revolution, Private Bill legislation has provided the necessary powers for the expansion of our local government and the foundation and expansion of our public utilities, the story of its development is an extremely interesting branch of Parliamentary history, not least on the procedural side, for it displays, with certain variations, the same features, and proceeds with much the same tempo, as the history of procedure in general. To this department of Parliamentary procedure, which, unlike the procedure of the House on public business, is almost completely formulated in definite Standing Orders, the following words of Professor Redlich in his book *The Procedure of the House of Commons* apply as much as to any other department:

> However complete the reforms of the nineteenth century may have been, the procedure remains a thoroughly English piece of construction; it has not lost the ancient Gothic style. Far from it; the rebuilding which has taken place has left the historic foundations untouched wherever they are capable of supporting the superstructure; it has left many a wing of the rambling fabric with scrolls and ornaments unmutilated.

On the history of Private Bill procedure I could write at great length, but it would be outside the purpose of this article. Yet the existing procedure cannot be understood without some reference to its origins, for they explain the ancient basis on which it is built. Once institutions begin to arise on an ancient basis such as that of the original relations between the Sovereign and Parliament in England, even a revolution may not arrest development. To pull down the walls and dig up the foundations is so contrary to British instinct that such acts of violence seldom occur. But for the sake of continuity simplicity has to be sacrificed; and complication grows from the very need to modify the original simplicity to meet new and unforeseen needs. It would have passed the wit of man to invent our Private Bill system in its full development. Like Topsy in *Uncle Tom's Cabin*, it just grew; and by far the most powerful influences on its growth were the invention of railways and their development over land held by a multiplicity of owners. It was justice to owners of property that most of its elaborate regulations were primarily designed to ensure, when the original simplicity of procedure had proved wholly inadequate to legislative pressure previously quite inconceivable.

As is well known, all Parliamentary legislation in this country has developed from petitions to the King, then to the King in Council,

then to the King in Parliament, for the redress of grievances, whether national or individual. As Redlich[1] says:

> From the end of the fourteenth century many individuals and corporations began, in their endeavours to obtain special rights from the highest power, that of legislation, to apply to Parliament or, from the time of Henry IV, to the House of Commons alone. . . . We see, then, that petitions addressed to the House by individuals containing requests for the alteration of an existing right, or the creation of a new right, as well as petitions addressed to the Crown as a constituent part of Parliament, and containing requests for the creation of a new general right, led up to legislative acts, that is, were disposed of by agreement of the Commons with the Upper House and the Crown. Thus from the very beginning the two great branches of English legislation, private and public, had a common mode of initiation, namely, by petition.

May[2] says:

> The separation of legislative and judicial functions is a refinement in the principles of political government and jurisprudence, which can only be the result of an advanced civilization. In the early constitution of Parliament these functions were confounded; and special laws for the benefit of private parties, and judicial decrees for the redress of private wrongs, being founded alike upon petitions, were not distinguished in principle or in form. When petitions sought obviously for remedies which the common law afforded, the parties were referred to the ordinary tribunals; but in other cases, Parliament exercised a remedial jurisdiction. Other remedies of a more judicial character, and founded upon more settled principles, were at length supplied by the courts of equity; and from the reign of Henry IV, the petitions addressed to Parliament prayed, more distinctly, for peculiar powers beside the general law of the land for the special benefit of the petitioners. Whenever these were granted, the orders of Parliament, in whatever form they may have been expressed, were in the nature of private Acts; and after the mode of legislating by bill and statute had grown up in the reign of Henry VI, these special enactments were embodied in the form of distinct statutes.

Clifford, in his *History of Private Bill Legislation* (I, 271-287), also gives a good deal of detail as to the method of dealing with petitions in these early days. It is enough for the present purpose to note that the method of legislating by Bill—which means that the original proposals for Parliamentary sanction were drafted in the form of a statute—grew up in the reign of Henry VI; but that, whereas Public Bills ceased, with the growth of Parliament's autonomy, to be based on petitions, the necessity that a Private Bill shall originate on a petition to the House by the parties soliciting the Bill has remained to this day (S.O. 2), and this is one of the " Gothic " vestiges to which Redlich referred. The other obvious vestiges of early custom are, of course, the general method of passing Bills—the first and second readings, the committee stage, and the third reading—and the reference of every Private Bill to a Select Committee,[3] not to a Committee of the Whole

[1] *The Procedure of the House of Commons*, p. 13. [O. C. W.] [2] 13th ed., p. 671; 14th ed., p. 824. This passage almost identically was in the first edition of 1844, p. 384. [O. C. W.] [3] Committees on Private Bills are no longer in the strict sense Select Committees since their procedure as regulated by the Standing Orders differs from that of Select Committees. But they were Select Committees in every sense until those Standing Orders were made, and even now they approximate in nature to Select Committees—*i.e.*, they are small bodies of members chosen to carry out an inquiry, consider a Bill and report to the House. [O. C. W.]

House. Also, since a petition could always be lodged *against* any proposal put before Parliament, the opposition of persons outside the House to any Private Bill naturally took that form, and the objections so raised were either considered by the House itself or were referred to the committee to whom the Bill, or the petition for the Bill, had been referred. In such cases, even in early days, the contending arguments were often put forward by counsel and were supported by evidence called by the parties. The practice of hearing counsel at the Bar of the House for and against the main principles of a Private Bill fell into disuse early in the 19th century; but the procedure in committees on *opposed* Private Bills, though now definitely regulated by Standing Orders, goes back in origin well into what may be called the "pre-standing-order" period of private legislation. So that, in fact, the basic structure of private legislation is as old as that of public legislation: it is chiefly the machinery which has been progressively elaborated, while many subjects of early Private Bills have, by the operation of general Acts, passed outside the range of private legislation.

During the first seventy years of the last century the code of Standing Orders regulating legislation by Private Bill was progressively evolved and fashioned: committee after committee considered difficulties and recommended reforms. The code was more or less stabilized by 1876, but since that date many further amendments have been necessary. An important committee was appointed in 1930 to consider the Private Bill system, and recommended in their report (H.C. (1929-30) 158) many changes, mainly in the direction of speeding up procedure. Very recently the Standing Orders relative to private business were thoroughly revised, the official document of this revision being the report of the Select Committee on Private Bill Standing Orders (H.C. (1944-45) 30). From this report the method and scope of the revision can be judged. The preliminary work for it was done by an unofficial committee, of whom I was one, the other members being Sir Frederick Liddell, K.C.B., K.C., who had just retired from the position of Speaker's Counsel, Sir Cecil Carr, K.C., LL.D., the Speaker's Counsel, and Mr. (now Sir Charles) Browne, acting Hon. Secretary of the Society of Parliamentary Agents and a partner in the long-established firm of Dyson and Bell, Parliamentary Agents. The preliminary "Notes" in this report, the main body of which was the amended Standing Orders, and the letter from the unofficial committee to the Chairman of Ways and Means, at whose invitation they undertook their labours lasting a whole year, absolve me from entering into long detail. It is sufficient to quote the first paragraph of the "Notes":

> The alterations proposed to be made to the existing Standing Orders in the complete "Standing Orders as revised" are directed to effecting the following improvements:
>
> (*a*) The omission of what is obsolete and unnecessary;
>
> (*b*) the insertion of a few new and necessary orders;

(c) more accurate drafting and more uniform phraseology; and
(d) a more orderly and logical arrangement, which, in some cases, has involved the complete recasting and consolidation of certain existing orders;

and the following passage from the Appendix (Report, p. 127):

The Private Business Standing Orders have never received so comprehensive a scrutiny, from the points of view of practice, interpretation and draftsmanship, since they became a code of considerable length in the middle of the last century.

This latter remark is true without any qualification. The task we set ourselves was to examine the Private Bill Standing Orders as a whole, to produce uniformity (especially in drafting) in a code which had grown piecemeal, and, above all, to cut out "dead wood", which we achieved by removing 42 Standing Orders—running to some 27 pages of text—which were just relics of a past day and now of no effect. The House approved our labours, and the House of Lords subsequently, with very complimentary references, revised its Private Bill Standing Orders so as completely to assimilate them, where necessary, to those of the Commons.[1]

To have played a part in this revision, which was long overdue but needed a sure historical base, is to me a sufficient reward for many years of research. Yet, though this revision is the immediate occasion of the invitation to write this article, I shall resist the temptation to linger over its details, since the interested student can find them in the above-mentioned report. It is more important, I believe, to supply the indispensable background for the understanding of that report, by describing the Standing Orders as they now exist and the normal process involved in passing a Private Bill through Parliament. This, without further preamble, I proceed to do.

The Existing Standing Orders

The private business Standing Orders are divided into chapters of varying length. Chapter I, "Preliminary," contains only three orders—namely, " Definitions " (S.O. 1), the old order providing that a Private Bill must originate on a petition (S.O. 2) and the new order (S.O. 3) stating the requirements as to proof before the Examiner of compliance with Standing Orders. The definitions are for the purpose of the Standing Orders only and are necessary for their interpretation and to save needless repetition. S.O. 2 needs no comment here, and the origin of S.O. 3 is explained in the report of the 1945 Committee, pp. 6-8; the effect of this latter order is to provide that compliance with the orders contained in Chapter II, so far as applicable, must be proved before the Examiner in the case of all Private Bills except those in regard to which the Chairman of Ways and Means (or the Chairman of Committees in the House of Lords) certifies that the Bill is of the nature

[1] My description throughout what follows refers mainly to the House of Commons Standing Orders (1945 edition). [O. C. W.]

of a personal Bill and that these Standing Orders should not be applicable. Such Bills are to be called "Certified Bills", and, according to long-established practice, they will usually originate in the House of Lords.[1]

Chapter II (S.O.s 4-68) contains all the orders compliance with which, so far as applicable, has to be proved before the Examiners. These orders lay down many important preliminaries which must be observed before a Private Bill is introduced, and are divided into sections according to the nature of the preliminary action required. Section 1 (S.O.s 4-12) relates to the publication in newspapers and in the *Gazettes* of notices of the proposals and of various particulars embodied in the petition for a Bill; Section 2 (S.O.s 13-25) relates to notices to be given to owners, lessees and occupiers who may be affected by any such proposal; Section 3 (S.O.s 26-47) relates to the deposit of documents such as plans, books of reference, sections, maps, and estimates of expense in the Committee and Private Bill Office, in various departments and with various local authorities; Section 4 (S.O.s 48-59) prescribes the particulars to be shown on deposited plans, etc.; Section 5 (S.O.s 60, 61) relates to deposits in the case of Bills brought from the House of Lords; and Section 6 (S.O.s 62-68) contains what are colloquially referred to (from the name of their originator, Lord Wharncliffe) as the "Wharncliffe" Orders, which lay down requirements as to the consents of proprietors or members of companies to the proposals contained in a Bill promoted by a company, and as to the manner of summoning and holding meetings to obtain such consents. Taken all in all, the orders comprised in Chapter II are perhaps more important than any others, for they impose upon promoters of Private Bills strictly defined duties with the general object of ensuring that all persons likely to be affected by a proposed Bill have ample notice, and also that all requisite information is lodged at appropriate places so that local authorities, public departments and Parliamentary committees may be apprised of the same. Compliance with these orders necessitates a considerable amount of work on the part of promoters of Bills, their Parliamentary agents and their professional advisers, and therefore also expense proportionate to the size of the scheme put forward. Orders of this type were the first which the House found it necessary to adopt when Bills for public utilities began to multiply. They are the chief protection of the public against clandestine action by promoters.

Chapter III is a long chapter, also divided into sections, which provides for and regulates the action of certain officers of the House, of the Court of Referees, of the Standing Orders Committee, of the Committee of Selection and of Committees on Private Bills, whether

[1] Because they will be in the nature of "personal" Bills (see May, 14th ed., p. 958). The House of Lords has decided to retain the term "Personal Bills" for Bills to which this order applies. This Session there are two, of which one is the Rhodes Trust Bill. [O. C. W.]

opposed or *unopposed*. Section 1 (S.O.s 69-80) regulates the appointment and procedure of the Examiners of Petitions, before one of whom compliance with the orders contained in the preceding chapter has to be proved. What is not expressly stated is that, by practice, only one Examiner is appointed in each House; but the duties of the Examiners are clearly laid down both in respect of Petitions for Bills and of Bills which need further reference to the Examiner after introduction. In every case the Examiner reports to the House whether or no the applicable Standing Orders have been complied with, and in cases of doubt as to interpretation he makes a special report. The decision of an Examiner, it is to be noted, is a legal decision, for the Standing Orders are part of the public law. The principle of equity is applied by the Standing Orders Committee, whose composition and functions are regulated by Section 4 (S.O.s 103-108) of this chapter. Where the Examiner has made a report of non-compliance, the Standing Orders Committee, whose *ex-officio* chairman is the Chairman of Ways and Means, consider and report to the House whether the Standing Orders should or should not be dispensed with, whether the parties should be permitted to proceed with their Bill, and upon what terms and conditions, if any; and, where the Eaxminer has made a special report, the Standing Orders Committee have to resolve the doubt whether or not the Standing Orders have been complied with, and, if not, whether they should be dispensed with, and so forth. S.O.s 105-107 also lay upon this Committee other duties in the cases of petitions for dispensing with Standing Orders (*e.g.*, with S.O. 38, where a Petition for a Bill is lodged later than the prescribed date) or for reinsertion of a Petition in the general list of Petitions, and in the case where a clause or amendment proposed on the "consideration" stage of a Bill is referred to them. In this last case the Committee have to decide whether the clause or amendment may be properly adopted by the House, or whether the Bill should be recommitted. The Standing Orders Committee consists entirely of Members of the House, but has the assistance of the Speaker's Counsel.

Section 2 (S.O.s 81-88) relates to the duties of the Chairman of Ways and Means and the Speaker's Counsel in regard to Private Bill procedure. The former, besides his important functions of Deputy Speaker and as Chairman of Committees of the Whole House, also exercises a general supervision over Private Bill procedure, in which he is assisted by the Deputy Chairman and advised by the Speaker's Counsel. Standing Orders 81, 82, 83 and 85 define certain duties incumbent upon him in this connection—consultation with the Chairman of Committees in the House of Lords as to the allocation of Bills between the two Houses, examination (*i.e.* scrutiny) of Private Bills, power to grant leave to deposit a late Petition, and power to report to the House any special circumstances relative to a Private Bill; while S.O.s 84, 86, 87 and 88 prescribe what documents have to be laid before him by agents for Bills. Section 3 (S.O.s 89-102) regulates the constitution and pro-

ceedings of the Court of Referees, whose rules of practice are laid down by the Chairman of Ways and Means,[1] and contain several orders either conferring the right to be heard (*i.e.*, *locus standi*) of classes of petitioners against Bills or giving the Court power to allow such *locus standi*. The Court consists of the Chairman of Ways and Means, the Deputy Chairman, the Speaker's Counsel and not less than seven other Members of the House, but can sit with a quorum of three; it has no other business than to decide whether or not a party or parties, who have petitioned against a Bill and to whose *locus standi* objection has been formally raised by a memorial deposited under S.O. 195 (Chapter V), shall or shall not have a *locus standi* against the whole or part of a Bill. The decisions of this Court are, in effect, legal decisions, against which there is no appeal. Cases are argued before them by counsel (not more than one counsel for any party), and, in so far as the Standing Orders themselves do not prescribe the decision, it usually follows precedent. The reports of proceedings before the Court of Referees have been compiled and published ever since it was first set up; and these reports, of the nature of law reports, are frequently quoted in argument. It is to be noted that the Speaker's Counsel, though not a Member of the House, is a full member of the Court of Referees. The various orders relating to specific grounds of *locus standi* can be sufficiently studied in the text of the Standing Orders.

Section 5 (S.O.s 109-118) relates to the composition and functions of the Committee of Selection, which is a sessional select committee of eleven members, to whom every Private Bill is referred (S.O. 109) after Second Reading. Their function is to refer *unopposed* Bills to the Committee on *Unopposed* Bills and *opposed* Bills, either singly or in groups, to committees composed as prescribed in S.O. 119. The Committee of Selection have the powers of nominating these committees, of prescribing the day on which such a committee are first to sit and the Bill, or Bills, to be considered on the first day of sitting. Further, the Committee of Selection give notice to each member appointed to a committee on *opposed* Bills and transmit to him the declaration of non-interest which under S.O. 120 he must sign and return to the Committee of Selection before he can serve on the committee to which he has been appointed. Thus, the Committee of Selection, through their grouping of *opposed* Bills, their choice of chairmen and members of Private Bill committees, and decisions as to dates, etc. (which are, of course, not taken without consultation with officers of the House and Parliamentary agents), are an important regulative body. The House has also imposed on this Committee, which originated only for the purposes of Private Bill procedure and whose composition is only laid down in the Private Bill Standing Orders, the function of nominating the members of Standing Com-

[1] These Rules, whenever amended, are reprinted and laid on the Table. The latest publication (H.C. (1944-45) 59) is dated March 20, 1945, and is reproduced in an Editorial Note elsewhere in this volume. [O. C. W.]

mittees to which Public Bills are referred. This part of the Committee's function is regulated by Standing Orders relative to public business.

Section 6 (S.O.s 119-131) regulates the proceedings of committees on *opposed* Private Bills; Section 7 (S.O.s 132-134) the proceedings of the Committee on *Unopposed* Bills, and Section 8 (S.O.s 135-145) the proceedings of committees on Bills whether *opposed* or *unopposed.* The contents of these orders cover the composition of committees on *opposed* Bills (a chairman and three other members) and of the Committee on *Unopposed* Bills (a single sessional committee operating as a panel under the Chairman of Ways and Means, which can be doubled if necessary), the assistance to be given by the Speaker's Counsel to either, matters of procedure such as quorum, adjournment, absence of members, minutes of proceedings and the method of deciding questions, the declaration of non-interest on behalf of themselves and their constituents to be made by members sitting in committees on *opposed* Bills, and also certain duties incumbent on the chairman of a committee on a Private Bill—*i.e.*, to sign all plans, etc., to sign the committee Bill and initial all clauses added and amendments made, to report on the allegations of the Bill, and to report the Bill to the House in all cases, whatever its fate in committee may be. There are certain other very important orders in these three sections which relate to the rights of parties. Standing Orders 126 and 128-131 all relate to petitions against Bills; the first-mentioned order is that which refers such petitions to the committee on the Bill. Standing Order 128 provides that such a petition must distinctly specify grounds of objection; S.O. 129 lays down the limits of time for presenting such petitions and requires that they shall have been prepared and signed in strict conformity with the rules and practices of the House; S.O. 130 refers to the right of petitioners against the Clauses of a Bill originating in the House of Lords to petition against the preamble in the Commons; and S.O. 131 provides for the case where an *opposed* Bill, through the withdrawal of petitions against it, becomes *unopposed* (the Bill is referred back to the Committee of Selection). Finally, S.O.s 127, 134 and 136 relate to evidence and the right of hearing before committees. Standing Order 127 confers on the promoters of an *opposed* Bill the right to be heard by themselves, their counsel or agents in favour of the Bill and against any petitions against the Bill, and confers on the opponents similar rights to be heard on their petitions against the Bill; S.O. 134 is a corollary of this order relating to *unopposed* Bills, conferring on the promoters the right to be heard in favour of the Bill. In both these orders, where the right to be heard is given, the right to tender evidence is also specifically given; although this right has long existed by practice, it is only since the revision of 1945 that it has been included in the Standing Orders. Similarly, S.O. 136 is a new order made in 1945 embodying the undoubted practice of the House, that committees on Private Bills, unlike Select Committees to whom power

is given to send for persons, papers and records, are not empowered, without express authority from the House, to hear evidence other than that tendered by the parties. The importance of the practice embodied in this order is that it, in effect, obliges the committee on a Private Bill to act in a semi-judicial capacity and to decide upon each case as argued before it by the parties. Moreover, care has now been taken that the wording of S.O. 144, under which all reports of Government Departments on a Private Bill stand referred to, and must be considered by, the committee on the Bill, who may hear an officer from the Department making the report, does not violate the principle of S.O. 136. Such officer may only be heard " in explanation " of his Department's report, but he is not a witness in the ordinary sense, and must not therefore be treated as such, either by the committee or by the counsel appearing for the parties.[1] The revision of 1945, it is hoped, has at last regulated a matter which, hitherto, has not been clearly enough defined.

Section 9 (S.O.s 146-162) embodies orders which are, in effect, instructions to committees on Bills for various objects: either not to allow certain provisions—*e.g.*, for level crossings in railway Bills (S.O. 147)—unless a report has been made by a Government Department and the committee, after hearing an officer of the Department, recommend such a provision, giving their reasons; or that certain provisions or clauses are to be inserted—*e.g.*, in a railway, tramway, water or gas Bill; or that special precautionary provisions should be inserted in Bills giving to local authorities powers to run tramways, or that certain matters should be considered and reported on in the case of Bills proposing to confer powers on local authorities; or that a Bill (not applying to Scotland) which affects a charity or educational foundation shall not be taken into consideration till the House has received a report on the Bill from the Attorney-General; or that, where it is proposed by a Bill to authorize the construction of works elsewhere than in London or any municipal borough, the committee is to see that sufficient accommodation and service for housing, sanitation and treatment of sickness or accident are provided for the persons employed on the construction. The orders contained in this chapter have been considerably reduced in the course of time, and a large number relating to railway Bills and inclosure Bills were omitted, as being obsolete, in 1945. All of them reflected the concern of the House to protect the public when particular necessities were brought to its notice and at a time when the watchfulness of Government Departments was not so regularly exercised as now. The scrutiny of Private Bills by the Departments and reports by them to the House on any matter which they consider should be brought to the notice of a committee (and therefore of necessity to the notice of the parties) have now become so

[1] An officer of a public department could, of course, be called as a witness by one of the parties; if he appeared as such, he would be sworn and would be subject to cross-examination. [O. C. W.]

firmly established in practice that several of the orders still left in this chapter could be omitted without any risk of disadvantage to the public. It was on that ground that many orders relating to railways were omitted in 1945.[1]

It is to be noted that, while the procedure in committees on Private Bills is, to a considerable degree, defined by the orders in this chapter, certain matters are not so defined. The power to hear witnesses on oath (to be administered either by the chairman or the clerk of the committee) is provided by the Parliamentary Witnesses' Oaths Act[2] of 1871; the Rules and Orders of the House with which petitions against Bills must conform (S.O. 129) are, by practice, and with slight modifications, those relating to public petitions which are published under the authority of the House and are obtainable by the public; no specific rules of court as to evidence are laid down; and the rights of counsel—*e.g.*, the right of the promoters' counsel to open the proceedings and the considerations governing counsel's right of reply—rest upon practice alone. The following remark by Sir Cecil Carr in his *English Administrative Law* (1941) as to procedure before administrative tribunals is applicable also to the evolution of practice before Private Bill committees:

> Where two or three lawyers are gathered together, they will introduce their accustomed procedure, the opening speech, the examination-in-chief, cross-examination and re-examination of witnesses, and the occasional protests that something is not evidence, though the tribunals are not always bound by the strict laws of evidence.

No committee is bound by the decisions of another committee, though the quotation of precedent is a powerful weapon in a counsel's armoury. The tradition of the House, the general supervision exercised by the Chairman of Ways and Means, and the always available advice of the Speaker's Counsel and other officers of the House prove sufficient to regulate matters not specifically defined in the Standing Orders; with the result that, in spite of frequent criticism of the system of Private Bill legislation, on the grounds of slowness, cumbrousness and expense, the quasi-judicial tribunal constituted by a committee on a Private Bill enjoys, and has for long enjoyed, a very high measure of public confidence.

Chapter IV of the Private Bill Standing Orders (S.O.s 163-191) lays down the practice of the House with regard to Private Bills, and, as might be expected, contains some of the oldest orders still in force. This chapter provides in the main for the passage of the Bill through the House—the method of presentation, the House copy of the Bill in

[1] *See* Report of Committee on Private Bill Standing Orders (H.C. (1944-45) 30), pp. 19, 20. [O. C. W].

[2] Strictly speaking, this power was given to Committees on Private Bills by the Parliamentary Witnesses Act, 1858 (21 & 22 Vict., c. 78), but the Act of 1871 (34 & 35 Vict., c. 83) gave this power to *all* Select Committees. The reason for the earlier Act, as regards Private Bill Committees, was to enable committees of the House of Lords to accept evidence given before committees in the Commons. [O. C. W.]

its parchment cover, the intervals necessary between the various stages of a Bill, the presentation, printing and withdrawal of petitions, the reprinting of a Bill after the Committee stage and again (if it originated in the Commons) after Third Reading, the limitations placed on Motions giving instructions to Committees on Private Bills and on amendments subsequent to Committee, the printing of such amendments or of Lords' amendments, if necessary, and the extension of time for petitions, etc., in case of adjournment of the House. Two important orders provide respectively for the order of proceedings on Private Bills in the House (S.O. 190) and for the deferment of *opposed* private business at the determination of the Chairman of Ways and Means (S.O. 174, which needs to be read with S.O. No. 6 (public)). The effect of these three orders is to regulate the order in which private business is set down on the Order Paper, to confine such business (normally) to the first quarter of an hour of a sitting, and to ensure that no debate on any item of the business can take place at that time, but only at half-past seven o'clock for a maximum period of an hour and a half on some day fixed by the Chairman of Ways and Means. This officer of the House is the official mover of all Motions for the Second Reading or any other stage of a Bill, of amendments proposed by the promoters, of Motions for dispensing with Standing Orders, for suspending Bills or for amending the Private Bill Standing Orders.

Three other orders in this chapter refer to financial matters. Standing Order 168 provides that all charges in Private Bills affecting the public revenue—*e.g.*, remission of stamp duties—must be printed in italics. This practice prevails also for Public Bills, and it is a sign that a Resolution in Committee of the Whole House is necessary before the Committee on the Bill can consider the words in italics, which theoretically do not exist until a Committee of the Whole House has passed the necessary Resolution. Standing Order 169, a recent order, provides that with every Private Bill involving a grant, or promise of a grant, from a Government Department there shall be printed a financial memorandum describing the grant and its amount; and S.O. 191 provides that the House will not insist on its privileges (*i.e.*, of initiative in financial legislation) with regard to clauses in Private Bills brought from the House of Lords which refer to tolls or charges for services performed or to local rates. This last order, first made in 1858, facilitated the equal allocation of Bills between the two Houses.

Chapter V (S.O.s 192-210) regulates the practice of the Committee and Private Bill Office in relation to Private Bills. This chapter provides for matters of routine which chiefly affect Parliamentary agents whose contacts with the House take place through this office. The keeping of registers, open to public inspection, of the day-to-day state of the Session's Bills, the receipt of documents, the deposit of memorials complaining of non-compliance with Standing Orders, the custody of Bills, the notices to be given by agents of the stages of Bills, and the examination of Bills (mainly for the purpose of checking

accuracy) are the chief subjects of these orders, which also lay down the hours when the office is open for the deposit of documents and notices.

Chapter VI (S.O.s 211-224) is a new chapter in which, on the revision in 1945, three different and somewhat special types of order were collected. Section 1 for the first time collected, consolidated and to some extent amplified the existing references in the Standing Orders to Bills for confirming provisional orders or provisional certificates. Provisional certificates can only be given under certain railway Acts, and it is probable that they are obsolete; but provisional orders are orders made by a Minister of a Department under an enabling Act—a list of which Acts is given in the printed statutes—which in very many cases (according to the enabling Act) need to be confirmed by a Bill introduced into Parliament.[1]

These " confirming Bills " are introduced as Public Bills, but, since they affect private rights and interests, they are made amenable, under the Private Bill Standing Orders, to processes analogous to those affecting Private Bills—*e.g.*, deposit of plans and certain other statements, examination as to compliance with applicable Standing Orders and the hearing of petitions against any orders by a committee. Standing Orders 211-219 make the necessary provisions and apply to proceedings on " confirming Bills " all the necessary Standing Orders relating to Private Bills. Broadly speaking, the effect of this section is to secure that proceedings on " confirming Bills " before the Examiner, the Court of Referees, the Standing Orders Committee and the committee on the Bill correspond to similar proceedings on Private Bills, and that between its Second Reading and its Report stage a " confirming Bill ", to all intents and purposes, is treated as a Private Bill.

Section 2 (S.O.s 220-223) comprises four orders applicable only to money Bills promoted by the London County Council which are precautionary in character and lay down certain special procedure and dates for the presentation of the petition for the Bill and its examination, and place certain duties on the committee on the Bill. Section 3 consists of only one order (S.O. 224), which relates to the procedure of the Examiners when they are ordered to report on a " hybrid Bill "—*i.e.*, a Public Bill other than a " confirming Bill " which affects private rights and interests—with respect to the applicability thereto of the Standing Orders compliance with which would have to be proved in the case of a Private Bill (*e.g.*, notices, deposit of plans, etc.).

Chapter VII (S.O.s 225-236) includes all the Standing Orders necessary to regulate the procedure in the House of Commons involved under the Private Legislation Procedure (Scotland) Act, 1936.[2] This is an Act, originally passed in 1899,[3] to provide for the making of provisional orders applicable to Scotland, for local inquiries to be held,

[1] *See* Erskine May, 13th ed., ch. xxxi, 14th ed., ch. xxxv, and Clifford, II, 676 *sqq.* [O. C. W.]
[2] 26 Geo. V, 1 Edw. VIII, c. 52.
[3] 62 & 63 Vict., c. 47.

where necessary, in Scotland, for the confirmation of orders by Bills, and for the introduction of "substituted" Bills by promoters where the Secretary of State, under the provisions of the Act, has refused to make an order. Most of the procedure is laid down by the Act itself and by "General Orders" issued under the Act by the Secretary of State. These general orders approximate in form and content to the Standing Orders compliance with which, in the case of a Private Bill, has to be proved before the Examiners; it is unnecessary to enter into their detail. Standing Orders 225-236 include certain definitions, two orders relative to the powers of the Chairman of Committees in the House of Lords and of the Chairman of Ways and Means to consider and report to the Secretary of State on draft provisional orders, an order empowering the Committee of Selection to select not more than 25 members to form the Parliamentary panel of commissioners (to hold local inquiries) under the Act, an order relative to the constitution of the Joint Committee to which, under s. 9 of the Act, an opposed confirmation Bill may be referred, and another providing that where a Bill so referred has originated in the Lords it shall be deemed, after Second Reading in the Commons, to have passed the Committee stage, an order regulating the date for the deposit of a Bill under s. 1 (4) of the Act (*i.e.*, where a representation is to be made under that section to the Secretary of State, that the Bill shall apply elsewhere than in Scotland), and finally four orders relating to the deposit of "substituted" Bills (see above), to proofs before the Examiner, and to deposit of petitions against such Bills, with a provision (S.O. 234) that a "substituted" Bill shall not contain any provision not contained in the draft provisional order.

Chapter VIII of the Standing Orders is new and contains only one order, which makes the Table of Fees contained in Appendix C of the orders a Standing Order of the House. This order takes the place of a declaratory order of the House made in 1864, which was formerly printed at the end of that Appendix.

Finally, Appendix A of the Standing Orders sets out the form of notices to be sent to owners, etc., under S.O.s 13 and 61; and Appendix B sets out the form of estimates of expense to be deposited under S.O. 45.

Thus it may be seen from this summary how complete, in many ways, is the code of Standing Orders which regulates the Parliamentary procedure on Private Bills in the House of Commons; and the House of Lords has a similar code under which, though in some respects it is less elaborate (*e.g.*, there are no Court of Referees and no committee on *unopposed* Bills—its functions being fulfilled by the Chairman of Committees—and far fewer directive and regulative orders in general), the procedure of that House is, in essentials, similar to that of the Commons. Certain matters pertaining to private legislation are *not* regulated by these Standing Orders. I have already given one instance if this—the procedure for hearing the cases put forward by the parties

in committee on an *opposed* Bill. Practice regulates this matter, as it regulates proceedings and, to some extent, decisions of the Examiners, Court of Referees and Standing Orders Committee. Similarly, precedent and practice guide the Speaker in deciding, if necessary, whether a Private Bill ought to be brought in as a Public Bill.[1] The general practice of the House, together with certain of the public business Standing Orders, regulates proceedings in the House—Motions, Debates, putting of Questions, order in Debate, orders for the attendance of witnesses, etc.—on private business. The status and responsibilities of Parliamentary agents are regulated by Rules[2] issued, for the House of Commons and under its authority, by the Speaker, and for the House of Lords by the Chairman of Committees. In general, the remarks made by Redlich (Vol. II, pp. 3-9) on the *lex et consuetudo parliamenti* apply to private as well as to public business. It is not, he says, a complete code, and rests on no basis of written law. Custom is its original source, and a large proportion of the edifice of procedure stands simply on precedents. But he admits that a *lex parliamentaria* also exists and is represented by the standing and sessional orders reflecting the autonomy of the two Houses. He also notes in this connection the ease with which orders can be changed or suspended, without any special rules for proposals to alter procedure: a notice of Motion is enough and a bare majority decides any question. Undoubtedly, the *lex parliamentaria* relating to private business is formulated in far greater detail than that relating to public business; yet custom and precedent, as I have shown, regulate many of the proceedings on Private Bills; and, in regard to elasticity in changing procedure, it is sufficient to point out the ease and speed with which the House, satisfied that the recommendations made to it are sound, has more than once repealed all the existing private business orders and enacted a revised set.[3]

The Normal Parliamentary Process Involved in Legislation by Private Bill

It now only remains to summarize the main processes through which, under the existing orders, a Private Bill normally goes, the motive power being provided by the Parliamentary agent acting for the promoters of the Bill, since he is responsible for carrying out all the preliminaries, for giving the necessary notices for the different stages of the Bill's passage through the House, and for attending in charge of the Bill, or petition for the Bill, when any officer or committee of the House is dealing with it. A much fuller account is, of course, to be found in Erskine May.

This short summary takes no account of all the work that is neces-

[1] *See* May, 14th ed., pp. 826-39. [O. C. W.] [2] The latest edition of these Rules was signed by the Speaker on April 4, 1938, and they are set out in May, 14th ed., pp. 864-67. [O. C. W.] [3] *E.g.*, in 1945 (*see* H.C. Deb. (1945), 408, cc. 2381-91). [O. C. W.]

sarily to be done by the promoters of a Bill, their experts and Parliamentary agents, in preparing and drafting the Bill and the petition for the Bill, and in actually complying with the Standing Orders as to notices and deposits; its only aim is to give a general description of the normal Parliamentary process. It is to be noted also that, though little specific reference is here made to the House of Lords, the procedure in both Houses has for a long time been to a great degree the same. In particular, for obvious reasons, the requirements of the Standing Orders of both Houses compliance with which has to be proved before the Examiners are to all intents and purposes identical. The process may conveniently be divided into stages.

Stage 1 (preliminary).—A Private Bill must originate on a petition to the House for leave to bring in the Bill (S.O. 2). Prior to the deposit of the petition in the Committee and Private Bill Office, or, in some cases, between the date of that event and the examination by the Examiner, various preliminaries have to be carried out. The nature of these preliminaries and the latest dates for carrying them out are laid down by S.O.s 4-61. Thus, on or before November 20,[1] plans, maps, books of reference and sections, where these are required under S.O.s 27-37 (their form and contents being laid down by S.O.s 48-59), must be deposited in the Committee and Private Bill Office, with local authorities and certain Government Departments as indicated in the Standing Orders.[2] On or before November 27 the petition for the Bill with a printed copy of the Bill annexed must be deposited in the Committee and Private Bill Office, together with copies in that office for the use of agents and in the Vote Office for the use of Members (S.O. 38). On or before December 4 printed copies of the Bill must be deposited with various Government Departments and, in certain cases, with certain local authorities (S.O.s 39-44); and by the same limiting date, estimates of expense and, where Bills are promoted by local authorities, certain other statistical statements (S.O.s 45, 46) must be similarly deposited as provided in those orders. On or before December 11 a statement must be deposited as provided in S.O. 47 describing the working-class houses proposed to be compulsorily acquired, where thirty or more persons are affected. Meanwhile, the notices of the purposes of the Bill containing the prescribed particulars (S.O.s 4-9) must be published not later than December 4 in local newspapers as provided by S.O. 10; while on or before December 5

[1] The date for the deposit of plans was originally December 31, and the dates for making deposits, etc., laid down by the Standing Orders have since 1837 been made earlier in order to speed up subsequent procedure. The Parliamentary year, which in the old days normally ran from February to some time in August, is still conceived to run from the late autumn till the end of July; and the dates laid down for these deposits and other preliminary actions by promoters of Private Bills are calculated (*a*) not to be too early in the year previous to the introduction of a Bill—which would be inconvenient to the promoters, and (*b*) to give sufficient time, in normal circumstances, for a Bill to pass through all its stages in both Houses before the end of July. [O. C. W.]

[2] By this date also notices must be posted in streets or roads proposed to be altered or disturbed by tramway, etc., Bills (S.O. 12). [O. C. W.]

the notices to owners, lessees, occupiers and other persons directly affected by the proposed Bill (S.O.s 13-18), or in other cases not later than December 11 (S.O.s 18-21), must have been given in the manner prescribed by S.O. 22 (delivery or registered post). Finally, not later than December 11 the notices required by S.O. 11 must be published in the appropriate *Gazette*. A general list of Petitions which have been deposited in the Committee and Private Bill Office is prepared and published by that office, in the order of their deposit (S.O. 194).

Stage 2 (examination of Petitions for Bills).—The examination of Petitions for Private Bills, conducted by the Examiners (there being one Examiner for each House), begins on December 18, unless that day is a Saturday or Sunday, when it begins on the Monday following that date (S.O. 70); and seven clear days' notice must be given in the Committee and Private Bill Office by the Examiners of any day after December 18 appointed for the examination of a Petition for a Bill (S.O. 71). The two Examiners sit separately, each taking a certain number of Petitions each day; and the duty of the Examiner of a Petition for a Bill is to certify by indorsement on the Petition and by report to the House whether the Standing Orders have or have not been complied with; and, when they have not been complied with, to report the facts on which his decision is founded and any special circumstances connected with the case (S.O. 72). It is to be noted that under S.O. 3 certain Bills may be certified by the Speaker as being of such a nature that S.O.s 4-68 should not be applicable. In such a case the Petititon for the Bill, even if deposited in the House of Commons, would not be examined by the Examiners, but by practice such Bills usually originate, with or without Petition, in the House of Lords. Before December 17 memorials may be deposited in the Committee and Private Bill Office complaining of non-compliance with Standing Orders (S.O. 195); the memorialists are entitled to appear by themselves or their agents and to tender evidence (S.O. 75). The Examiner may admit affidavits in proof of compliance (S.O. 77). Proceedings before the Examiner are usually brief, for nowadays the majority of Petitions are not subject to memorials complaining of non-compliance. If the promoters do not appear, the Petition is struck off the General List and can only be reinstated by order of the House (S.O. 71). Unless there are opposing memorialists, the agent for the promoters proves his compliance by evidence and affidavit on a "statement of proof" setting out the various orders complied with; but where a complaint of non-compliance has been made, the arguments of both sides have necessarily to be heard. By S.O. 79, if the Examiner feels doubts as to the due construction of a Standing Order in a particular case he has to make special report of the facts. All reports of the Examiner that the Standing Orders have not been complied with, and all special reports from him, stand referred to the Standing Orders Committee, who report to the House whether the Standing Orders ought or ought not to be dispensed with, and whether the parties should be allowed to proceed

with their Bill, or any portion of it, and, if so, upon what terms and conditions (if any). These references to the Standing Orders Committee involve further hearing of the parties concerned; and the Committee regulate their own proceedings by Resolutions adopted sessionally. In any case, unless the Standing Orders Committee report that Standing Orders should not be dispensed with, the way is open for stage 3, when either the Examiner has reported compliance or the Standing Orders Committee have reported that the parties may proceed with their Bill. Meanwhile, the assessment of the scale of fees to be charged on the Bill, as laid down in the Table of Fees, will have been agreed between the officials of the House and the promoters; and the Speaker's Counsel, as well as the Committee and Private Bill Office, will have begun examining the Bills to see if they are in conformity with the rules and orders of the House, or if attention needs calling to any points (S.O.s 82, 85, 197).

Stage 3 (allocation).—Private Bills are allocated between the two Houses after conference between the Chairman of Ways and Means and the Chairman of Committees in the House of Lords, with their advisers (S.O. 81). This conference, attended by all the promoters' agents, takes place on or before January 8 and, as the result of it, the list of Bills for which Petitions were deposited on November 27 is divided in two more or less equal portions, those in one portion to originate in the House of Lords (this being then published as a separate list) and those in the other to originate in the Commons. To Bills originating in the Lords, during their passage through the Commons, the word "(*Lords*)"[1] is appended on official order papers, etc. The allocation of Bills between the two Houses having been decided, the next stage—that of presentation and First Reading—takes place in the House to which the Bills are respectively allocated. This account only deals with proceedings in the House of Commons, including the passage of Lords' Bills through that House; but in its main lines the reverse process is identical.

Stage 4 (presentation, First and Second Readings).—A Private Bill which has reached this stage, having survived stage 3, must be presented by being laid on the Table of the House not earlier than the first day of February on which the House sits, not later than one clear day after that date, or after the date of any report by the Examiner or the date on which, following a report from the Standing Orders Committee that Standing Orders should be dispensed with, the House has given leave to proceed, whichever date is the latest (S.O. 163). If the House happens not to be sitting on the latest date, presentation takes place on the day the House sits again. The House copy of the Bill (which has a cover of parchment), having been deposited in the Committee and Private Bill Office, is laid upon the Table by the clerks of that office; thereupon the Bill is deemed to have been read a first time and to have been ordered to be read a second time. The Bill is now before the

[1] In the Lords the initials (*H.L.*) are appended to a Bill originating in the Lords.

House and notices of Motions to postpone its Second Reading for six months (the equivalent of rejection) or of instructions to the committee on the Bill can now be given by Members. Moreover, the provisions for the various intervals between the subsequent stages of the Bill laid down in S.O.s 198, 199, 201, 204, 205 and 208 come into force. The procedure is that the agents for the Bill give the requisite notice in the Committee and Private Bill Office for Second Reading, consideration, Third Reading and consideration of Lords' amendments; notice of committee (see below) is given under S.O. 199 by the appropriate clerk. But when a stage of a Bill is postponed in the House, the date when it again appears on the Order Paper is the date then fixed by the Chairman of Ways and Means, who, by modern practice, is the actual mover in the House of all stages of a Private Bill. The order of proceedings in the House on private business—the term for proceedings on Private Bills — is regulated by S.O. 190 and S.O. No. 6 (public business). Not less than 3 clear days' notice has to be given of the day proposed for Second Reading of a Bill (all notices being given in and set down in the list of notices by the Committee and Private Bill Office). If there is no objection signified, a Bill set down for Second Reading is read a second time at the time of private business (the first quarter of an hour after prayers) on the day on which it is set down. If objected to, it is postponed to another day, and if the objection is persisted in by any Member it must be postponed under S.O. No. 6 till an evening sitting, when debate can take place on any Motion relating to the Bill of which notice has been given. In such cases, the Chairman of Ways and Means and his adviser, the Speaker's Counsel, will have interviewed the promoters and the objecting Members on such matters as the possibility of compromise, and the date for an evening debate, if the objections cannot otherwise be met, will have been arranged. Also, the power of the Chairman of Ways and Means (S.O. 85) to report to the House at any time any special circumstances relative to a Private Bill is to be noted. When a Private Bill is read a second time it is also committed, which brings it to its next and most important stage. Bills promoted by companies are, however, referred to the Examiners after Second Reading for proof of compliance with S.O.s 62-64.

Stage 5 (Committee).—All Private Bills, having been read a second time and committed, stand referred to the Committee of Selection (S.O. 109) unless, on a Motion, they are referred to a Select Committee. The next step depends on whether the Bill is *opposed* or *unopposed*—*i.e.*, whether or not Petitions have been deposited against the Bill. Standing Orders 128 and 129 regulate the nature, form and deposit date of Petitions against Bills. The normal date laid down is on or before January 30, there being exceptions for Lords' Bills, late and certified Bills and Bills in respect of which the examination (stage 2) has been delayed, in which cases Petitions against must be deposited not later than 10 clear days after the First Reading. Therefore, by

the time a Bill originating normally in the Commons has been read a second time, it is usually already clear whether it is *opposed* or *unopposed*, for the list of Petitions against Bills will have been published. Every *unopposed* Bill, unless the Chairman of Ways and Means under S.O. 85 has informed the House that, in his opinion, it should be treated as an *opposed* Bill, is referred by the Committee of Selection to the Committee on *Unopposed* Bills constituted as laid down in S.O. 111. Every *opposed* Private Bill is referred by the Committee of Selection, either by itself or as one of a "group" of Bills, to a Committee constituted as laid down in S.O. 119 (a chairman and 3 other members). If, in the case of an *opposed* Bill, no party appears on the Petition when the committee meets or if, before the evidence for the promoters has commenced, all opposing Petitions have been withdrawn, the Bill is referred back to the Committee of Selection and treated as an *unopposed* Bill (S.O. 131).

Appearance before the Court of Referees (see above) has not, so far, been referred to. In recent years this Court has very seldom had to sit.[1] Nevertheless, it has to sit when the *locus standi* of a petitioner against a Bill is objected to (by deposit of a memorial) by the promoters. It is only necessary here to say that any case of *locus standi* has usually been decided by the Court before the Committee of Selection have referred the Bill in question to the appropriate committee, but, once the committee on a Bill have begun to sit, the power of deciding any questions of *locus standi* arising in the course of their proceedings rests with them (S.O. 91).

The proceedings in committee on Private Bills, whether *opposed* or *unopposed*, are regulated by a considerable number of Standing Orders (S.O.s 109-162), of which a general description has already been given. It would be inappropriate here to describe the proceedings in detail, and readers who are not familiar with the process must be referred to Erskine May or some other textbook on Parliamentary procedure. The essentials are that the function of the committee is semi-judicial, that the case for the Bill is opened by the promoters' agent if the Bill is *unopposed* or by their counsel if it is *opposed*. In the latter case, the opposing petitioners are also usually represented by counsel. Evidence is given by witnesses called by the respective parties and examined on oath. At the conclusion of the arguments and evidence the Committee decide if the preamble is proved (in whole or in part) and then proceed to deal with the clauses. The Bill, all amendments and all plans, etc., produced in evidence are signed or initialled by the Chairman (S.O.s 140, 141). Then the report on the Bill, usually drafted by the agent, is made and is printed as a supplement to the VOTES. The Committee on an *opposed* Bill or group of Bills are required to sit on every "sitting day" until all Bills referred to them have been reported, but they can adjourn over a sitting day or days, a formal report of such adjournment and its cause being entered in the VOTES. Any witness whose evidence

[1] There was one case in the Session 1944-45, the first since 1938. [O. C. W.]

is required by one of the parties, but who does not willingly attend, can be ordered by the House to attend on a report from the committee, and such an order, if not complied with, would be enforced by the Serjeant-at-Arms.

Private Bills which raise important questions of public policy are sometimes referred to a Select Committee or a Joint Committee. In such cases the order of reference of the committee contains instructions as to the hearing of parties by counsel, limiting date for the deposit of Petitions, etc., and S.O. 136 limiting a committee's power to call evidence would not apply. Moreover, the form of report would conform to that of a Select or Joint Committee to whom a Public Bill has been referred.

Stage 6 (consideration and Third Reading).—Every Private Bill reported by a committee, unless not amended, or not proceeded with by the parties, or reported " preamble not proved ", is ordered to lie on the Table; but if not amended it is ordered to be read the third time (S.O. 178). Every amended Bill is reprinted as amended in Committee, the reprinted Bill is examined against the Committee Bill by the clerks of the Committee and Private Bill Office, and a new House copy of the amended Bill is substituted for the former House copy. The agents for the Bill give the requisite notice for the next stage in the House, " Consideration of Bill ordered to lie upon the Table " (Third Reading in the case of Bill reported without amendments). Only verbal amendments (S.O. 184) can be made on Third Reading, but on " consideration " the promoters, with the consent of the Chairman of Ways and Means, may propose amendments or new clauses. If these are of any length, the Chairman may order them to be printed (S.O.s 182, 183). A Bill which passes the consideration stage is ordered to be read a third time, and the requisite notice for this stage is then given by the agent for the Bill. At both these stages in the House the Bill is, of course, vulnerable to dilatory Motions on the part of Members. After Third Reading the Bill is again printed fair, in the form of an Act, and in that form is sent up to the Lords.

Stage 7 (consideration of Lords' Amendments).—When it has passed through its similar stages in the Lords it is sent back to the Commons, and, if amendments have been made in the Lords, a further stage ensues —" Consideration of Lords' amendments ". Notice of this stage also has to be given by the agent for the Bill, and the amendments are either printed beforehand or, if they are not extensive, notice is given that a copy can be inspected in the Committee and Private Bill Office. When the Lords' amendments are agreed to, or the Lords have agreed not to insist on any amendments to which the Commons disagree (such disagreements being rare), the Bill is ready for the Royal Assent.

Lords' Bills.—As regards the Bills which, meanwhile, have originated in the House of Lords, the process is more or less identical with that described above, but with the Lords as the House of origin. Standing Orders 60 and 61 lay down certain requirements (*a*) as to deposit with

public Departments of Bills which have been amended on Third Reading in the Lords and (*b*) as to notices and deposits where alteration has been made in that House in any work proposed in a Bill in respect of which plans, etc., under S.O. 27 have been deposited. Proof of compliance with these orders and in certain cases with S.O.s 65-67 (" Wharncliffe Orders ") has to be given before the Examiners, to whom every Private Bill brought from the Lords is referred after First Reading. A Bill brought from the Lords is automatically read the first time when it is brought to the Commons. Thereafter, notices for its various stages must be given by the agents within the limits of time prescribed by Standing Orders, the presentation of Petitions against must take place not later than 10 clear days after First Reading, the reference to the Committee of Selection and then to the Committee on *Unopposed* Bills or to a Committee on an *opposed* Bill or group of Bills is the same as for a Bill originating in the Commons, and a similar process is followed up to and including Third Reading. If amended, the Bill is not reprinted, but a paper containing the amendments made is enclosed with the Bill when sent back to the Lords. These are then considered by that House as the Commons' amendments, just as the Lords' amendments to a Commons Bill are considered in the Commons.

Stage 8 (Royal Assent).—The Royal Assent to Bills both Public and Private which have passed both Houses is given at various periods of the Session. A Private Bill then becomes an Act, and is printed among the Statutes[1] of the year, being now part of the public law of the land.

Late Bills.—The annual Money Bill of the London County Council (S.O. 220) and any other Bill for which, with the consent of the Chairman of Ways and Means under S.O. 83, the Petition has been deposited later than November 27, and with which the Standing Orders Committee have allowed the parties to proceed, are called " late " Bills, but they follow the same processes from presentation onwards.

Provisional Order Confirmation Bills.—Standing Orders 211-219 relating to these Bills have already been described: their object is to apply the appropriate Standing Orders to those stages of such Bills as follow Private Bill procedure (examination, Petitions against, committee, proceedings in the House after Second Reading). The procedure on Bills confirming provisional orders under the Private Legislation (Scotland) Act is regulated partly by the Act itself and partly by S.O.s 225-231. Unless such a Bill is referred to a Joint Committee, its passage through Parliament is purely formal; if it is so referred, it escapes the Committee Stage in the Second House, being ordered to be read a third time after its Second Reading. A " substituted " Bill under this Act is one embodying the whole or part of a draft provisional order which, under the Act, the Secretary of State has refused to make. This Bill is then introduced at their own risk and charges by the promoters, who have to prove compliance with certain orders under the Act before the Examiner; and Petitions

[1] *See* May, 13th ed., ch. xxxiii, 14th ed., p. 971. [O. C. W.]

deposited, under the provisions of the Act, against the draft order at the Scottish Office, Whitehall, are transmitted by that office to the Committee and Private Bill Office if the "substituted" Bill originates in the Commons, or to the Committee Office, House of Lords, if it originates in that House. A "substituted" Bill then follows the same stages as any other Private Bill.

Fees.—The fees chargeable in the House of Commons to promoters and opponents of Private Bills are fully set out in the Table of Fees. Every stage attracts a fee from the promoters, and every deposit of a Petition and appearance before any Parliamentary committee, Examiner or other tribunal attracts a fee from the party concerned. The scale of fees is regulated by the amount of money to be raised or expended under the Bill. These fees are paid to the Accountant and are treated as an appropriation in aid of the expenditure under the annual estimate for the House of Commons Offices. Fees are similarly paid, though on a slightly different basis, and accounted for in the House of Lords and are similarly applied as an appropriation in aid.[1]

Conclusion.—Such, then, is our system, and such the elaborate code which regulates it. Everything works very smoothly nowadays compared with the stormy days of the first railway boom (1846-47). Moreover, the scope for Private Bill legislation has been rapidly contracting ever since this century began. The development of the provisional order system, by which, under a large number of enabling Acts, Ministers can make orders equivalent to Private Acts and schedule them to a confirming Bill, the enactment of the Private Legislation Procedure (Scotland) Act in 1899 (of which the main feature is that inquiry in the case of an *opposed* order takes place in Scotland), and the establishment of Parliaments in Eire and Northern Ireland are among the causes of this contraction. Another cause is that no new subject of Private Bill legislation involving wholesale interference with ownership of land and other existing rights is likely to arise. Moreover, if it were to arise, the final and most modern obstacle to a new era of prosperity for Parliamentary agents and the Parliamentary Bar is the conception of State control. The old Private Bill system was based on the doctrine of *laissez faire*. Where the interests of citizens in general are concerned, that doctrine is now moribund. Hence recent Acts such as the Water Act,[2] the Town and Country Planning Act[3] and the Local Government (Boundary Commission) Act[4] of 1944 and 1945, whose effect will be that the powers of water undertakings, the planning of towns and the alteration of boundaries of local authorities will be mainly dealt with

[1] The Votes for the expenses of the Offices of the House of Lords and of the Offices of the House of Commons (including all official salaries and payments to Members), which are part of the Civil Estimates for any financial year, are submitted by the Government to the House, like any other Estimate, and the respective Appropriation Accounts are examined both by the Comptroller and Auditor General and the Public Accounts Committee. [O. C. W.] [2] 8 & 9 Geo. VI, c. 42. [O. C. W.] [3] 7 & 8 Geo. VI, c. 47, and 8 & 9 Geo. VI, c. 33 (Scotland). [O. C. W.] [4] 8 & 9 Geo. VI, c. 38. [O. C. W.]

by Ministerial order instead of by Private Bill. Such Acts are only one step farther in a long process which goes back to the Local Government Act of 1858[1] and even farther. Also, by the Statutory Orders (Special Procedure) Act of 1945,[2] which came into force on June 1, 1946, a new and shortened process, to be called " special Parliamentary procedure " in any Act in which it is adopted, is provided by which Parliamentary confirmation of Ministerial orders is to be secured.

In writing this article I have tried to state clearly a complicated process, and to explain the simple reasons for the complexities. Whether the matter will ever have more than an academic interest for Parliaments of the English model outside Great Britain I am ignorant. Readers in the Dominions will be far more competent than I to judge what Parliamentary machinery is likely to be required in their own countries, if economic developments come to necessitate the interference by Parliament on a large scale with existing property and rights, whether of individuals or corporations. I find it hard to believe that they will need to go through the long experimental processes of adjustment and readjustment which our own Parliament had to go through. No doubt Dominion Parliaments will be assisted, if occasion arises, by studying the historical development of Private Bill legislation in the British Parliament; but they will probably hit on convenient and simple processes by which to attain the desired object without inflicting injustice. That, of course, has ever been the aim of the Private Bill Standing Orders; and for the last hundred years, in spite of complaints, the justice of our procedure has been endorsed by the confidence of public opinion.

III. HOUSE OF COMMONS : SECRET SESSIONS[3]—LIFTING OF THE BAN

By the Editor

An Article on the subject of the practice in regard to Secret Sessions of the House of Commons was contributed to this JOURNAL (Vol. VIII) by Mr. S. St. G. S. Kingdom, a Senior Clerk on the staff of the Clerk of the House of Commons, and further reference to the subject has been made in that and subsequent issues of the JOURNAL.

Mr. Kingdom dealt with the history of Secret Sessions, quoting previous instances, when Secret Sessions were held both in the Lords

[1] 21 & 22 Vict., c. 98. [O. C. W.] [2] 9 & 10 Geo. VI, c. 18. This will apply to certain orders made, not only under the Acts of 1945 cited above, but to other Acts passed, or to be passed, this Session—*e.g.*, the Trunk Roads Act, the Water (Scotland) Act, and the Acquisition of Land (Authorization Procedure) Act. It is clearly contemplated that this special procedure will eventually replace the older procedure relating to provisional order confirmation Bills, but the necessary Standing Orders in regard to it were not made till October, 1946. [O. C. W.] [3] *See also* JOURNAL, Vol. VIII, 19, 98; IX, 16; X, 22; XI-XII, 21, 237; XIII, 21, 22.

and Commons during World War I. And since the revival of the practice in World War II instances of such Sessions in respect of both Houses of the Imperial Parliament have been noted in the JOURNAL.

This Article covers the Motion, introduced in the House of Commons in order to lift the ban of secrecy, followed by a brief account of some of the points raised during the debate. Reference should, however, first be made to the report of the 2 Secret Session Privilege cases in 1942, noted in Vol. XI-XII of the JOURNAL, pp. 237-49.

Motion.—On December 19, 1945,[1] the Lord President of the Council (Rt. Hon. H. Morrison) in moving:

That no proceeding in this House during the last[2] Parliament held in Secret Session be any longer secret.

said that the Government's reason for asking the House to lift this ban was that it was no longer necessary. The House met in Secret Session during the War for one reason only—to keep from the enemy information which might help him in the prosecution of the War. Many Secret Sittings—28 in number—dealt with the days and hours of meeting of the House—an elementary air-raid precaution—and secrecy in this respect had already been removed by the Resolution[3] passed by the House on September 26, 1944. As for the other Secret Sittings—37 in number, including 3 which also dealt with hours—he must confine himself to the official reports of the proceedings issued by Mr. Speaker. He (the Minister) would say that as regards most of them there could be no conceivable objection to disclosure now. Doubt could only exist about what he might call major occasions, when important statements were made or discussions took place connected with the War in one phase or another.

The secrecy imposed during the War was enforced by 2 methods.[4]

Publication of anything which happened in Secret Sessions which went further than the Speaker's official report was, and remained, a breach of Privilege. Secondly, under Defence Regulation 3 (2), revoked September 28, shortly after the Press censorship came to an end, it was an offence to publish any report of it, or to purport to describe the proceedings at any Secret Session, except such report or description thereof as was officially communicated through the Press and Censorship Bureau. That revocation took place by Order in Council. No objection was raised and there was no Prayer against the revocation of that Defence Regulation.

Thus the question of an offence under Defence Regulation was gone. What the House had to decide was whether references to proceedings in Secret Session should continue to be a breach of Privilege. Mr. Morrison could conceive that there might be circumstances in which, notwithstanding there was no longer any danger to national security, it

[1] 417 *Com. Hans.* 5, s. 1407. [2] XXXVIIth. [3] That the Resolutions of the House of 24th November, 1943, and 24th February and 31st March, 1944, be rescinded, and that the Orders made in Secret Session upon those dates be published in the Votes and Proceedings this day.—(403 *Com. Hans.* 5, s. 49.) [4] 417 *Ib.* 1408.

would be right to keep the Privilege protection on; but in the present case neither he nor those of his colleagues in the Government who were members of the last House of Commons and attended the Secret Sessions knew of any substantial reasons for continuing Privilege protection.

The chief practical reason for lifting the ban was that as recollections faded, of what was said in Secret and what in open Session, there was a serious risk of the ban becoming a dead letter in effect. It was very easy to forget whether a particular thing was mentioned at a Secret Session or at a public Session.[1] It was more difficult because the ban applied to everything which was said in secret and not only to matters which were in themselves and by themselves secret. Much was harmless even at the time and much had become common knowledge since. The earlier the ban was lifted the less risk there was of garbled versions, and the longer the ban was kept on the greater the risk, when it came off, of the versions being garbled. The sanctions against the spread of inaccurate accounts of secret proceedings would be easier to enforce now than later. Anybody outside the House who gave offence in that respect could be dealt with under the ordinary rules of Privilege. Inside the House, the Chair could be relied upon to provide an effective check.

The removal of the ban on the disclosure of proceedings in Secret Session was an essential preliminary to the publication[2] of the Journals of the War-time Sessions, which had been withheld from the public during the last 6 years.

It was true that the Journals did not report speeches, but they recorded proceedings as well as decisions of the House. And although proceedings and decisions in some of the Secret Sessions were reported by Mr. Speaker, with regard to others no official information had hitherto been made public. The agreement of the House to the motion he was proposing would secure the immediate release for publication of the War-time Journals, which were already in print but had been available hitherto only to a few officers of the House.

The motion before the House was solely the responsibility of the Government, but they thought it right to inform Mr. Speaker on a matter which was so essentially one of Parliamentary procedure and he told them that there was no objection so far as he was concerned.[3]

The hon. member for Ipswich (Mr. R. R. Stokes) asked whether he would be entitled, if some newspaper editor suggested to him to write up that particular debate, to accept what sum he was offered in order to make clear what was discussed and what were the points in any particular matter under discussion.[4]

The hon. member for Dumbartonshire (Mr. A. S. McKinlay) observed that, from what his hon. friend had said, it appeared to be obvious that some members of the House kept notes of the proceedings during Secret Sessions, and he wished to ask whether it was not a

[1] *Ib.* 1409. [2] *Ib.* 1410. [3] *Ib.* 1411. [4] *Ib.* 1413.

breach of Privilege to keep a record, even privately, of what transpired in a Secret Session.

Mr. Speaker: " Anything made public was a breach of Privilege."[1]

The hon. member for Nuneaton (Mr. F. G. Bowles) said that surely the position was that either the notes or the statements would have to be related to what took place in Secret Session. That was the great connecting point.

Mr. Speaker: " I think it would refer to notes of a speech made in Secret Session. An hon. member might have notes which he had prepared for a speech which he did not deliver."

Mr. Stokes remarked that the substance of what really mattered was contained in 2 reports which the House had never been allowed to see, and was he never to be allowed to appeal to the Lord President of the Council or the Government Front Bench to make the necessary release which would allow of those documents being made public ?[2]

The hon. member for Brighton (Mr. A. Marlowe) wondered what safeguards there were against one hon. member alleging that another hon. member had said something in Secret Session. There was no check on that at all. No record existed, and it would be open for any hon. member to say that another hon. member had said something which he might, or might not, have said. It would not be actionable, and there would be no remedy against a person being very grossly slandered.[3]

One had noticed an increasing tendency during the past few years for Front Bench speeches to be read, and it might well be that there were written records of some of them. He suggested that such speeches as were available in writing should be published and so ensure that such a record was accurate.[4]

The hon. member for Farnham (Mr. G. Nicholson) observed that an hon. member might have made a speech in a Secret Session which he would not have made had he thought that his words would ever be reported. One might say that those speeches would never be made public, but that it would only be parts of what was said which would be made public. " Let us have this thing decently buried where it is."[5]

Mr. Bowles asked if the new House of Commons could relieve hon. members who spoke in the old House of Commons from the confidence which they were promised.[6]

Mr. McKinlay asked for an assurance that, if there existed in writing speeches delivered by members of the Government during those Secret Sessions, they would be destroyed, because they relied so much on secrecy that the only person who could give a direction or make a record would be Mr. Speaker himself.

The Official Reporters had been withdrawn.[7]

The hon. member for Middleton and Prestwich (Major E. E. Gates)

[1] *Ib.* 1414. [2] *Ib.* 1415. [3] *Ib.* 1416. [4] *Ib.* 1416.
[5] *Ib.* 1417. [6] *Ib.* 1419. [7] *Ib.* 1421.

asked, if the Motion were carried, would Mr. Speaker or the House retain redress which could be used against any report purporting to be a report of a Secret Session, which hon. members might think garbled or inaccurate? Also, did His Majesty's Government propose, should any hon. member desire to write an article or a report about a Secret Session, that it would have to be submitted to Mr. Speaker or to a Committee of the House for its accuracy to be tested?[1]

The hon. member for Bromley (Mr. Harold Macmillan) remarked that the public ought to be warned of the danger that they would never get any historical benefit from the passing of the motion. The records would have no value and should not be taken by serious historians as an accurate account of debates in the House.[2]

The hon. member for Liverpool, Scotland (Mr. D. G. Logan), remarked that the secrecy of those Sessions did well for England and it would be much better for the House to let those Sessions remain as secrets. What purpose was there in the proposal but gossip? What would be the use of publishing these things?[3]

The Home Secretary, in regard to what had been said as to inaccurate reports, said that this was not a motion for the promotion of reports. The motion was merely a liberty for Officers of the House to include in its Journals such ordinary notes of proceedings as they would have made had the House not been sitting in Secret Session.

The hon. member for Fyfe (Mr. W. Gallacher) asked, if he said things about the part certain members had taken in Secret Session, and gave what he considered to be quotations from their speeches, would he be subject to the law of libel?[4]

Mr. Morrison said that in regard to the remark about the law of libel, which was a tricky subject, as there were not, and would not be, any authentic records of what was said in the House, it would not be advisable for an hon. member " to chance his arm ", for, if he should prove inaccurate, he might well be guilty of an offence under the law of slander or libel.

As he understood the situation in the new circumstances, there were 3 checks against irresponsibility. If a member were to proceed in the course of debate to allege that another member in the last Parliament had, in Secret Session, said so and so, and were to proceed to give an account, particularly a garbled account, there being no record, it would presumably be a matter for Mr. Speaker as to whether that was within the limits of reasonable fairness in the conduct of debate. Clearly, said the Minister, the criticized member would be at a disadvantage if there was no authentic record of the debate, and that would be a matter entirely for Mr. Speaker. To an interjection the Minister said: " Mr. Speaker sometimes rules other than under Standing Orders. Possibly a *prima facie* case for a Ruling by Mr. Speaker might arise, but it is not for me to say what Mr. Speaker would rule."[5]

The hon. member for Warwick and Leamington (Rt. Hon. A. Eden)

[1] *Ib.* 1426. [2] *Ib.* 1423. [3] *Ib.* 1424. [4] *Ib.* 1425. [5] *Ib.* 1427.

said that he did not understand how protection could be given in these circumstances. He did not see under what practice or precedent it could be done. " The rt. hon. gentleman said it would be a matter for you, Mr. Speaker, and I do not see how it could be so. Of course, if you say it could be, I should be very glad to hear it."

Mr. Speaker: " This is rather a hypothetical matter, and I do not know how the situation might arise. Suppose that a member of the last Parliament was unfairly attacked? My first course would be to rise in the Chair to stop the speaker. But if he were to pursue it, I am inclined to think it might become a *prima facie* case for the Committee of Privileges."[1]

The Minister, continuing, said that there was, in any case, no right of publication of Parliamentary proceedings. Parliament forbore to interfere with publications that do take place, and there was formally no right of publication of Parliamentary debates or proceedings. Therefore, if a person outside the House were to use reports of Secret Session proceedings or indeed other proceedings which were inaccurate, malicious or twisted, the House could regard that as a matter of Privilege if it so desired.[2]

If things were said outside which were inaccurate or involved malice, the people concerned were open to take the remedy afforded by the law of libel and slander. Therefore he did not think the House need have any apprehension that in passing the motion they would automatically be opening the floodgates to a whole lot of garbled or malicious reports.

Mr. Eden interjected that he was troubled about that point. The rt. hon. gentleman had referred to an inaccurate report being published. Who was to judge or to know whether a report was accurate or inaccurate when there was no record?

Mr. Morrison replied that that was one of the risks which the purveyors of those statements would run. He should have thought there would be an additional risk if there were no record and therefore they could get no proof that the statement was actually made. In such a case the risk of damages would be possibly increased.[3] As to whether the Government proposed to publish any reports, they did not have any such intention, and, indeed, the records did not exist. It was possible that some hon. or rt. hon. gentleman spoke from full notes at the time and might still have those full notes,[4] but it would be wrong for the Government to take those notes and publish them and they did not propose to do so. Therefore they as a Government, and the House as a House, would, he presumed, be responsible for no reports whatever, except such very short notes of proceedings as appeared in the Journals of the House.[5]

The hon. member for Farnham had said that the impression at the time was that there would be secrecy for evermore. The Minister was not sure about that. He very much doubted whether those participating in Secret Session were sworn to secrecy for evermore. There

[1] *Ib.* 1428. [2] *Ib.* 1428. [3] *Ib.* 1429. [4] *Ib.* 1430. [5] *Ib.* 1431.

was in the Minister's mind the assumption that at some time the ban would be lifted or that somehow things would begin to come out. He thought that members were not legitimately under the impression that there would be secrecy for all time.

As to the question of any record, as there was no record there was no need to be apprehensive.[1] The Minister, continuing, said that if an hon. or rt. hon. gentleman spoke from full notes and had a manuscript and he wished to publish what he thought he had said, the motion did not prevent him from doing so, but on the contrary enabled him to do so.

What happened after World War I was that the corresponding Defence Regulation remained in force until all the outstanding Regulations lapsed in 1921. There was evidently a greater feeling of secrecy in those days than there was on the part of the present Administration. It was true that the ban of secrecy in World War I had never been lifted. But the scale of secrecy was greater on this occasion. There were many more Secret Sessions and it was not thought right to take action after 1918. The fact that the Defence Regulation was repealed and the Privilege ban not lifted did not prevent one or two distinguished statesmen embodying in memoirs what they or someone else said in some Secret Sessions of Parliament, and no action was taken by the House or by the Committee of Privileges upstairs. They had better face the fact that this had to be put right and there was no use keeping the ban on when they knew the ban would not be observed.[2]

Mr. Morrison confessed that on the historical point he was confined to 2 pleadings in defence. One was that the authorities of the House would be able to complete the gaps in the Commons Journal. That was some factual information of what happened, and raw material for history, so far as it went, not a full and comprehensive historical contribution.[3]

The hon. member for Torquay (Mr. C. Williams) remarked that he knew there could not be a true report, in the sense of its having been taken down, but might it not be possible to reach some sort of agreement whereby the general lines of the debates could be given so that the public would have something which, if not fully accurate, would be rather more accurate than the sort of thing he or any other hon. gentleman might say about what they thought happened 2 or 3 years ago?

It was a pity that they were being asked to pass the motion to-night in a comparatively thin House, when a great deal of doubt had been expressed from many different quarters, and from the opposite side as much as from " this side " of the House, and when they really had not got down to considering what was to be the effect of the motion. He wondered whether it might not be possible to work it out in negotiations between the Front Benches.[4]

Mr. Speaker: " The hon. gentleman must realize that, in regard to

[1] *Ib.* 1432. [2] *Ib.* 1433. [3] *Ib.* 1434. [4] *Ib.* 1435.

the record, I alone am responsible for it, and, therefore, the hon. member is suggesting that I should do these things. I submit that I cannot do this during Recess and I do not feel prepared to do so at the moment."[1]

Question was then put and agreed to.[2]

IV. HOUSE OF COMMONS : REBUILDING

By the Editor

In the last issue of the JOURNAL[3] a review was given of the Report from the Select Committee of the House of Commons upon the above-mentioned subject, and reference was made to the Joint Select Committee of the Lords and Commons appointed to inquire into the accommodation in the Palace of Westminster. This Article gives a brief summary of the proceedings in the Commons upon the motion for the adoption of their Select Committee's Report on rebuilding, as well as of the proceedings in the two Houses in connection with the setting up of the Joint Committee and the messages which passed between the two Houses both upon its appointment in the 1943-44 Session and its reappointment in the 1944-45 Session.

The Reports of both Committees show the consideration each House has for the most suitable provision for the discharge of their duties both by their members and officials and how jealously they guard the question of securing the best accommodation for them.

Question.—Before the consideration of the Report of the Commons Select Committee on Rebuilding, however, Question was asked in that House on January 24, 1945,[4] as to whether the Minister of Works was aware that M.P.s were seriously hampered in the discharge of their duties by the inadequate space and facilities at present available in the Palace of Westminster; that the architect's report implied that the rebuilding would not be complete until 6 years after delivery of the surveys by his department; approximately how long the surveys would take; and what priorities for labour and material would be allocated to a work of such national importance.

The Minister (Rt. Hon. E. D. Sandys) replied that the answers to the first 2 parts of the Question were in the affirmative, that the surveys were nearly completed, and that a full statement would be made on the matters in the last part of the Question by the Government on the Select Committee's Report to-morrow.

Proceedings on Report of Commons Select Committee.—On January 25,[5] it was resolved:[6]

That the Report from the Select Committee on House of Commons (Rebuilding) in the last Session of Parliament be now taken into consideration,

[1] *Ib.* 1436. [2] *See also* Article XVIII of this Volume: *Secret Session : Discharge of Part of Order of June* 18, 1942, *and reprinting of Report.* [3] Vol. XIII, 103. [4] 407 *Com. Hans.* 5, s. 835. [5] *Ib.* 1003-1106. [6] H.C. (1944) 109, 109-1.

after which the Prime Minister (Rt. Hon. Winston Churchill) moved:

That this House doth agree with the Committee in their recommendations.

After complimenting the Select Committee on their work, the Prime Minister observed that there were one or two points of procedure which he ought to mention. In the first place, suggestions of a minor character would be made, apart from the amendment on the Order Paper to adopt a different style of architecture. They thought that in the light of those suggestions they might call upon the Select Committee again to be reconstituted, with the same membership, to have a short sitting, not taking more than a few weeks, in order that all the points which came out in the debate in the House may be reviewed and, if necessary, added to the Report. Therefore they would give to the Committee the following terms of reference:

To examine the proposals of the Select Committee on the House of Commons (Rebuilding) in the light of suggestions made since the publication of their Report, and to recommend to the House any amendment of detail which may appear desirable.

Mr. Churchill, however, remarked that it was not suggested that this should be an inquiry of a large or roving character, but simply in order that the words spoken to-day might not fall idly to the ground.[1]

After the Committee had met again the Minister of Works would be responsible for carrying out the plans, but if there were any large change, or change of principle, the matter would have to come back to the House, and they thought that in another Parliament, whenever that might be, it would be advisable to call the Select Committee into being again, in order that they might note the progress of the work and satisfy themselves that the purposes were all being carried out. The programme suggested was that the architect should be instructed to proceed forthwith with the preparation of the drawings, and as soon as the second stage of bomb-raid damage repairs in London was completed, or nearly completed, the work of demolition could start. That would take about 6 months, during which period the drawings would go forward.

Mr. Churchill referred to the arrangements in the present House (House of Lords Chamber), for the taking of many divisions in a single day, as very unsatisfactory. He felt that it was a matter of high public importance that they should sit as soon as possible in a House of Commons built on the old site, and also that they should render up the present Chamber in which they sat to those who had so kindly made them welcome there. They ought not to stay longer than they need because the 2 branches of the Legislature should both be able to function in their fullest vigour.

The Prime Minister ventured to add a suggestion of his own to any which might be made in debate, and in conclusion said:[2]

[1] 407 *Com. Hans.* 5, s. 1004. [2] *Ib.* 1005-6.

I hope very much that the archway into the Chamber from the Inner Lobby —where the Bar used to be—which was smitten by the blast of the explosion and has acquired an appearance of antiquity that might not have been achieved by the hand of time in centuries, will be preserved intact, as a monument of the ordeal which Westminster has passed through in the Great War and as a reminder to those who will come centuries after us that they may look back from time to time upon their forebears who

kept the bridge
In the brave days of old.

Without reiterating information given in the Article on this subject in the previous issue of the JOURNAL, reference will now be made to several points in the debate on the adoption of the Report.

A noble member strongly advocated that the Committee should be set up in order that the House could know exactly where it stood in regard to the control of rooms in the Palace of Westminster. If the House reached certain conclusions it would be open to it (*a*) to abolish the Act of Parliament under which the Serjeant-at-Arms purported to act, and (*b*) to address a humble Petition to His Majesty asking that the powers of the Lord Great Chamberlain be abated. Those powers were not based on Statute Law but upon powers which had existed since the Norman conquest, if not before.[1]

At this stage in the debate the following amendment was moved by an hon. member—namely, to leave out all words from the word "House" to the end of the Question and to add:

while accepting the Select Committee's recommendations in respect of the dimensions, general plan, and increased amenities of the new House of Commons Chamber, cannot approve the Gothic architectural design submitted by Sir Giles Gilbert Scott until alternative designs have been invited from other leading British architects and considered by the Royal Fine Art Commission.[2]

Upon this debate there was considerable discussion both for and against the Gothic style.

The Minister suggested that the Joint Committee of both Houses on Accommodation in the Palace of Westminster be asked whether they have any other proposals to make for the provision of equivalent facilities elsewhere in the Palace. They should also be asked whether they have any alternate uses to suggest for the new floors above and below the Chamber. With regard to the 25 increase in the Commons' membership, justifying an increase in the number of seats, the Minister observed that before 1918, when the Irish members were here, 670 members were satisfactorily accommodated in the old Commons' Chamber and *that* during a period of tense political activity.[3]

The Minister, in reply to a criticism, said that he found that the Front Bench were really far less well provided for than hon. members sitting in other parts of the House. There were at present 78 Ministers in the House and only about 20 seats on the Front Bench. If the House so decided, there was no reason why the additional 57 seats

[1] *Ib.* 1058-60; *see also* JOURNAL, Vol. XIII, 111. [2] *Ib.* 1062. [3] *Ib.* 1100.

in the back row of the side galleries should not be allotted to hon. members, either at all times or only on important days when the House was likely to be crowded.

Outside persons not familiar with their Parliamentary life were often surprised that a man, after winning a seat, might still not get one.[1] More often than not, the House was less than one-quarter full. The duties of members of Parliament, however, did not consist merely in sitting hour after hour listening to speeches. Some of the most important of their political functions were performed in the Committee Rooms upstairs and in work of various kinds in their constituencies. Except, therefore, on special occasions, it was most unusual for all members of the House to wish to be present in the Chamber at the same time. It would be widely agreed that, whether by judgment or good fortune, the general character and dimensions of Barry's old House of Commons produced a background and an atmosphere which brought dignity and vitality to their proceedings, which most of them would wish to see preserved in their new Chamber.[2]

There were reasons for doubting whether the Serjeant-at-Arms, in the discharge of his functions,[3] was in actual fact exercising delegated powers from the Lord Great Chamberlain. The Minister then read a letter by Mr. Speaker Lowther of December 6, 1906, addressed to the Chairman of the Kitchen Committee, in which Mr. Speaker Lowther said:

> The Speaker is the interpreter and custodian of the rights and privileges of the members of the House, the authority who decides upon the admission of strangers into the House and its precincts, and the only person in whom is vested power to order the withdrawal of strangers from any precincts and to direct the police to carry out such orders. In exercising that authority, the Speaker is, of course, guided by the ancient privileges and customs of the House. I must preserve to myself, as the custodian of the rights and privileges of the House, in accordance with the ancient usage, the decision as to what persons are or are not permitted to make use of rooms within the precincts of the House of Commons during the Session of Parliament.[4]

At the close of the debate, the mover of the amendment asked whether it was the intention of the Government to put on the Whips in event of a division; to which the Minister of Works replied that this was a Government motion, that the Government was accepting the responsibility for the very considerable expenditure involved, and that the motion would be treated in the same way as other Government motions.

On the first part of the amendment being put: That the words proposed to be left out stand part of the Question, the voting was: Ayes, 121; Noes, 21.

The amendment was therefore negatived. The main Question was then put and agreed to without a division.

[1] *Ib.* 1101. [2] *Ib.* 1102. [3] *See* JOURNAL, Vol. XIII, 111. [4] 407 *Com. Hans.* 5, s. 1103.

Reports from Joint Committee on Accommodation in the Palace of Westminster.—Both a Report (Interim)[1] and a Report[2] were made from this Committee, first appointed in the 1943-44 Session and re-appointed in the 1944-45 Session.

SESSION 1943-44.

Setting up of Joint Committee.—This Committee originated in the Commons on May 25, 1944,[3] upon the following Resolution:

> *Resolved.*—That it is expedient that a Joint Committee of Lords and Commons be appointed to inquire into the accommodation in the Palace of Westminster and to report thereon with such recommendations as appear to them desirable.

Messages.—Message was then sent to the Lords to acquaint them therewith and to desire their concurrence.

This Message was received by the Lords from the Commons on June 6, 1944,[4] as follows:

> Message from the Commons to acquaint the House that they have come to the following Resolution to which they desire the concurrence of their Lordships—namely, That it is expedient that a Joint Committee of the Lords and Commons be appointed to inquire into the accommodation in the Palace of Westminster and to report thereon with such recommendations as appear to them desirable.

On June 13, 1944,[5] in the Lords, the Order of the Day was read for the consideration of the Commons Message of Tuesday last—namely, (*here follows the Commons Resolution*) and consideration of the Message was postponed until the following day.

On June 14, 1944,[6] when the Order of the Day was read for the consideration of the Message, the Secretary of State for Dominion Affairs (Rt. Hon. Viscount Cranborne—*Lord Cecil*) said it was the view of the House of Lords Offices Committee that so long as the Joint Committee confined the scope of their inquiries to establishing facts and elucidating the position as to accommodation in the building generally, then it might be very useful for members of both Houses to have the reports in their hands. Any recommendations made, however, could in no way commit their Lordships' House, but would only be for the purpose of enabling Parliament to give due consideration to the facts emerging from their examinations.

> On Question, motion agreed and a Message ordered to be sent to the Commons to acquaint them therewith.

On the same day,[7] Message was received by the Commons from the Lords, that they concurred with the Commons on their Resolution (*see above*).

On June 21, 1944,[8] in the Commons the following decisions were taken:

[1] H.L. 50; H.C. 116. [2] H.L. 26; H.C. 64. [3] 400 *Com. Hans.* 5, s. 1056. [4] 132 *Lords Hans.* 5, s. 6. [5] *Ib.* 218. [6] *Ib.* 242. [7] 400 *Com. Hans.* 5, s. 1988. [8] 401 *Ib.* 311.

Resolution of the House (25th May) relative to the appointment of a Joint Committee on Palace of Westminster (Accommodation) which was ordered to be communicated to the Lords and Message from the Lords (14th June) signifying their concurrence in the said Resolution read.

Ordered : That a Select Committee of seven members be appointed to join with a Committee to be appointed by the Lords to inquire into the accommodation in the Palace of Westminster and to report thereon with such recommendations as appear to them desirable.

Ordered : That the Committee have power to send for persons, papers and records, to sit notwithstanding any Adjournment of the House and to report from time to time.

Ordered : That three be the quorum.

Message to the Lords, to acquaint them therewith and to request them to appoint an equal number of Lords to join with the Committee to be appointed by this House.

Committee nominated of (*here follow the 7 Commons' names*).

On June 22, 1944,[1] Message was received by the Lords from the Commons informing the Lords of the Resolutions taken by the Commons on June 21.

On June 28, 1944,[2] on the Order of the Day being read in the Lords for the consideration of the Commons Message of Thursday last, it was resolved:

That a Committee of seven Lords be appointed to join with the Committee appointed by the Commons (*the names being given*).

It was then ordered:

That such Committee have power to agree with the Committee of the Commons in the appointment of a Chairman.

Then a Message was ordered to be sent to the Commons to inform them of the appointment of the said Committee by the Lords.

On the following day,[3] Message was received by the Commons from the Lords:

That they have appointed a Committee consisting of seven Lords to join with a Committee of the Commons to inquire into the accommodation in the Palace of Westminster, and to report thereon, with such recommendations as appear to them to be desirable, pursuant to the Commons Message on Thursday last.

Question.—On July 25, 1944,[4] an hon. member asked the Prime Minister whether he would give time for the discussion of the following motion:

[*That a Message be sent to the Lords to put their Lordships in mind that they have appointed a Committee to join with a Committee of this House to inquire into the accommodation in the Palace of Westminster and to put their Lordships in mind that no place or time has been fixed for the meeting of the Joint Committee.*]

To which the Secretary of State for Foreign Affairs (Rt. Hon. A. Eden) replied that he was informed that arrangements were being

[1] 132 *Lords Hans.* 5, s. 421. [2] *Ib.* 480. [3] 401 *Com. Hans.* 5, s. 806.
[4] 402 *Ib.* 585.

made for the first meeting of the Joint Committee and that a Message was expected shortly from another place.

Messages.—On July 25, 1944,[1] Message was received by the Commons from the Lords to the effect that the Joint Committee on Accommodation in the Palace of Westminster do meet in Room 352 on Tuesday next, whereupon it was:

Ordered : That the Committee appointed by this House do meet the Lords Committee as proposed by their Lordships.
Message to the Lords to acquaint them therewith.

On the following day[2] the Message was received by the Lords from the Commons:

Message from the Commons that they have ordered that the Committee appointed by them to join with the Committee of this House do meet the Lords Committee on Tuesday next at half-past three o'clock, as suggested by this House.

On July 27, 1944,[3] it was announced in the Lords that:

Evidence taken before the Joint Committee from time to time be printed but no copies to be delivered out except to members of the Committee until further notice.

Report (Interim), 1943-44.—On November 14, 1944,[4] in the Commons, a Report[5] from the Joint Committee (with Minutes of Evidence) [Inquiry not completed] was brought up, read and ordered to lie on the Table and be printed.

This Report read:

That the Committee have held 6 sittings and have examined 9 witnesses including the Lord Chancellor, 2 members of the House of Commons, the Clerk of the Parliaments, the Permanent Secretary to the Lord Chancellor, the Secretary to the Lord Great Chamberlain and the Deputy Secretary to the Ministry of Works. They have been unable to complete the hearing of the evidence before they had the opportunity of considering the Report of the Select Committee of the House of Commons on the rebuilding of the House of Commons and they therefore recommend their reappointment in the forthcoming Session.
The Committee have ordered the Minutes of Evidence together with the Proceedings of the Committee to be laid before both Houses of Parliament.

On November 15, 1944,[6] the Lords *Hansard* report read:

Report, being a Report that the Committee have been unable to complete their inquiry, from the Joint Committee (with the Proceedings of the Committee) made and to be printed. Minutes of evidence laid on the Table, and to be delivered out.

SESSION 1944-45.

On December 5, 1944,[7] similar steps were taken in the Commons to set up the Committee again,[8] as in the previous Session.

[1] 402 *Com. Hans.* 5, s. 597. [2] 133 *Lords Hans.* 5, s. 1180. [3] 132 *Lords Hans.* 5, s. 1182. [4] 404 *Com. Hans.* 5, s. 1802; H.L. 50; H.C. 116. [5] H.L. 50; H.C. 116. [6] 133 *Lords Hans.* 5, s. 1175. [7] 406 *Com. Hans.* 5, s. 485. [8] *Ib.* 1058, 1477, 1626, 1964; 134 *Lords Hans.* 5, s. 281, 367, 499, 604.

On December 19, 1944,[1] in the Commons, the Minutes of Evidence taken before the Joint Committee in Session 1943-44 were referred to the Select Committee to join with a Committee to be appointed by the Lords.

On December 21, 1944,[2] it was also ordered in the Lords: That the Minutes of Evidence taken by the Joint Committee on Accommodation in the Palace of Westminster in the last Session of Parliament be referred to the Committee.

On January 17, 1945,[3] it was ordered in the Lords that the evidence taken before the Joint Committee from time to time be printed, but no copies be delivered out except to members of the Committee until further order.

Question.—On February 21,[4] in view of the likelihood that it would be some years before the Lords would be returning to their own Chamber, now courteously lent to the Commons, Question was asked in the Lords as to the provision of more adequate and convenient accommodation than that for the Lords in the Chamber in which they now sit, but the Government considered that, unless there was a general feeling in regard to the matter, they were not disposed to suggest to their Lordships the appointment of a Select Committee.

The noble Viscount (Lord Cecil) followed up his Question by a Motion for Papers on March 6,[5] suggesting further and better accommodation for the Foreign Diplomatic Corps and distinguished strangers, but on the difficulty of structural alterations being raised the motion was, by leave, withdrawn.

Report.—On March 28,[6] it was ordered in the Lords that the Report[7] by the Joint Committee be printed; the Minutes of Evidence to be laid on the Table and be delivered out.

On March 28,[8] in the Commons, the Report from the Joint Committee with Evidence was brought up, read and ordered to lie on the Table and be printed.

ORDERED TO REPORT.

The heading of the Report was:

> Report by the First Select Committee of the House of Lords and of the House of Commons appointed to inquire into the Accommodation in the Palace of Westminster.

The Report stated that the Committee had met and considered the evidence taken last Session by the Joint Committee and that they had held 9 further sittings in the present Session and examined 24 witnesses, including 3 former Lord Chancellors, the Speaker, the Clerk of the Parliaments, the Clerk of the House of Commons, the Serjeant-at-Arms, the Librarian of the House of Commons, the Chairman of

[1] 406 *Com. Hans.* 5, s. 1626. [2] 134 *Lords Hans.* 5, s. 626. [3] 135 *Ib.* 842.
[4] 135 *Ib.* 5, s. 106. [5] *Ib.* 341. [6] 135 *Ib.* 842. [7] H.L. 26; H.C. 64.
[8] 409 *Com. Hans.* 5, s. 1393.

the Kitchen Committee of the House of Commons and representatives of the Empire Parliamentary Association and the Inter-Parliamentary Union. The Committee had again heard evidence from the Deputy-Secretary to the Ministry of Works.

The original Committee held 6 sittings and examined 9 witnesses, including the Lord Chancellor, 2 M.P.s, the Clerk of the Parliaments, the Permanent Secretary to the Lord Chancellor, the Secretary to the Lord Great Chamberlain, and the Deputy-Secretary to the Ministry of Works. The Proceedings of the Committee and Minutes of Evidence were then published and the new Committee was appointed at the beginning of the present Session in order to complete the hearing of the evidence and make this Report.

The Report stated that there was practically no accommodation where a Peer or private member of the House of Commons could hold an interview; the provision for the dictation and typing of letters was inadequate; and the canteen arrangements for the 700 members of the staff left much to be desired.[1]

The Palace of Westminster was a Royal Palace in charge of the Lord Great Chamberlain, who allocated the accommodation in it by warrant to the different users, who made their own detailed distributions of the rooms available. For the Lords this was done through his Secretary, for the Commons by the Speaker: (*a*) by the Serjeant-at-Arms in respect of the officers of the House, the Kitchen and Refreshment Rooms, the Press, etc.; and (*b*) by the Ministry of Works in respect of Ministers' Rooms. When Parliament was not sitting the Palace reverted to the custody of the Lord Great Chamberlain. In regard to this, the Committee recommended the appointment by the Commons of a Sessional Committee of Members, to which all M.P.s would have access, to advise Mr. Speaker on the allocation of the accommodation under his control, the House of Lords' Offices (and Sessional) Committee already performing such function for the House of Lords. Should any question affecting the accommodation for both Houses arise, the Committee suggested that an *ad hoc* Committee could be appointed at any time, the duties of these Committees to be advisory.[2]

Before the War, a number of officers of both Houses had residences allotted to them within the Palace, but owing to the great pressure on space the Committee considered that only those officers should have residences within the Palace whose duties required their attendance constantly to a late hour, or whose residences would not be suitable for other purposes, and that in other cases consideration should be given to provision of official accommodation outside but in proximity to the Houses of Parliament.

Mr. Speaker intimated to the Committee that he would be content with a much smaller residence than that allotted to his predecessors, and suggested that the rooms on the principal floor be only used by him for official entertainments and should be available, in each case

[1] *Rep.*, § 1. [2] *Ib.* § 2.

subject to his consent, for other official occasions, mostly of a Parliamentary character.

The Committee considered that a senior officer of each House should reside within the Palace—in the case of the Lords, the Secretary to the Lord Great Chamberlain (who is also Yeoman Usher of the Black Rod), and, in the case of the Commons, the Serjeant-at-Arms. The Committee did not recommend any alteration in the residences of the Superintendent of Works, the Resident Engineer, the Comptroller of the House of Lords Refreshment Department and the 3 House of Commons Office Keepers.[1]

In view of the difficulty in retaining residence within the Palace also for the Lord Chancellor, and in view also of his judicial duties in the Lords, it was recommended that he be provided with an official residence in some position such as Abingdon Street.

The Committee also considered it would be for the convenience of Parliament were the Clerk of the Parliaments, the Clerk of the House of Commons and the Deputy-Serjeant-at-Arms provided with official (flat) residences outside, but near the Palace of Westminster.

The Committee were also of opinion that emergency sleeping accommodation be provided for such Clerks and members of the staff of the Commons as may be unable to get home after a late night sitting. Other room accommodation was recommended for the 4 Division Clerks and dormitories, etc., for Messengers, if possible in the upper floor of the Speaker's and Serjeant-at-Arms' residences.[2]

The Committee also made recommendations as to lifts and lavatories, the Parliament Office, Lord Chancellor's Department (*vide* Appendix A to the Report) and the return to use, as Lords' Committee Rooms, of those temporarily used by the Judicial Committee of the Privy Council,[3] as well as provision of interviewing rooms for members of the House of Lords, Ministers, Under-Secretaries, Whips and Lords of Appeal.[4] It was also suggested that, as the whole of the rooms in the Victoria Tower could not be used for living purposes, they be used for additional storage of documents (*vide* Appendix B to the Report).

The amalgamation of the catering arrangements for the Lords with those for the Commons did not commend itself to the Committee.[5]

In regard to the 26 mess rooms for the 700 employees in the Palace, the setting up of a cafetaria capable of serving 80 to 100 meals simultaneously at a low price was recommended, with management in the hands of the Kitchen Committee of the Commons.[6] Recommendations were also made as to catering arrangements for chauffeurs and others in the Palace Yard.[7]

[1] *Ib.* § 3. [2] *Ib.* § 4. [3] *Ib.* § 6. [4] *Ib.* § 7.
[5] *Ib.* § 9; on February 27 (135 *Lords Hans.* 5, s. 162) the Lords Offices Committee reported (H.L. 21) that such amalgamation be referred back to its Sub-Committee with an instruction to nominate 3 Peers, with the Lord Great Chamberlain and the Clerk of the Parliaments, to meet a similar number of the Commons Kitchen Committee to confer with the Minister of Works to see if a scheme could be agreed upon to meet the conditions laid down by their Sub-Committee.—[Ed.] [6] *Rep.* § 11. [7] *Ib.* § 12.

A small room was also required close to the Commons as a buffet where tea and light refreshments for members unable to leave the Chamber for more than a few minutes during debate.

Additional smoking and reading rooms were also suggested,[1] as well as a muster room for the police.[2]

The Committee observed that by the adoption of Sir Charles Barry's complete plans (*vide* the last picture attached to the Report) an additional 237 rooms could be provided, for approximately £2,100,000.[3]

In its conclusion, the Committee stated that, in view of the war-condition state of the Palace of Westminster, the allocation of rooms for definite purposes could not be made; moreover, neither was it possible now for the Ministry of Works to propose a detailed programme.

The Committee believed, however, that its recommendations in paragraph 2 of its Report for the suggestion from time to time, as repairs and alterations progress, of changes which would enable the Palace to meet more fully the needs of modern Parliamentary life, will add to the amenities and usefulness of the Palace of Westminster, the historic home of both Houses of Parliament.

Appendixes A-C.—The memoranda by the Ministry of Works in Appendixes A and B to the Report dealt in detail with House of Lords accommodation and the Victoria Tower, respectively. Appendix C showed the ground-floor plan of Sir Charles Barry's proposed plan and elevation for an extension of the Palace of Westminster.

Houses of Parliament Buildings (Supplementary Estimate).—In Committee of Supply (Estimates, Class VII) on March 9,[4] upon the motion:

> That a supplementary sum, not exceeding £20,000, be granted to His Majesty, to defray the charge which will come in course of payment during the year ending on the 31st day of March, 1945, for expenditure in respect of both Houses of Parliament.

The Minister of Works (Rt. Hon. D. Sandys) said that this Supplementary Estimate, which increased the nominal sum of £500 to £20,500, was intended to cover certain preparatory work undertaken as a result of the Select Committee's Report on the rebuilding. With reference to the suggestion in the debate on the adoption of the Select Committee's Report that it should be reappointed in order to consider any suggestions of detail, the Government had since, in consultation "through the usual channels" and with hon. members on the Select Committee, been examining the suggestions made during the debate, and found that very few detailed amendments to the plan had been suggested. Both the Government and the Select Committee therefore felt that they would not, in the circumstances, be justified in adopting the rather elaborate procedure of reconstituting the Select Committee for this purpose. The Government therefore proposed, subject to the

[1] *Ib.* § 13. [2] *Ib.* § 14. [3] *Ib.* § 19. [4] 408 *Com. Hans.* 5, s. 2405.

views of the Committee, to consider a suggestion made during the debate —namely, that at a later date a small panel of members should be set up whom the Minister of Works could consult when necessary on matters connected with the rebuilding and refurnishing of the House. The selection of members to serve on the panel could be decided by consultation "through the usual channels" when the need arose. As soon as it did, the Government would, after "consultation through the usual channels", suggest to the House the names of members who might serve on the proposed panel.

It was suggested during the debate to have the Minister as the main channel between the members and the House in place of a panel. On the other hand, other speakers were against it, but the Deputy Chairman of Committees warned the Committee that the question of the panel did not come under this Vote.[1]

V. HOUSE OF COMMONS: DELEGATED LEGISLATION (S. R. AND O. SEL. COM.)[2]

BY THE EDITOR

THE attention given to this subject by the House of Commons and its Statutory Rules and Orders, etc., Select Committee formed the object of Question, Motion and Special and other Reports during the last (Tenth) Session of the XXXVIIth Parliament, of which the following is a summarized account.

This Committee was set up on December 5, 1944,[3] and the Orders of Reference, etc., were those for the 1943-44 Session[4] except that the quorum was reduced from 5 to 3 and an additional Order was made on May 10, 1945 (*of which see later*).

According to the Minutes of Proceedings, the Committee consisted of the same number of members (11), and between December 5, 1944, and May 29, 1945, sat 13 times. Sir Cecil Carr, Counsel to Mr. Speaker, "was also in attendance" at all meetings. Over 160 Rules, Orders or Drafts were considered. Twenty-one departmental officials were examined. At the third meeting, upon a division (Ayes, 3; Noes, 3), the Chairman gave his casting vote with the Ayes and in favour of drawing the attention of the House to certain Regulations.[5]

Reports.—The Committee made 12 Reports and 2 Special Reports during the 1944-45 Session.

The *First*[6] reported 2 Orders (868 and draft of the Cinematograph Films (Labour Costs Amendment)); the *Second*,[7] 1 Order (Cinematograph Films (Quota Amendment)); the *Fourth*,[8] 1 Order (1380);

[1] *Ib.* 2406-10. [2] *See also* JOURNAL, Vols. IX, 64; X, 25, 27, 83-91; XI-XII, 15; XIII, 160; and 389 *Com. Hans.* 5, s. 1231, 1593-1694. [3] 406 *Ib.* 484. [4] *See* JOURNAL, Vol. XIII, 171. [5] H.C. 94 of 1944-45. [6] 406 *Com. Hans.* 5, s. 1058. [7] *Ib.* 1626. [8] 407 *Ib.* 658.

the *Fifth*,[1] 2 Orders (Government of India (Governors' Allowances and Privileges) (Amendment) and Government of India (Family Pensions Fund (Amendment)); the *Sixth*,[2] 2 Orders (146, 147) and the Electoral Registration Regulations, 1945; the *Seventh*,[3] 1 Order (259); the *Ninth*,[4] 3 Orders (378, 413 and 438); the *Tenth*,[5] 1 Order (482) and 370 (*of which later*); the *Eleventh*,[6] 3 Orders (533 and 559), including the House of Commons (Redistribution of Seats) Order, 1945; and *Twelfth*,[7] the Electoral Registration (No. 2 Regulations, 1945);—in all of which the Committee reported themselves of opinion that there were no reasons for drawing the special attention of the House to such Orders or Regulations on any grounds set out in the Order of Reference of the Committee.

In regard to the *Third*, *Eighth*, *Tenth* and *First* and *Second Special* Reports, the special actions taken were as follow:

Third Report.—In regard to this Report, tabled January 17,[8] the Committee were of opinion, in respect of the Orders in Council adding Regulations 60CAA and 68D to the Defence (General) Regulations, 1939 (S. R. & O., 1944, Nos. 1311 and 1312), presented December 12, that the attention of the House should be drawn to Regulation 60CAA, on the grounds that it appeared to make some unusual or unexpected use of the powers conferred by the Statute under which it was made and that its form or purport called for elucidation; and to Regulation 68D on the ground that it appeared to make some unusual or unexpected use of the powers conferred by the Statute under which it was made.

Eighth Report.—While the Committee saw no reason to draw the special attention of the House to Order 350 or 369, they reported, April 17, in regard to the Ploughing Grants Regulations, 1945 (S. R. & O., 1945, No. 214), presented March 6, that they were of opinion that the attention of the House should be drawn to them on the ground that there appeared to have been unjustifiable delay in their publication.[9]

Motion.—On April 25,[10] Mr. Moelwyn Hughes (Carmarthen), in moving in the House of Commons:

> That the Ploughing Grants Regulations 1945 dated 1st February 1945, a copy of which was presented on 6th March, be annulled.

said that this Order governed the conditions qualifying for the receipt of grants for ploughing land. The object of the motion was to draw attention to the delay between the making of the Order and its publication and its laying before the House. It purported to have been made on February 1 and it was not laid before the House of Commons or "the other place" until March 6.

When this House set up the Select Committee to examine Statutory Rules and Orders, it enshrined within its terms of reference the duty to report to the House occasions when there had been undue delay in

[1] 408 *Ib.* 634. [2] *Ib.* 1240. [3] 409 *Ib.* 1393. [4] 410 *Ib.* 1243.
[5] *Ib.* 2278. [6] 411 *Ib.* 47. [7] *Ib.* 220. [8] 407 *Com. Hans.* 5, s. 160.
[9] 410 *Ib.* 34. [10] *Ib.* 941-54.

publishing Orders. In this case, the Order was operating, and had become part and parcel of the law of the land, from the moment it was signed and dated. It must be promptly published, because, although it was legally effective from the time it was signed and dated, it should have been brought to the notice of those who were affected by it, and it was important that it should have been promptly published in order that the House might be in a position to examine it at the earliest possible moment.

Furthermore, in this case, the Order was made under the Agricultural Development Act, 1939, a peace-time Measure. This, with amending Acts, made it possible for the Minister of Agriculture, by Order, to make grants for ploughing and to decide the times within which it had to be done in order to qualify for the grants. That Act contained in s. 37 (3) this provision:

> All Regulations made by virtue of this Act shall, as soon as may be after they are made, be laid before Parliament.

The Order was adopted by 3 Ministries on January 3, 1945. Nothing remained to be done except to get it printed. It was not possible for it to be amended or corrected. The placing of a date upon an Order of this kind was a most important function, but the date ought to be put on at the time when the last signature was put on.[1] From February 3 to 10, this completed Order languished in the Subsidies Branch waiting for printing.

It was not for any Ministry, any rule-making authority, continued the learned member, to judge whether they should press on with the publication of an Order. Their duty was to bring it before the House "as soon as may be". In fact, the Select Committee, faced with this problem last Session, reported to the House at the end of the Session[2] that it thought a specific time limit should be pressed, in order to avoid any Department seeking to exercise its discretion in the matter, whether it ought, or ought not, to exercise any speed in carrying out the duty imposed upon it.[3]

After a supporting speech by the seconder, an hon. member rose to a point of order to ask Mr. Speaker whether the 2 hon. members who had recounted the itinerary of a certain document on information gained through membership of a Select Committee, the evidence before which had not been communicated to the House, was not a breach of the privileges of the House.

Mr. Speaker replied that it was the rule that evidence from a Select Committee should not be quoted to the House unless reported to it. What was quoted should be confined to what had been put by the Select Committee before the House in its Report.[4]

The Joint Parliamentary Secretary to the Ministry of Agriculture (Rt. Hon. Tom Williams), in apologizing for the absence, through sickness, of the Minister, said that also by s. 11 of the Agriculture

[1] *Ib.* 942, 943. [2] *See* JOURNAL, Vol. XIII, 172-3. [3] *Ib.* 944, 945. [4] *Ib.* 947.

(Miscellaneous War Provisions) Act, 1940, the Minister was authorized by Order, made with the consent of the Treasury, to make ploughing grants for each year during the War, which Orders were not required to be laid before Parliament. Announcements had been made (1941-45) through the agencies referred to in the grants that they were to be continued for another year and under the conditions referred to. The laying of these Regulations had never been made a matter of urgency by his Department. If an Order was urgent, special arrangements were made to rush it through. The last thing the Minister would desire to do would be to run in conflict with the House. His Department was hampered by the War and having its offices scattered all over the country. His advice was that the date of the Order coming into force could be any date decided by the Department and was not determined by the date of the last signature.[1]

Motion was, by leave, withdrawn.

First and Second Special Reports.—The first of these[2] was brought up, ordered to lie on the Table and be printed on May 1,[3] and paragraphs 1-7 read as follow:

1. On the 17th April Your Committee drew the attention of the House to the Ploughing Grants Regulations, 1945, on the ground that there appeared to have been unjustifiable delay in publication. Before doing so, they invited an explanation from a representative of the Government Department concerned, as directed by their Order of Reference. The regulations required the joint signature of 3 Departments. The Ministry of Agriculture and Fisheries, as the Department principally concerned, accepted responsibility on behalf of all three.

2. The statutory obligation upon the rule-making authority is express. Under the enabling Act these regulations must be laid before Parliament " as soon as may be ". Under the general provisions of the Rules Publication Act, 1893, they must be sent to the King's Printer " forthwith after they are made", for publication. Your Committee assume that, until Parliament relaxes these express directions, no other form of publicity, whether by press announcement, broadcasting or otherwise, can be deemed an adequate substitute.

3. The Ploughing Grants Regulations received the final signature on some date at the end of January. The daily list of H.M. Stationery Office first announced them as available for sale to the public on March 2; they were not laid before the House till March 6. The Ministry's explanation took (in part) the form of a memorandum dating the successive stages which the regulations passed through between signature and laying. The memorandum is appended to this report. Your Committee consider that the time-table may be left to speak for itself. As, however, a point of principle seems to emerge, and as their own view differs so sharply from that of the Department, they submit the following comments and recommendations.

4. Had these Ploughing Grants Regulations been of an urgent character, it would have been natural and proper for the Department to take special steps to expedite the twin processes of publication and laying before Parliament. Your Committee hesitate to adopt the converse view that a Department may decide for itself the absence of urgency and may then allow itself a delay of 3 or 4 weeks. They contemplate that these regulations, having already been fully considered and examined before signature, would, in the normal and businesslike course, be sent to the King's Printer within 24 hours of being

[1] *Ib.* 954. [2] H.C. (1944-45) 82. [3] 410 *Com. Hans.* 5, s. 1243.

signed. With a brief and largely formal document (in this case occupying little more than a single page) they consider that publication could reasonably be looked for in less than a week after the signing. After signature and dispatch to the King's Printer, the sole remaining responsibility of the Department would be the checking of the proofs. In spite of the war-time dispersal of the Ministry's branches, the making of arrangements for the proofs to be checked in London would not seem to present insuperable difficulty.

5. As regards the duty to lay the regulations before Parliament, Your Committee must emphasize that this is the first stage in the Parliamentary control which is a condition of the exercise of the legislative power delegated by the enabling Act. In their opinion, if such exercises are to be challenged in the House, the opportunity for challenge should come at the earliest possible moment. If, at the discretion of the Department, a lax interpretation is to be given to the words " as soon as may be ", Your Committee will feel obliged to repeat the recommendation submitted by the similar Committee last session that there should in future be substituted for those words some definite and limited period of days.

6. They would not perhaps have thought it necessary to press these considerations had they not encountered a tenacious disposition on the part of the Department to assert that the delay in respect of the Ploughing Grants Regulations was natural and justifiable.

7. One further point arises out of the dating of the regulations. Your Committee feel that, in the absence of special circumstances, it is neither necessary nor desirable that delegated legislation should (any more than any other formal document) bear a date which is different from that on which it is signed. They deprecate a system whereby, after signature, the document is remitted to some official to excogitate what would be a suitable date for it to bear. Doubtless the Minister will take responsibility for the date subsequently inserted, but, whether or no this course could be justified in exceptional cases, it introduces an unnecessary stage, is uneconomical in time and labour, and, by requiring subsequent additions to the document, might lend itself to abuse. Your Committee suggest that the administration might perhaps explore the advantages of adopting some uniform practice where a delegated power is to be exercised jointly by two or more Departments. It might, for instance, be made a matter of routine for the last signatory to insert the date on which he signs, or for all the signatories to add to their signatures the dates on which they severally sign.

The itinerary of the Ploughing Grants Regulations, 1945 (S. R. & O., 1945, No. 214), is shown in the Appendix to the Report.

The Second Special Report,[1] which was brought up, tabled and ordered to be printed on the same day (May 1), deals with the effect of Mr. Speaker's Ruling of April 25 upon the operations of the Select Committee, the paragraphs of which Report read as follow:

1. Your Committee have carefully considered the Ruling given by Mr. Speaker during the Debate on the prayer to annul the Ploughing Grants Regulations, 1945, on Wednesday, April 25. The Ruling was in the following terms:

> " It is the rule that if you quote from any document which is a paper that should be laid before the House, it must be laid before the House. Evidence from a Select Committee should not be quoted to the House unless that evidence has been put before the House; otherwise, the House is likely to be given a one-sided picture. What is quoted should be confined to what has been put by the Select Committee before the House in its report." (410 *Com. Hans.* 5, s. 947.)

[1] H.C. (1944-45) 83.

2. Your Committee are, however, in a difficult position. Under their Order of Reference they are not authorized to report any evidence to the House, nor are they entitled to present a reasoned Report on any Statutory Rule or Order, except in the form of a Special Report. Their Reports can only draw the attention of the House to an Order on one of the 5 grounds set out in their Order of Reference. It follows, therefore, that the only way in which the House can be informed of the detailed reasons which led Your Committee to draw attention to an Order is for a member of Your Committee to give an explanation when the Order is debated in the House.

3. According to Mr. Speaker's Ruling, however, it is not permissible for a member of Your Committee to give a full explanation, because he is debarred from quoting from the evidence, either oral or written, which he has received as a member of Your Committee. The House is, therefore, deprived of the opportunity of reaching a decision based on the complete knowledge of the facts which led Your Committee to draw their attention to the Order.

4. Your Committee feel that this position is most unsatisfactory, and they recommend that their Order of Reference should be extended in the following terms:

> That the Select Committee on Statutory Rules and Orders, etc., have power to report to the House, from time to time, any memoranda submitted or other evidence given to the Committee by any Government Department in explanation of any Rule, Order or Draft.

On May 10,[1] on the Order that the Second Special Report from the Select Committee on Statutory Rules and Orders, etc., be now taken into consideration, the Chairman thereof (Colonel Sir C. MacAndrew) in moving:

> That the Select Committee on Statutory Rules and Orders, etc., have power to report to the House, from time to time, any memoranda submitted or other evidence given to the Committee by any Government Department in explanation of any Rule, Order or Draft.

said, as the House knew from the Second Special Report of the Select Committee on Statutory Rules and Orders, the existing difficulty of the members of the Committee being prevented from giving to the House evidence which they received in the Committee created an unsatisfactory position, and the object of the motion was to provide that information which was given to the Committee could be passed on to the House. That could not be done now and therefore the House was not always able to ascertain the reasons why the Committee drew attention to certain Orders. He considered the change was most desirable.

After the motion had been seconded, the Solicitor-General (Rt. Hon. Sir D. Maxwell Fyfe) stated that the Government were in full sympathy with the object of the motion, but there was one point which they wanted to get clear. Certain memoranda and evidence would be provided for the Committee in confidence. The proposal was going farther than the original request to the House when the constitution of the Committee was first mooted. The Government wanted the Committee to have the fullest information, and, also, the best possible relations to obtain between the Committee and the De-

[1] 410 *Com. Hans.* 5, s. 2148.

partments whose Orders would be considered. Everyone would realize that in certain cases it would be infinitely preferable that matters put before the Committee should not be given publicity, and in those instances they hoped that the Committee would not report the memoranda and evidence. That was not a new departure. It was only bringing the procedure of the Committee into accordance with that of the Public Accounts Committee and other well established Committees of the House. Therefore, he hoped that his hon. and gallant friend who moved the motion would be able to give the assurance that that would be the principle on which they would work. On that basis he (the Solicitor-General) was sure they would all agree with the motion.

Sir C. MacAndrew then said he was very glad to give the assurance for which his hon. and learned friend asked.

Question put and agreed to.

Tenth Report.—In respect to this Report, tabled on May 15,[1] the Committee, while S. R. & O., 1945 (No. 482), called for no reason to draw the special attention of the House to it, recommended that the attention of the House should be drawn to the Land (Valuation for Supplemented Compensation) Regulations, 1945 (370), on the ground that their form or purport called for elucidation.

Questions.—On December 13, 1944,[2] the Prime Minister was asked whether he had considered the Special Report from the Select Committee on Statutory Rules and Orders and whether it was intended to give effect to those recommendations, including the suggested amendment to the Rules and Publication Act, 1893.

The Secretary of State for Foreign Affairs (Rt. Hon. A. Eden) replied that careful consideration was being given to the Report, but it was too soon to say what conclusions were likely to be reached.

On May 10,[3] the Minister of Agriculture was asked if he had any statement to make on the matters referred to in the First Special Report from the Select Committee on Statutory Rules and Orders; to which the Minister of Agriculture and Fisheries (Rt. Hon. R. S. Hudson) replied that the reasons for the lapse of time between the making of these Regulations and their being laid before Parliament were fully explained to the House by his rt. hon. friend the Parliamentary Secretary on April 25 on the motion of the hon. and learned member for Carmarthen (Mr. Moelwyn Hughes). The Minister further said that he had already taken steps to see that the machinery for the laying before Parliament of documents of this nature was speeded up.

The questioner further asked if the Prime Minister had any statement to make on action to be taken in respect of the Second Special Report of the Select Committee, who in reply requested his hon. friend to await consideration later that day of the motion[4] on the subject.

[1] *Ib.* 2278. [2] 406 *Ib.* 1222. [3] 410 *Ib.* 2021. [4] *See supra.*

VI. HOUSE OF COMMONS: NATIONAL EXPENDITURE

(SESSION 1944-45)

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 this 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.

Orders of Reference.—This Select Committee was appointed by the House, January 23,[2] the Orders of Reference being the same as for the 1943-44 Session,[3] which briefly were, that the Committee remained at 32 with a quorum of 7; the examination of matters the subject of current expenditure directly connected with the War and to report what economies consistent with Government policy could be effected; power to send for persons, papers and records and to sit during any Adjournment of the House, adjourn from place to place and report from time to time. The power to address confidential memoranda to the Prime Minister was also continued, as was the appointment of Sub-Committees.

At the first meeting of the Committee,[4] it was decided that, unless it otherwise ordered, strangers be not admitted; that the Chairman be an *ex officio* member of every Sub-Committee; that any meeting of the Committee be held on a Thursday at 2.30 o'clock, but that the Chairman be empowered, when necessary, to summon the Committee for any day or hour; that no Sub-Committee sit during a sitting of the Committee without its special leave; that in all cases not covered by a general direction from the Committee the Committee's discretion with regard to questions of confidential disclosure be exercised by the Chairman of the Committee, who was vested with power to give the necessary directions on behalf of the Committee.

Sub-Committees.—The great feature of this Committee was its Sub-Committees, of which there were 4 (in place of 6 in the previous Session), and a Co-ordinating Sub-Committee.

[1] *See* JOURNAL, Vols. IX, 80; X, 112; XI-XII, 117; XIII, 138. [2] 407 *Com. Hans.* 5, s. 613. [3] *See* JOURNAL, Vol. XI-XII, 118. [4] H.C. Paper 104, p. 4.

The first Sub-Committee to be appointed was a Co-ordinating Sub-Committee (Sub-Committee of Selection), consisting of the Chairman and 3 members of the Committee, to consider the number, functions, membership and Chairmen of the Sub-Committees and to report their recommendations. The Report of this Sub-Committee was brought up at the second meeting of the Committee, agreed to, and the Sub-Committee discharged.

At this meeting,[1] a Co-ordinating Sub-Committee and the following 4 Investigating Sub-Committees, A, B, C and D, were appointed.

Co-ordinating Sub-Committee.—This Sub-Committee is another distinguishing feature of the work of the Committee and derives its power from Order of Reference of the House, under which the Committee has the authority to delegate to this Sub-Committee authority to appoint such Sub-Committees as may seem to it desirable and refer to such Sub-Committees any matters referred to the Committee, to alter the Order of Reference of a Sub-Committee, to direct 2 or more to sit jointly, to nominate members of the Committee for service on any Sub-Committee, to appoint Chairmen thereof, to discharge its members and to substitute others, all provided that actions of the Co-ordinating Sub-Committee are invalid unless approved by the Committee within 21 days.

The Committee at its second meeting also appointed the personnel of the Co-ordinating Sub-Committee to consist of the Chairmen of the 4 Investigating Sub-Committees *ex officio*, 3 other members of the Committee, and the Chairman of the Committee, as Chairman also of the Co-ordinating Sub-Committee.

Sir Adam Maitland was appointed to take the Chair of the Committee and of the Co-ordinating Sub-Committee, in the absence of the Chairman of the Committee. Sir John Wardlaw Milne was appointed a member of every Sub-Committee, and in the event of the absence of both these members the Chair was to be taken by the senior member present, as defined by the order relating to the taking of the Chair in any other Sub-Committee.

Investigating Sub-Committees.

Sub-Committee A.—To continue the uncompleted inquiries into instances of Abnormal Payments for Work Done and into Contract Prices for Sub-contracted work.

Sub-Committee B.—Completed inquiries into alleged waste; certain administration under the Ministry of Supply; the staffing of the Department of the Chief Inspector of Electrical and Mechanical Equipment of the Ministry of Supply; and the acquisition of second-hand cars by the Ministry of War Transport.[2]

Sub-Committee C.—To continue the uncompleted inquiries into the India Office and British Expenditure in India and into Public Relations and Film Units.

Sub-Committee D.—To continue the uncompleted inquiry into the Release of Airfields and other Government-held Land and Buildings.

[1] *Ib.* 4, 5. [2] H.C. Paper 103, p. 4.

The inquiries to be undertaken by Sub-Committee B and any further allocation of inquiries to Sub-Committees A, C and D were to be considered by the Co-ordinating Sub-Committee, the list of possible matters for inquiry to be referred to such Sub-Committee.

The personnel of the 4 Investigating Sub-Committees was fixed, A, B and C to consist of a Chairman and 6 other members except in the case of D, where the other members numbered 7.[1]

The general terms of reference to each and any Sub-Committee were:

> The Sub-Committee shall examine such matters as have been referred to them, which are the subject of 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.

Sub-Committees had to sit in private and report to the Committee from time to time whenever they considered it advisable to do so. Any 2 or more Sub-Committees might, by mutual agreement, sit together and take evidence on any matter of joint interest. The examination of officials was to be as brief as possible and the compilation of statistical returns asked for only when essential.

In the absence of the Chairman of any Sub-Committee, the senior member present took the Chair—namely, that member first appointed a member of the Committee in this or any former Session to be accounted senior, and that if 2 members present were appointed on the same day, then the member who had been longer an M.P. was accounted senior.

It was also ordered at this second meeting of the Committee that no Chairman of any Sub-Committee, nor any other member of the Committee, who had an interview with the Minister on matters connected with any inquiry by the Committee might disclose facts or opinions given in evidence, unless he had previously obtained the consent of the Sub-Committee concerned and of the Chairman of the Full Committee on behalf of the Committee.[2]

Reports.—During the above-mentioned Session this Committee submitted 8 Reports, of which the following are the House of Commons Paper numbers for the 1944-45 Session, the respective subject being given in parentheses after each number: *First.*—45 (The Organization of the Committee) (see *infra*); *Second.*—52 (Release of Requisitioned Land and Buildings); *Third.*—65 (Instances of High Earnings); *Fourth.*—84 (British Expenditure in India); *Fifth.*—100 (War-time Financial Arrangements with British Shipowners); *Sixth.*—101 (Civil and Military Expenditure in the Middle East); *Seventh.*—102 (Research and Development: Warlike Stores); *Eighth.*—103 (The Work of the Committee in Session 1944-45 and Replies from Departments to the Recommendations in Reports) (see *infra*). H.C. Paper 104 of the same

[1] *Ib.* 5. [2] *Ib.* 104, p. 5.

Session contains the Minutes of Proceedings of the Committee and an Index to the Reports.

None of these 8 Reports, all tabled in the House of Commons and ordered to be printed, was adopted by the House, but what this Committee with its constellation of Sub-Committees was able to perform in the supervision of, and investigation into, public expenditure in the Defence Services had to be read before the valuable work done by it could be realized. Without usurping the functions of the Executive, this Committee was able to act administratively in checking expenditure or waste of money or man-power. Its recommendations were taken note of and replied to by Government Departments, as the Committee issued them in its Reports. That these arduous and gratuitous labours were performed by members of a Parliament which was in Session practically the whole year round reflected great credit upon the spirit of public service which pervades British Parliamentary life.

First Report.—This Report dealt with the organization of the Committee, and the Committee in the first paragraph of this Report remarked that the experience of the work of Session 1943-44 showed the usefulness of the system then introduced, whereby the Co-ordinating Sub-Committee was instructed to select the subjects for inquiry and allocate them to Sub-Committees A to D. The Committee, however, decided to reduce the number of Investigating Sub-Committees from 6 to 4.

The Committee in this Report stated it had instructed the Co-ordinating Sub-Committee to determine what inquiries shall be undertaken and allocate and refer such inquiries to such Sub-Committees as were free to undertake their examination, at such time and in such order as the Co-ordinating Sub-Committee decided.

The personnel of the 4 Investigating Sub-Committees were then reported, as well as the general terms of reference and instructions to such Committees, of which the outline has already been given.

Eighth Report.—This Report dealt with the work of the Committee in the 1944-45 Session and with Replies from Departments to the Recommendations in Reports.

The 8 Reports, with the Minutes of Proceedings, covered more than 74 printed pages, and the *Eighth* Report, in summarizing the work of the Session, stated that the Committee and its 4 Investigating Sub-Committees held 59 meetings (including 1 visit) and examined 75 witnesses. These figures brought the totals for the 6 Sessions during the waging of World War II in Europe to 1,740 meetings, including 231 visits and the examination of over 3,575 witnesses.

This Report[1] describes the work of the 4 Investigating Sub-Committees as follow:

Work of Investigating Sub-Committees.

Sub-Committee A.—This Sub-Committee held 6 meetings and examined 7 witnesses.

[1] H.C. Paper (1944-45) 103, pp. 4 and 5.

The Sub-Committee resumed 3 inquiries which could not be completed in the previous Session.[1] The first arose out of a complaint that a contractor had received prices disproportionate to the prices at which he had sub-contracted the work. Further evidence from the Ministry of Supply showed that though the contractor did make a big profit, his price was comparable with that quoted by other contractors and that the size of his profit was in no way connected with his sub-contracts, but was due to the lowness of his own costs. The second and third inquiries, into certain instances of high earnings by dockers and aircraft workers, were completed by the hearing of evidence from the Ministry of War Transport, trade union officials and representatives of the aircraft firm. The findings of these 2 inquiries were embodied in the Third Report of the Committee. The Sub-Committee also began an inquiry into the release, training and rehabilitation of Service and Civil Defence personnel. Evidence was given by the Ministry of Labour, but the Sub-Committee were unable to complete this inquiry.

Sub-Committee B.—This Sub-Committee held 9 meetings, including 1 visit, and examined 22 witnesses.

They completed inquiries into: the alleged waste of caustic soda at a factory in Lancashire; the administration of a used army vehicle park under the control of the Ministry of Supply, which they visited; the staffing of the Department of the Chief Inspector of Electrical and Mechanical Equipment of the Ministry of Supply; and the acquisition of second-hand cars by the Ministry of War Transport. They did not find it necessary, however, to report on any of these matters. They also began an investigation into the reconversion of industry from war to peace purposes, but they did not have time to complete it. During these inquiries witnesses from the Ministry of Aircraft Production, the Ministry of Supply, the Ministry of War Transport, the Board of Trade, the Ministry of Labour, the Ministry of Production and the Ministry of Works were heard, as well as a non-departmental witness.

Sub-Committee C.—This Sub-Committee held 8 meetings and examined 12 witnesses.

They completed the inquiry into British expenditure in India which was begun last Session; and their findings were embodied in the Fourth Report of the Committee. Evidence on expenditure incurred by Departments on public relations and film units was taken from the Ministry of Information, Ministry of Food, Ministry of Supply, Ministry of Agriculture and Fisheries, Ministry of Aircraft Production, Ministry of Fuel and Power and the Press Association. Owing to the dissolution of Parliament the Sub-Committee did not have time to finish this investigation. For the same reason they were unable to complete the further inquiry into opencast coal production envisaged in the Sixth Report of the Committee of last Session. The resumption of the inquiry begun last Session into expenditure incurred by the Ministry of Information in the Middle East was deferred pending the possibility of an inquiry on the spot.

Sub-Committee D.—This Sub-Committee held 16 meetings and examined 31 witnesses.

The results of an inquiry into the release of requisitioned land and buildings were embodied in the Second Report of the Committee; and those of an inquiry into research and development in relation to warlike stores in the Seventh Report. The Sub-Committee made progress with an inquiry into expenditure within the area covered by the Middle East and Persia and Iraq Commands; but their previous opinion was confirmed that they could not satisfactorily

[1] *See also Ib.* 105, §§ 9-11.

proceed further in this matter without visiting the Middle East. They also resumed the inquiry into the organization and expenditure of the Directorate of Civil Affairs at the War Office, which had been begun in the preceding Session, but they did not consider it necessary in present circumstances to make a separate report on this matter; their general conclusion is set out in paragraph 4 of the Sixth Report of the Committee. During these inquiries the Sub-Committee heard witnesses from the Admiralty, the War Office, the Air Ministry, the Ministry of Supply, the Ministry of Aircraft Production, the Ministry of Production, the Ministry of Works and the Board of Trade.

The Co-ordinating Sub-Committee held 10 meetings and examined 3 witnesses.[1]

The meetings were mainly concerned with reviewing, co-ordinating and directing the work of the investigating Sub-Committees. In this capacity the Co-ordinating Sub-Committee was concerned with the possibility of an Investigating Sub-Commit ee visiting the Middle East for the purpose of completing on the spot certain inquiries which had been begun by Sub-Committees C and D respectively. This question was dealt with in the Sixth Report of the Committee. The Co-ordinating Sub-Committee also completed an inquiry, begun last Session, into war-time financial arrangements with British shipowners, and their conclusions were embodied in the Fifth Report of the Committee. Evidence was heard from the Treasury on Government research organizations, and this evidence, combined with evidence taken by Sub-Committee D, together with the relevant evidence heard in previous Sessions, led the Committee to the views expressed in the Seventh Report. Evidence was also heard from the Treasury on questions relating to Treasury control of expenditure.

The Committee observed in their Eighth Report that, in the discharge of their responsibility for directing the work of the Investigating Sub-Committees, the Co-ordinating Sub-Committee considered a number of matters brought to the notice of the Committee. Certain complaints or allegations of waste were, after careful consideration, not proceeded with, either because they were too vague or because they did not fall within the scope of the Committee's investigation; others were allocated as special inquiries or as part of a more general inquiry already in progress or contemplation; while others again were made the subject of preliminary investigation by the Co-ordinating Sub-Committee.

Part II of the Eighth Report.—This part of the Report contained Departmental comments on the *Seventh*, *Eighth* and *Tenth* Reports of the Select Committee of the 1943-44 Session and on the *Second* Report of the Session 1944-45.

VII. HOUSE OF COMMONS: ELECTORAL REFORM AND REPRESENTATION[2]

By the Editor

The last issue of the JOURNAL dealt with the House of Commons (Redistribution of Seats) Bill (7 & 8 Geo. VI, c. 41); the Local Elections

[1] H.C. Paper 103, pp. 3, 4, 5.
[2] *See also* JOURNAL, Vols. X, 33; XI-XII, 130; XIII, 122.

and Register of Electors (Temporary Provisions) Bill (7 & 8 Geo. VI, c. 24); the Speaker's Conference on Electoral Reform and Redistribution of Seats (Cmd. 6534 and 6543); the Return of Electors (H.C. 10 of 1943-44); and the Parliamentary Electors (War-time Registration) Bill (6 & 7 Geo. VI, c. 48).

This Article takes up the treatment of the subject during the succeeding (1944-45) Session in the passing of the House of Commons (Local Elections and Register of Electors (Temporary Provisions) Bill (1); and theRepresentation of the People Bill (2); the Conference Report on Postal Voting for the Forces, Seamen and War-workers abroad (3); the Electoral Registration Regulations, 1945 (4); the Interim Report of the Official Committee on Electoral Law Reform (5); and the Draft of the House of Commons (Redistribution of Seats) Order, 1945 (6). Questions in regard to the postponement of Polling Day and the consequent passing of the Postponement of Polling Day Bill are also dealt with. A *résumé* is given of the House of Commons Returns in regard to the number of electors in Great Britain in force on June 15, 1945.

The fourth longest Parliament thus came to an end upon its dissolution by His Majesty the King on June 15, 1945. Polling day for most of the constituencies was July 5, but the results of the polls for all constituencies were announced on July 26.

A study of the debates and original documents, references to which are given in the footnotes to this Article, will show how thoroughly and impartially this great work of electoral reform and representation of the people has been accomplished and how well selected has been the personnel employed in bringing all these rectifications and changes into effect.

Electoral Registration.—It was stated in the King's Speech at the opening of the 10th Session of the XXXVIIth Parliament on November 29, 1944,[1] when His Majesty addressed both " My Lords and Members of the House of Commons ", that:

> A Bill will be laid before you dealing with electoral reform based on the recommendations of the Speaker's Conference,[2] and a Bill providing for the resumption of local elections at the appropriate time.

On January 17,[3] the Lord President of the Council and Deputy Prime Minister (Rt. Hon. C. R. Attlee) on the authority of the Prime Minister (Rt. Hon. Winston Churchill) made a statement in the House of Commons that it was proposed to alter by legislation the electoral arrangements which involved the preparation of an electoral register after the date of the proclamation and to substitute a system by which a fixed register would be in operation from May 7. There would therefore not be the prolonged interval between the proclamation and the poll which was necessitated by the 1943 Act, but there would be

[1] 406 *Com. Hans.* 5, s. 8. [2] *Cmd.* 6534 and 6543. [3] 407 *Com. Hans.* 5, s. 166.

a reversion to the pre-War time-table. The interval between the proclamation and polling day would be 17 days.

The Prime Minister had therefore submitted to His Majesty that, should he be pleased at any time to dissolve the present Parliament, it would be desirable for an announcement to be made of the actual date of the Dissolution in advance of the Royal Proclamation, and His Majesty had authorized him to say that, in the exceptional circumstances which might be expected, he was willing that an announcement of the Dissolution date should be made 3 weeks in advance of the formal Proclamation. Therefore, whenever the contemplated General Election was decided on, an announcement of the date would be made at least 3 weeks plus 17 days before polling day.

House of Commons (Local Elections and Register of Electors (Temporary Provisions) Bill.[1]—On December 13, 1944,[2] the Second Reading of the Local Elections and Register of Electors (Temporary Provisions) Bill was moved by the Secretary of State for Scotland (Rt. Hon. T. Johnston), who said that this was a short emergency measure extending for a period of 3 months to March 31, 1945, the suspension of the preparation of the registers of electors and the holding of local elections. It was essential that the present suspensory Act, which came to an end on December 31, 1944, should be continued so as to have no hiatus between this Act and the Representation of the People Act, the Bill for which would be introduced this day. The Bill then passed through both Houses without amendment and became 8 & 9 Geo. VI, c. 3.

Representation of the People Bill.—This Bill (No. 4) was presented on December 13, 1944;[3] its long title reads:

> To amend the law relating to Parliamentary and local government franchises, and the registration of parliamentary and local government electors, to provide for the resumption of local elections, and otherwise to amend the law relating to parliamentary and local government elections, including the redistribution of seats at parliamentary elections.

after which, Order was made that the Bill be printed and the Second Reading taken to-morrow.

On December 19,[4] after the Order for the Second Reading had been read, the Secretary of State for the Home Department (Rt. Hon. H. Morrison), in moving " That the Bill be now read a Second Time ", described the Bill as representing the culminating point in a series of electoral reforms which began with the great Reform Act of 1832. The Bill extends the principle of universal adult suffrage for men and women alike to local government elections, adding about 7 million electors to the local government roll. It provides for the resumption of local elections and improved registration machinery and further democratizes the Parliamentary franchise and electoral machinery.

The Bill also makes some permanent reforms in the electoral system

[1] *See also* JOURNAL, Vols. X, 33; XI-XII, 136; XIII, 122. [2] 406 *Com. Hans.* 5, s. 1279. [3] *Ib.* 1263. [4] *Ib.* 1646-1705.

recommended by Mr. Speaker's Conference, but time had not permitted of all its recommendations being dealt with. The Government, in accordance with the suggestion of the Conference, had referred some of the points raised for further examination by a Departmental Committee presided[1] over by Sir Cecil Carr, Counsel to Mr. Speaker.

Mr. Morrison remarked that, more concretely, the 3 objects of the Bill, as set out in its Explanatory and Financial Memorandum given on its opening pages, are (1) to provide for the assimilation of the Parliamentary and local government franchises; (2) to enable local government elections to be resumed; and (3) to provide for the publication of registers of electors at certain fixed dates.[2]

Mr. Morrison then dealt at length with the Bill in its relation to local government elections.

Clause 12 (2) (*a*) provides for a register of civilian residents, a register of business premises voters, and a register of Service voters.[3]

Dealing with the Parliamentary register, in order to make the Service register as comprehensive as possible extra categories are provided consisting of members of the Forces serving abroad who would ordinarily have been living in the United Kingdom. Similar treatment is also accorded members of the Colonial Forces who had qualified by residence in the United Kingdom. Clause 17 deals with released prisoners of war.[4]

It is provided that the general redistribution should begin on October 15, 1946, but the Secretary of State had power to propose to Parliament that it could be on the same date in 1945 or 1947, so that there would be a spread of 2 years, but he could only get that done after an affirmative Resolution of both Houses. Therefore the House was master of the situation all the time.[5]

Continuing, the Minister said that a Conference[6] was sitting to consider the practicability of extending postal voting to members of the Forces and seamen overseas and war workers abroad over as wide an area as possible, the effect of which it was hoped to make provision for in Committee of the Whole House.[7]

The Bill passed the Second Reading and Committee of the Whole House and was set down for " to-morrow ". But the House went into Committee forthwith (the King's Recommendation having been signified) to consider (under S.O. 69) the money clause in the Bill—namely, 23—and certain provisions applicable, under Clause 27, to Northern Ireland, all printed in italics in the Bill,[8] which Resolution was agreed to and reported on January 17, 1945,[9] to the House.

After the Report on the money provisions of the Bill had been agreed to by the House it immediately went[10] into Committee of the Whole House on the Bill, which was amended in certain respects, including the insertion by the Government of new Clauses dealing with—(*Appli-*

[1] *Cmd.* 6606. [2] 406 *Com. Hans.* 5, s. 1648. [3] *Ib.* 1655. [4] *Ib:* 1656. [5] *Ib.* 1657. [6] *Cmd.* 6581. [7] 406 *Com. Hans.* 5, s. 1657. [8] *Ib.* 1706. [9] 407 *Ib.* 196. [10] *Ib.* 197-329.

cation to Northern Ireland);[1] (*Business premises applications by Service voters*);[1] (*Postal voting by Service voters at Parliamentary elections other than University elections*);[2] (*Provisions for superseding proxy votes by postal votes*);[3] (*Postal voting by Service voters at University elections*);[4] (*Consequential provisions*);[5] (*Extension of persons who may be appointed proxies for Service voters at University elections*);[6] (*Proxy voting by Service voters at local government elections*);[7] (*Application and Interpretation of Part . . .*);[8] and (*Power to make supplementary orders as to local elections*);[8] all of which new Clauses were read a First and Second Time and added to the Bill.

A new Clause (*Abolition of Plural Voting*)[9] was brought up by a private member and read the First Time, but the question—" That the Clause be read a Second Time " was negatived (Ayes, 51; Noes, 123).

Another new Clause (*Compensation to Officers*)[10] was brought up by a private member and negatived.

After an amendment to Schedule 5, the Bill was reported with amendments.

On the Order for consideration of the Bill as amended on January 23,[11] the Lord Advocate moved:

> That the Bill be recommitted to a Committee of the Whole House in respect of the amendment to Clause 33, page 32, line 7, standing in the name of Mr. Secretary Johnston, and of the new Clause (Provision as to superannuation rights of contributory employees) and of the amendments to Schedule 5, page 44, line 32, column 3, and Schedule 5, page 45, line 34, column 3, standing on the Notice Paper in the name of Mr. Secretary Morrison.

Question put and agreed to.

The Bill was immediately reconsidered in Committee of the Whole House in respect of the particular provisions. An amendment was moved by the Lord Advocate to Clause 33 (*Temporary provisions as to expenses of registration*) which was agreed to and the Clause as amended was ordered to stand part of the Bill.

A new Clause (*Provision as to Superannuation Rights of Contributory Employees*)—a re-draft of the one proposed on first committal—was then brought up by the Lord Advocate, read the First and Second Time, and agreed to.[12]

After certain consequential amendments had been made the Bill was reported with amendments; and as amended in Committee and on recommittal, considered.

On the Report Stage a new Clause (*Business premises applications on behalf of Service voters by spouse or business manager*) was brought up by the Lord Advocate, read the First and Second Time,[13] and agreed to.

A new Clause (*Single Transferable Vote*)[14] was then brought up by a

[1] *Ib*. 257. [2] *Ib*. 264. [3] *Ib*. 282. [4] *Ib*. 284. [5] *Ib*. 286.
[6] *Ib*. 287. [7] *Ib*. 288. [8] *Ib*. 289. [9] *Ib*. 291. [10] *Ib*. 315.
[11] *Ib*. 680. [12] *Ib*. 681. [13] *Ib*. 683. [14] *Ib*. 686-722.

private member and read the First Time but negatived on being read a Second Time (Ayes, 17; Noes, 208).

Other consequential and drafting amendments were made, Third Reading taken,[1] and the Bill sent to the Lords, duly becoming, without further amendment, 8 & 9 Geo. VI, c. 5.

Conference Report on Postal Voting for the Forces, Seamen and War Workers Abroad.—In reply to a Question and a Supplementary on December 14, 1944,[2] in regard to voting at the General Election of members of the Armed Forces, the Secretary of State for the Home Department (Rt. Hon. H. Morrison) said that provision had already been made in the Parliamentary Electors (War-time Registration) Act, 1943,[3] whereby members of the Forces who, but for their service as such members, would be residing in the United Kingdom might be registered in the Service Register, but they might only record their vote by proxy if serving abroad at the time of the election. It was recognized, however, that voting by proxy was by no means the most satisfactory method of voting, and that it would be preferable to afford postal voting facilities where such a system was feasible. His Majesty's Government had accordingly invited his rt. hon. friend the Chancellor of the Exchequer to convene and preside over a Conference:

> to consider the practicability of extending postal voting to "members of the Forces and seamen overseas and war-workers abroad"—referred to hereafter as "Service Voters"—over as wide a geographical area as possible on the assumption that the system would not be operated until the conclusion of hostilities in Europe.

It was proposed that the Conference should include M.P.s representative of the main political parties selected, registration and returning officers in England, Wales and Scotland and officers of the Government Department concerned, together with the chief party agents.

The Chancellor of the Exchequer (Rt. Hon. Sir John Anderson) reported from this Conference on January 5, 1945, and its Report[4] was presented to Parliament by the Secretary of State for the Home Department and the Secretary of State for Scotland, by Command of His Majesty, January, 1945.

This Conference consisted of the Chancellor of the Exchequer (in the Chair), 6 M.P.s, 4 Party representatives, Registrar-General for England and Wales, Registrar-General for Scotland, a County Clerk, a Town Clerk, Registration Officer, a Sheriff Clerk, 21 officials representing certain Government Departments, with Mr. W. S. Murrie, officer of the War Cabinet, as Secretary.

The Conference considered the problem under the following 4 main heads: A. Registration; B. Arrangements before the Election; C. Arrangements at the Election; D. Area of Postal Voting.

Summary.—The Scheme which the Conference unanimously recommended for adoption was:

[1] *Ib.* 727-36. [2] 406 *Com. Hans.* 5, s. 1335. [3] 6 & 7 Geo. VI, c. 48.
[4] *Cmd.* 6581.

(1) The present arrangements for the registration of Service voters and the appointment of proxies should continue. (Paras. 4 and 5.)
(2) To ensure that as many Service voters as possible are registered, the qualifying date for the May Service Register should be the 15th March, 1945. (Para. 6.)
(3) From the 31st March, 1945, Service voters in the postal voting areas set out in paragraph 16 should be given an opportunity of applying for postal ballot papers for a general election. The application should reach the appropriate Electoral Registration Officer at least 4 days before nomination. (Para. 7.)
(4) All possible steps should be taken to ensure that Service voters receive postal ballot papers even if they change their unit or transfer from one area to another. (Para. 8.)
(5) The voter should himself supply the address to which the ballot paper is to be sent. (Para. 9.)
(6) Proxies appointed by Service voters should be encouraged to keep the Service voters informed about electoral matters in their constituency. (Para. 10.)
(7) In order to avoid the risk of disfranchisement, any proxy appointment made by a Service voter who applies for a postal ballot paper should stand, a proxy vote being cancelled if the voter himself completes a postal ballot paper and returns it in time for inclusion in the count. (Para. 11.)
(8) On the occurrence of an election, the necessary voting documents and the election addresses of the candidates should be sent by the Returning Officer by post to those who have applied for postal ballot papers. The size and weight of the election addresses should be limited. (Para. 12.)
(9) The Services should make suitable arrangements to ensure that the ballot papers can be completed in secrecy and that the Service voters understand the instructions which accompany the ballot papers. (Para. 13.)
(10) There should be an interval of 19 days between the poll and the opening of the count and the postal vote of the Service voter should be accepted if it is received before the opening of the count. (Para. 14.)
(11) The count should be spread over two consecutive days. (Para. 15.)
(12) Subject to any necessary adjustments, the arrangements should apply to seamen in home waters and war workers abroad; and special arrangements should be made for prisoners of war and Service voters with business premises or university qualifications. (Paras. 19 to 21.)

On the basis of these recommendations the time-table for the various operations would be (if " D " is Nomination Day):

15th March.—Qualifying date for inclusion in the May Service Register.
31st March.—Initiation of procedure for claiming a postal ballot paper.
7th May.—May Service Register comes into force.
D − 9.—Royal Proclamation.
D − 4.—Last day for receipt of claims for postal ballot papers.
D + 3.—Postal ballot papers despatched by the Returning Officer and in the hands of the Post Office.
D + 29.—Postal ballot papers in hands of Returning Officer and count begins.
D + 31.—Completion of count.

Electoral Registration Regulations, 1945.—On February 27[1] the Sixth Report of the Statutory Rules and Orders Select Committee was

[1] 408 *Com. Hans.* 5, s. 1240.

brought up and ordered to lie on the Table, and on March 9[1] the Solicitor-General (Major Sir D. Maxwell Fyfe) moved:

That the Electoral Registration Regulations 1945, dated 16th February, 1945, made by the Secretary of State for the Home Department under the Parliamentary Electors (War-time Registration) Acts, 1943 and 1944, and the Representation of the People Act, 1945, a copy of which Regulations was presented on 16th February, be approved.

which was put and agreed to.

Interim Report of Committee on Electoral Law Reform.—On April 12,[2] the Secretary of State for the Home Department was asked (Question 40) what action it was proposed to take with reference to the Interim Report of the Committee on Electoral Law Reform.[3]

Another Question (41) was whether the Government proposed to introduce legislation to carry out the recommendations of the above-mentioned Report and any of the proposals for reducing the cost of elections put forward by the Speaker's Conference.[4]

By Supplementary the Home Secretary was also asked if he was giving consideration to the unanimous recommendation of the Speaker's Conference for the extension of the University franchise to all graduates.

To these Questions, the Home Secretary replied that the matters were under consideration.

Report.—The Committee on Electoral Law Reform was set up by Ministerial Warrant of Appointment, the following being the form:[5]

We hereby Appoint:

Sir Cecil Carr, Sir Rowland Evans, Mr. Andrew Hamilton, Mr. William Hansford, Mr. Raymond Jones, Mr. William Kerr, C.B.E., Mr. H. S. Martin, Sir Cecil Oakes, C.B.E., Mr. G. R. Shepherd, Mr. G. J. Sheriff, Mr. Dudley Sorrell, Mr. E. W. Tame, O.B.E., and Sir Robert Topping,

to be a Committee to consider

(1) in what respects

(*a*) the law relating to corrupt and illegal practices at Parliamentary elections;

(*b*) the provisions of the Ballot Act, 1872, relating to the conduct of the poll and the counting of votes at such elections; and

(*c*) the law relating to the like matters at local elections;

should be amended with a view to rendering the law relating to those matters more suitable to present-day requirements:

(2) the recommendations of the Speaker's Conference relating to the use of schools and halls for election meetings and to broadcasting:

and to make recommendations thereon.

And we further Appoint:

Sir Cecil Carr to be Chairman, and

Mr. W. G. Jagelman, of the Home Office, to be the Secretary of the Committee.

(*Sgd.*) Herbert Morrison.
(*Sgd.*) Thomas Johnston.

25th November, 1944.

By further warrant dated 5th December, 1944, Dr. E. C. S. Wade was added to the Committee.

[1] *Ib.* 2415. [2] 409 *Com. Hans.* 5, s. 1971. [3] *Cmd.* 6606.
[4] *See* Journal, Vol. XIII, 122. [5] *Ib.*, p. 2.

The Report was addressed to:
The Right Honourable Herbert Morrison, M.P.,
His Majesty's Secretary of State for the Home Department, and
The Right Honourable Thomas Johnston, M.P.,
His Majesty's Secretary of State for Scotland.

This official Committee was subsequently invited, in view of prospective legislation, to present an interim report on the following 6 points:[1]

(*a*) The use of schools and halls for election meetings, and broadcasting.
(*b*) The amendment of s. 34 of the Representation of the People Act, 1918, to cover expenses incurred by a political or other organization for the purpose of promoting or procuring the election of a candidate.
(*c*) An amendment of the law to make legal the payment of speakers' expenses.
(*d*) Relief in respect of venial errors by way of the county or sheriff courts rather than as the result of an election petition.
(*e*) The prohibition on a British subject of broadcasting matters affecting a parliamentary election from wireless stations outside the United Kingdom.
(*f*) Increased polling facilities in rural areas.

The following is a survey of the Committee's main recommendations:

In respect of (*a*):[2]

(1) *Availability of Schools.*—In England and Wales, in addition to the schools hitherto described as " public elementary ", almost all secondary and junior technical schools are now to be available through the extension of the previous law by the Education Act, 1944. Corresponding accommodation will be available in Scotland. We think that this existing or expanded provision should suffice.
(2) *Availability of Halls.*—Halls normally used for letting and maintained from public funds should be available.
(3) *Information, etc., for Candidates.*—A candidate should be able to get from a single source a list of schools and halls available for his statutory use in his constituency and, in the case of schools, the local education authority should book them for him.
(4) *Extent of Use.*—The statutory use of a school or hall should be at reasonable times during a period not exceeding 3 weeks before polling day.
(5) *Charges for Statutory Use.*—The prescribed maximum charges both for schools and for halls should, in addition to covering the actual cost of lighting, cleaning and heating, include an item to meet the cost of the overtime of caretakers in the case of schools and of the usual attendants in the case of halls.
(6) *Rating of Premises.*—No difficulty appears to exist in giving effect to the proposal of the Speaker's Conference that premises used for statutory meetings should not lose exemption.

In respect of (*b*):[3]

Amendment of s. 34 *of the* 1918 *Act to cover expenses incurred by a political or other organization for the purpose of promoting or procuring the election of a candidate.*

[1] *Ib.*, p. 3. [2] *Ib.*, p. 8. [3] *Ib.*, p. 9.

Section 34 (1) of the Act of 1918 is as follows:

A person other than the election agent of a candidate shall not incur any expenses *on account of holding public meetings or issuing advertisements, circulars or publications* for the purpose of promoting or procuring the election of any candidate at a parliamentary election unless he is authorized in writing to do so by such election agent.

Subsection (2) makes these unauthorized expenditures a corrupt practice; subsection (3) requires the expenditure, if authorized, to be included in the candidate's return of his election expenses; subsection (4), added in 1922, makes it possible to punish the directors, etc., where the offence is committed by a corporate body.

The Committee recommended:

It is outside our province to consider the broad issue whether or in what circumstances the intervention of independent organizations should be deemed a public evil. We confine ourselves to the recommendation set out in item 3 of Mr. Speaker's letter of July 20th. To give effect thereto, the limiting words italicized in the text of s. 34 (1) above should be omitted. Item 3 goes on to recommend that " particulars of all expenses so incurred by an organization or individual should be returned to an office of the Crown with a verifying declaration ". We suggest that these returns should be transmitted to the Clerk of the Crown in Chancery in a prescribed form verified by declaration and that the declaration should state—

(i) the candidate in whose support the expenditure was made, and the constituency which he contested; and

(ii) details of the nature of the activities upon which the money was spent, with particulars as furnished to the election agent for inclusion in his return of election expenses.

In respect of Northern Ireland elections to the United Kingdom Parliament, the officer corresponding to the Clerk of the Crown in Chancery is (by virtue of s. 17 (1) of the Ballot Act as adapted by S. R. & O., 1924, No. 927) the Clerk of the Crown for Northern Ireland.

Duplicates of the returns relating to each constituency should be sent to the appropriate returning officers, in whose offices they would be available for inspection.

We further recommend that the form of election expenses be amended so as to provide for including this expenditure by organizations and individuals under a separate heading in the election agent's return required by s. 33 of the Corrupt and Illegal Practices Prevention Act, 1883.

In respect of (c):[1]

Amendment of the law to make legal the payment of speaker's expenses.

The Committee recommended that:

If, however, fees are in fact paid to speakers, we feel that these, as well as the other payments to which we have referred, should be regularized to restrain evasion; they should be recognized as authorized expenditure and should be included under a separate heading in the election agent's return of expenses.

In respect of (d):[1]

Relief in respect of inadvertent venial errors in returns of expenses.

The Committee recommended that:

Examination of the scope of the proposal led us to inquire whether it was feasible to formulate a list of the types of error which might properly be re-

[1] *Ib.*, p. 10.

garded as venial. At our invitation those of our colleagues who have practical experience in these matters drew up the following list:

(i) failure on the part of an election agent to pay accounts in time;
(ii) payment of accounts not furnished by the creditors within the period allowed by statute;
(iii) failure to include vouchers for payment of sums over £2;
(iv) failure to lodge the return of election expenses and the candidate's and election agent's declaration in verification of the same within the time allowed by statute;
(v) failure to include particulars of disputed accounts;
(vi) failure to include expenses incurred by persons other than the election agent but with his authority; and
(vii) any other errors which do not in themselves raise any question of corrupt or illegal practices apart from incidental inadequacies or the inaccuracy of the return.

In regard to occasions when the candidate or his agent confesses his error and asks relief the Committee considers that the jurisdiction might well be entrusted in England and Wales to the acting returning officers, and in Scotland to the returning officers.

We would propose the safeguard of a right of appeal to the High Court (in Scotland the Court of Session), whose decision should be final.

In respect of (e):[1]

Prohibition on a British subject of broadcasting matters affecting a Parliamentary election from wireless stations outside the United Kingdom.

In recommending definitely that it should be an offence for a British subject to promote or to aid in promoting any such broadcast from outside the United Kingdom, the Speaker's Conference was doubtless aware of the problems of formulating and enforcing the prohibition. . . . We assume, by the way, that the contemplated prohibition, inasmuch as it is to be an offence "to promote or to aid in promoting" foreign broadcasts, will cover cases where someone who is not himself a British subject makes the transmission, and that the offence may be committed by British subjects who have never left our shores and indeed without the foreign broadcast ever actually taking place at all.

Those who would be concerned with the enforcement of the law may be expected to show no enthusiasm for the creation of a criminal offence which it is awkward to bring home to the offender, when the object and merit of the enactment may be mainly or entirely its deterrent value. It has been suggested to us that the Public Order Act, 1936, which was enacted to put an end to the mischief of uniformed processions and similar practices, is an example of a statute which achieved its object without much recourse to enforcement. However that may be, and notwithstanding the apprehended difficulties, there seems reason to believe that the declaration of the illegality of the transmissions in question would strengthen the hands of the General Post Office and of any other authorities in checking some at any rate of the methods likely to be employed—for instance, in restricting the sending of matter from this country either by telephone line or by wireless transmission to an overseas station for re-broadcasting to Britain.

We draw attention to s. 38 of the Representation of the People Act, 1918. This provides for venue in proceedings against a British subject for various election offences committed abroad and allows the time-limit for a prosecution to be reckoned from the date of his return to this country. As an additional sanction a breach of the prohibition of broadcasting from abroad could be included in the category of such offences.

The prospect will not have been overlooked of attempting to control by international agreements this type of wireless interference. There is a pre-

[1] *Ib.*, p. 11.

cedent in the Convention on the Use of Broadcasting in the Cause of Peace, signed at Geneva in 1936 and ratified in respect of the United Kingdom in 1937 (Cmd. 5714 of 1938), whereby the parties bind themselves to prohibit transmission detrimental to a good international understanding and likely to incite to acts incompatible with the internal order or security of one another's territories.

Finally we suppose it possible that the House of Commons, if it became aware of actual mischief of the kind which we have been discussing, might investigate the matter on the ground of privilege. During the progress of a general election, of course, there would be no Parliament in existence.

In respect of (f):[1]

"*Increased polling facilities in rural areas*" The Committee in paras. 34-47 make detailed recommendations which are summarized in para. 48 of their Report as follows:

48. To sum up our conclusions under this heading we think that the existing law provides suitable machinery for ensuring reasonably adequate polling facilities in rural areas, but we have drawn attention to minor amendments which might be made with advantage. We have also indicated why it is necessary to take early action when it is desired to secure additional facilities. And finally, we have felt it necessary to stress the significance of staffing difficulties.

In the last paragraph (49) of their Interim Report the Committee state that they will now proceed to examine the matters to which their attention was directed by paragraph (i) of the terms of reference. (*See supra.*)

It has been difficult to summarize the Report from this Committee and still do justice to a document so condensed and alive with statutory and other references. Therefore, those readers desiring further research into this Report are recommended to consult the document itself.

House of Commons (Redistribution of Seats).—The Act (7 & 8 Geo. VI, c. 41) was dealt with in the last issue of the JOURNAL.[2]

Report of Boundary Commission for England.—The appointment of Boundary Commissioners was announced on November 7, 1944,[3] and the Report[4] of the Boundary Commission for England (constituted under the above-named Act) in regard to the division of the abnormally large constituencies named in the Second Schedule to the Act and presided over by Mr. Speaker was presented by the Secretary of State for the Home Department to Parliament by Command of His Majesty, May, 1945. This is a most thorough and interesting document and well supplied with maps.

House of Commons (Redistribution of Seats) Order, 1945.—On May 31,[5] the Secretary of State for Home Affairs (Rt. Hon. Sir D. Somervell) in moving:

That the Draft of an Order in Council entitled the House of Commons (Redistribution of Seats) Order, 1945, a copy of which was presented on 17th May, be approved.

[1] *Ib.*, p. 12. [2] *See* Vol. XIII, 134. [3] 406 *Com. Hans.* 5, s. 759.
[4] *Cmd.* 6634. [5] 411 *Com. Hans.* 5, s. 406-22.

said this Draft Order-in-Council had its origin in s. 2 of the House of Commons (Redistribution of Seats) Act, 1944, which section dealt with the problem of large constituencies. The Boundary Commission was under the chairmanship of Mr. Speaker. The Minister said he was sure that the House would wish him to express, on behalf of all of them, their gratitude to Mr. Speaker for undertaking the chairmanship. Under the Act there were to be 25 new one-member constituencies. Section 2 (2) of the Act gave the Commission discretion where part of a local government area was in an abnormally large constituency and part in another constituency, not so abnormally large, to adjust the boundary so that the new constituency boundary coincided with the local government boundary. Only one Order was used instead of 75 for the constituencies affected.

The Order-in-Council had been previously (May 29)[1] reported upon by the Statutory Rules and Orders Select Committee, who saw no reasons for drawing the special attention of the House to it on any of the grounds set out in the Order of Reference of the Committee. (*See* Editorial.)

Parliamentary Constituencies (Electors: England and Wales).—In accordance with the statement made in the introduction to Article IV of the previous issue of the JOURNAL,[2] the electoral figures for the 1945 General Election will now be given in regard to England and Wales and Scotland. They are taken from Returns[3] to Addresses of the "Honourable the House of Commons" dated June 13 and 14, 1945, showing, with regard to each Parliamentary constituency in Great Britain, the total number of Electors "on the register now in force" and ordered by the House of Commons to be printed on June 14 and 15 respectively. The totals of the various categories are given below.

The Register in all cases was published on May 7, and was in force to October 14, 1945. The qualifying date for inclusion in the Civilian Residence Register and the Business Premises Register was January 31 of that year. The last date for the receipt of applications for inclusion in the Service Register was March 15, 1945, but applications by former prisoners of war could be received within not less than 4 clear days of Nomination Day (June 25, 1945). The figures for the Services Register (opposite page) do not include late applications from such persons.

Postponement of Polling Day: Questions.—On May 29,[4] *the following Question stood on the Order Paper, in the name of Mr. Silverman:*

64. To ask the Prime Minister whether he is aware that the date chosen as polling day in the coming General Election was such that nearly 500,000 electors in Lancashire will have no reasonable opportunity of casting their votes; and whether he has any proposal to make to remove or mitigate this injustice.

An hon. member rose on a point of order, to ask Mr. Speaker whether, in view of the fact that he had shown latitude on previous

[1] *Ib.* 47. [2] *See* Vol. XIII, 133. [3] H.C. 107 and 109 of 1944-45.
[4] 411 *Com. Hans.* 5, s. 29; *see also ib.* 46.

	1. *Civilian Residence Register. Total.*	2. *Business Premises Register. Total.*	3. *Service Register. Total.*	4. *Approx. No. of Proxy Appointments included in 3.*	5. *Grand Total.*
ENGLAND.					
Parliamentary Boroughs: London (63). *Two-membered* : 1	1,768,582	17,496	218,796	143,866	2,004,874
Parliamentary Boroughs: England, excluding London and Monmouthshire (207). *Two-membered* : 4	9,951,576	26,660	1,050,050	716,430	11,028,386
Parliamentary Counties: England, excluding Monmouthshire (231). *Two-membered* : 0	12,799,527	3,732	1,174,900	791,098	13,978,159
WALES AND MONMOUTHSHIRE.					
Two-membered : 4					
Parliamentary Boroughs (11). *Two-membered* : 0	448,714	953	41,692	29,540	491,359
Parliamentary Counties: Wales and Monmouthshire (24). *Two-membered* : 0	1,210,693	153	94,352	57,142	1,305,178
UNIVERSITIES: ENGLAND AND WALES[1]					
Oxford[2]	(28,921)				
Cambridge[2]	(42,012)				
London	(23,948)				
Wales	(11,847)				
Combined English (Durham, Manchester, Liverpool, Sheffield, Birmingham, Bristol and Reading) ..	(42,312)				149,040
Totals: England and Wales	26,179,692	48,974	2,579,890	1,738,076	28,956,996
SCOTLAND :					
Parliamentary Boroughs (32). *Two-membered* : 1	1,380,346	7,962	147,909	98,071	1,536,217
Parliamentary Counties (38). *Two-membered* : 0	1,645,971	517	150,037	101,363	1,796,525
Universities:					
St. Andrews	(5,081)				
Glasgow	(26,408)				
Aberdeen	(9,196)				
Edinburgh	(22,896)				63,581
Three members combined :					
Total: Scotland	3,026,317	8,479	297,946	199,434	3,396,323
Grand Total: Great Britain	29,206,009	57,543	2,877,836	1,937,510	32,353,319

[1] These are only categorized as "Number of Electors."—[Ed.]   [2] Two-membered.

occasions, he would allow Question 64 to be answered, although it had not been reached, as it affected a great many electors in the coming election.

To which Mr. Speaker replied that he could at this stage only allow Questions of urgent public importance of which Private Notice had been given and that hon. members could ask Questions in that way only by Private Notice.

The Prime Minister then asked Mr. Speaker if he might perhaps be allowed to make a statement at the end of Questions, by the indulgence of the House, which would, in fact, answer a Question of concern to a great many members; to which Mr. Speaker replied that he thought that would be a satisfactory course.

[*At the end of Questions.*]

The Prime Minister (Rt. Hon. Winston Churchill), in a statement to the House, said that they were examining the point about the holidays which affected certain boroughs, though he was not at the moment in a position to make a statement on the subject, but railway facilities may certainly be considered as a means of assisting holiday-makers. It was a matter for friendly discussion to see if any particular hard case of a town taking its wakes in a particular week caused a serious loss to voters of their chances of discharging their civic duties.

An hon. member by Supplementary asked whether the Prime Minister would bear other large towns in mind, where the same difficulty arose.

After other Questions had been asked, a rt. hon. member suggested that perhaps a short Bill might be introduced to deal with the difficulty.

The Prime Minister replied that he would be quite ready to have discussions on that point through the usual channels, and, if it were agreed, a Bill could be passed very quickly.

Another hon. member then suggested that the General Election take place in every constituency on July 5, but that returning holiday-makers—seeing that the votes would not be counted until July 26—should, under the guidance of various parties and the municipal authorities, have power to cast their votes after coming back from their holidays.

On May 30,[1] further Questions on the subject in regard to other districts were asked the Prime Minister, and on May 31[2] he stated that, in order to meet the problem arising from local mass holidays which might be in progress on July 5, the Government were prepared to introduce legislation under which, in constituencies specified in the Bill, polling day would be postponed to July 12, but in order to legislate on those lines there must be general agreement.

In reply to further Questions, Mr. Winston Churchill said that any postponement of the date in certain constituencies would not affect dates of nomination and for the announcement of the poll.

[1] *Ib.* 214. [2] *Ib.* 374.

After other Questions in regard to date difficulties for polling day in other constituencies, the Prime Minister gave a list of places, 9 constituencies in England and 16 in Scotland, where holidays clashed with July 5.

Postponement of Polling Day Bill.—On June 7,[1] a Bill (66) "to postpone polling day in certain constituencies at the forthcoming general election" was therefore presented and ordered to be read a Second Time on Monday next.

On June 11,[2] the Secretary of State for the Home Department (Rt. Hon. Sir D. Somervell), in moving the Second Reading of the Bill, said that, as fixed representations had been made from various sides of the House, the Government thought that something ought to be done to meet the difficulty where in a constituency there was in fact a mass holiday in progress.

The Prime Minister had said that in order to legislate on those lines there must be general agreement, and he had invited members and Town Clerks to get in touch with the Home and Scottish Offices. An original list of constituencies and also a supplementary list which might come within the principle laid down had been circulated, and they had done their best to produce the right Schedule.[3] In Nelson and Colne, which had a Schedule all to itself, there were mass holidays in 2 places in progress on July 5 and in the third place on July 12, and the polling day was to be postponed until July 19.

There were 2 constituencies—namely, Westhoughton and Coventry—where substantial holidays would be in progress on July 5, 12 and 19, and in such cases postponement to July 12 or 19 did not meet the difficulty. Suggestion had been made that they should provide for polling on 2 different dates in the same constituency, or alternatively extend the provisions for postal voting. These suggestions had been carefully examined, but the Government had come to the conclusion, with which he hoped the House would agree, that neither of them was practicable.[4] To have 2 different polling days either for the whole constituency, or for different areas of the same constituency, would have been a constitutional innovation and have caused great confusion.

Their electoral machine was based on the principle that in each constituency there was a single polling day on which all those who recorded their votes, otherwise than by post, voted, and on which the whole campaign gradually proceeded to its climax and conclusion.

With regard to having certain constituencies polling on different dates, that was not a constitutional innovation, and up to 1918 was the

[1] *Ib.* 1107. [2] *Ib.* 1382. [3] *Ib.* 1383.

[4] The constituencies in which Polling Day was on July 12, 1945, were 13 Parliamentary Boroughs—namely, Barrow-in-Furness, Bolton, Carlisle, Edinburgh (Central, East, North, South, West), Greenock, Leith, Morpeth, Stirling and Falkirk district of Burghs, and Warrington. The 9 Parliamentary Counties were: Berwick and Haddington, Chester (Crewe), Lancaster (Darwen, Farnworth, Lonsdale), Midlothian and Peebles (Northern, Peebles and Southern), Renfrew (Western), Stirling and Clackmannan (Clackmannan and Eastern). The Parliamentary Borough of Nelson and Colne (on July 19) has already been given.—[Ed.]

general practice, when the Election was spread over a considerable period of time. Actually, so far as the present Election was concerned, they would not get what people got then, the results of earlier polls before later ones. In all cases now, as the House knew, the count is postponed to July 26, and in the constituencies covered by the Bill the count would take place on precisely the same date as those which vote on July 5.

With regard to the extension of postal voting, that would be, he was satisfied, impossible with the staffs at present available, and would break down the already hard-pressed electoral machine.[1]

During the short debate which followed, one hon. member observed that the Bill was heading towards the system of 100 years ago—for instance, the contest at Westminster which engaged the attention of Charles James Fox and various of his friends for 3 weeks, during which time votes could be polled at any time. His objection to this Bill in principle was that democracy undoubtedly carried with it certain responsibilities. It might be unfortunate that some people could not vote on a particular day; then it was not too much to ask of them, if they wished the advantages of democracy, that they should exercise their obligation of taking the trouble to go and vote.[2]

The Bill then passed the Second Reading, went into Committee of the Whole House, and was reported without amendment to the House, passed the Third Reading on June 12, was sent up to the Lords, returned, agreed to, and became 8 & 9 Geo. VI, c. 40.

VIII. "THE A.B.B.s"

BY SIR HERBERT WILLIAMS

I RESPOND with great pleasure to the request of the Editor, my old friend Mr. Owen Clough, to give an account of the body known in the House of Commons at Westminster as the "A.B.B.s" (Active Back Benchers). This body came into being largely by accident in 1933. A Municipal Corporation had promoted a Bill containing a clause which was strongly objected to by people all over the country and several M.P.s received representations from leading constituents. This led to a number of us challenging the Second Reading of the Bill in order that we could press for the elimination of the undesirable clause when the Bill was considered in Committee. We succeeded, and, flushed with success, we sought other fields to conquer, which meant that in every succeeding Session those who joined together for the purpose of the Bill referred to above, together with others we added to our number, scrutinized all Private Bills in all subsequent Sessions. An early sequel was the appointment by the then Chairman of Ways and Means of a semi-official Committee, consisting of M.P.s of all parties

[1] 411 *Com. Hans.* 5, s. 1384. [2] *Ib.* 1390.

and certain outside experts, to prepare a number of standard clauses which it was thought proper that municipalities might include in their Bills. This list of standard clauses is still in active use and has saved a great deal of trouble both to the House and to the Committees which consider Private Bills and to municipalities and the Parliamentary Agents.

In a later Session a Select Committee was appointed to revise Private Bill procedure, again as a result of the activities of the " A.B.B.s ". I had the honour of serving on both these Committees, and others of my colleagues on one or other of them.

In addition to this activity of watching Private Bill legislation we also kept a check on the activities of other Back Bench members in relation to the Bills they promoted or the motions they tabled, but we did not concern ourselves with Government business.

On the outbreak of War in September, 1939, our activities came to an end because there was virtually no Private Bill legislation during War-time, and as the Government in each War Session appropriated all the time of the House there were no private members' Bills and no private members' motions.

At the end of 1942, however, as a result of strong objection which was being taken to certain Defence Regulations made under the Emergency Powers Act, some of the old group reassembled and we commenced the examination of all new Defence Regulations and incidentally of all other Statutory Rules and Orders, which were being at that time issued at the rate of 50 or more per week. We found there was a very wide field for activity. We forced debates on many of these Statutory Rules and Orders. We asked innumerable questions, and in May, 1943, we secured time for a debate on the whole subject, in the course of which we urged the desirability of setting up a Select Committee with somewhat limited terms of reference to examine the more important Statutory Rules and Orders, but in this we were not successful at the time. We continued, however, to seek every opportunity of raising the principles involved and frequently tabled amendments to Government Bills for the purpose of securing that delegated legislation was kept under proper control.

We came back to the main issue again on May 17, 1944, when we had a full debate on a resolution proposed by Mr. H. Molson, M.P., an account of which appeared in Vol. XIII (p. 161) of this JOURNAL.

The General Election of 1945 had a somewhat disintegrating effect on our group, for half were either defeated or did not offer themselves for re-election. I, who had been chairman of the group since its formation, was defeated. The remainder of the group, however, got together and added others to their number, and are now serving very effectively under the chairmanship of Mr. Alan Lennox-Boyd, M.P., who had been a Minister both in the Coalition Government and the short-lived Conservative Government which followed it.

Following on the replacement of the Emergency Powers Act by the

Supplies and Services (Temporary Provisions) Act, the responsibilities of the Select Committee, which has been reappointed in the new Parliament, have been considerably extended. The terms of reference of the Committee had been such that it could look only at Orders in respect of which either the Government had to seek confirmation of the Order by an affirmative Resolution or where a private member can challenge an Order by some form of annulment motion.

Under the Emergency Powers Act only Defence Regulations could be made a subject of an annulment motion and Orders subsidiary to a Defence Regulation could not be made the subject of a motion in the House.

Under the terms of the Supplies and Services (Temporary Provisions) Act all regulations can be subject to an annulment motion and accordingly examined by the Select Committee. Already in the present Parliament quite a number of annulment motions have been tabled to various regulations and the group have been very active, and no doubt will continue to be so.

Now that I am no longer a member of the group I can, without indulging in self-praise, say how important I think it to be that there should be a group of members sufficiently live and public-spirited to devote the very considerable amount of time that is necessary to examine all the Statutory Rules and Orders in order to find out their significance. Sometimes this is not too easy, having regard to the legal jargon, which is either necessary or which draftsmen think to be necessary. It is frequently the case that an Order makes reference to a great number of others, and occasionally therefore the simultaneous examination of several documents is necessary.

Of course with practice one tends to become expert and frequently decides with great rapidity whether an Order contains anything which is objectionable or ambiguous.

Occasionally it happens in the House that the most effective way of criticizing an Order is to read a few of the more important paragraphs, and then innocently to ask the Minister what it all means. Occasionally there have been some amusing and surprising episodes in the debates which the group have initiated.

Perhaps the most surprising was an occasion when we challenged an Order which was designed to enable the Minister of War Transport to suspend the operation of a number of the Statutory Provisions designed to reduce road accidents. We were never able to find out in the course of the debate what the real purpose of the Order was, but as far as I could discover it was to facilitate the dangerous driving of somewhat unusual military vehicles, which the American Forces had brought with them.

The Parliamentary Secretary to the Minister of War Transport told us that the Order was vitally urgent, but failed to supply any clear reasons. We ultimately got the Government Front Bench so rattled that when Mr. Speaker put the Question the Ministers inadvertently

voted the same way as their critics, and accordingly the Address to His Majesty praying that the Order should be annulled was carried *nem. con.* The sequel was interesting, for, despite the great urgency which the Parliamentary Secretary had pleaded, nearly six months elapsed before the Ministry produced a very much milder Order, which we found to be reasonable.

Another strange episode was the occasion when an Order was produced to the effect that the Good Friday of that year was not to be a Bank Holiday. We took the view that a tired nation could with advantage do with a long break at Easter, and that as a result production would be improved rather than adversely affected by factories and other establishments closing on Good Friday. On the other hand, we decided not to push the matter to a Division, if we had a satisfactory explanation from the Minister concerned, and we indicated that view to the Government Whips.

For reasons that I could never understand our action in criticizing the Order was assailed with the utmost vehemence by one or two members, one of whom is now a distinguished Cabinet Minister, and his attack on us was so violent that we decided to have a Division after all. This so shocked some of the members of the then Coalition, who seemed to think that we promised at all events not to have a Division, that at the close of the proceedings I was assailed with verbal violence by one member of the Government, who had been my guest at dinner with his wife and family earlier in the evening. I am glad to say, however, that friendly relationships were duly restored later in the evening in that " holy of holies " the Smoke Room of the House of Commons.

IX. THE HANSARD SOCIETY

By Commander Stephen King-Hall,
Chairman and Hon. Director of the Hansard Society

In Britain 2,000 societies exist to encourage and inform the public on the many aspects of our national life, but until 1943 there was no society in being to fulfil the function of informing and arousing public interest in the institution of Parliament.

When I entered Parliament I was amazed to find that the sales of *Hansard* were about 2,000 a day, and that very few people in Britain knew that they were able to obtain it. I also discovered that less than half the public libraries in the country stocked this informative document, and that only one of our Embassies and Legations overseas was regularly supplied with it. I felt that this serious state of affairs must be rectified, and I therefore approached a few friends. In 1943 we formed ourselves into a non-party, non-profit-making association under the name of " Friends of Hansard ", and we believed that all we had

to do was to bring before the public the knowledge that the official report of the proceedings in Parliament could be purchased.

Almost immediately the sales of *Hansard* rose so rapidly that we received private representations from the Stationery Office and the Treasury to the effect that owing to war difficulties it was proving very difficult to meet the increased demand from the public. I must here add that our work received every help and encouragement from the authorities, who assured us that as soon as the war was over they would make every effort to meet any demand made upon them for an increased production of *Hansard*. In this they were as good as their word, and at the beginning of 1946 a weekly *Hansard*, consisting of the week's debates bound together in one volume, was put on the market at a cost of 1s. 6d. per issue. Within a few months the sales of this weekly edition were 13,000 and rising rapidly. As far as the daily parts were concerned, the activities of the " Friends of Hansard " succeeded in raising the sales from about 2,000 to 8,000 in two years. A widespread interest in the proceedings of Parliament having been stimulated, the association of the " Friends of Hansard ", whose office at that time consisted of myself, my personal secretary and a room in my flat, suddenly found ourselves the focal point for inquiries on every aspect of Parliament—not only of the Parliament in this country but of overseas Parliaments as well.

We were asked to provide lecturers on Parliament, to recommend books on Parliament, to arrange for visits to Parliament, to deal with questions of procedure in Parliament, and, in short, to do for the whole subject of Parliament what the Royal Empire Society does for the Empire or the Royal Geographical Society for the subject of geography. It was at this point I made the astounding discovery mentioned at the beginning of this article, and I must repeat that it is an extraordinary fact that in Great Britain, the home of the Mother of Parliaments, there has not hitherto been a parliamentary society. In these circumstances a general meeting of the 300 " Friends of Hansard " was held, and it was decided that we should form ourselves into a society governed by a Council, to be elected annually by the members and administered by an Honorary Director. The name of the new body was to be " The Hansard Society ". Since the objects of the Hansard Society, which are set forth below, are far wider than merely encouraging the reading of *Hansard*, it might be arguable that it would have been better to have christened ourselves " The British Parliamentary Society ", and indeed it is possible that we will add this qualification to our title.

The aims of the Society are as follows:

(*a*) To encourage the study of *Hansard* in order that a larger number of persons in the United Kingdom, the Empire, the U.S.A., and other 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.

(*b*) To undertake any other activity which in the opinion of the Council is

calculated to promote knowledge of, and interest in, Parliament and parliamentary institutions.

Membership is open to individuals or to corporate bodies at a subscription of one guinea a year. It is also possible to become an associate at a subscription of 5s. The Hansard Society has now been in existence nearly two years. Members include some of the leading commercial concerns in Britain, many members of Parliament of all political parties, and leading personalities in the life of Britain. It was realized that there was an urgent need for a well-written, readable, up-to-date book for the general reader about Parliament. The Hansard Society published *Our Parliament*, by S. Gordon, a Clerk in the House of Commons. This first considerable publication of the Hansard Society has already proved to be a " best seller ". More than 10,000 have been sold, and many inquiries have been received regarding its translation into foreign languages. Three thousand copies of this book were bought by the fighting services for distribution to their educational centres.

The Hansard Society has also among its objects that of arranging lectures by outstanding personalities on important aspects of parliamentary life. Lord Samuel has lectured for the Society on " The Party System and National Interests ", and Mr. Harold Nicolson on " The Independent Member of Parliament ". These lectures are open to the public, and members of the Hansard Society receive free tickets.

Within the limits of its resources, the Society recommends lecturers to schools, service associations, women's institutes, clubs, etc., who desire to be lectured on some aspect of the subject of Parliament.

A small information department has been established, and hardly a day passes without two or three inquiries coming in from all parts of the Kingdom.

In addition to its considerable publication *Our Parliament*, the Hansard Society is engaged in producing a series of short pamphlets, of which the following titles are either about to be published or in course of preparation: *I'll have a Question asked in the House about it*, by Sir Herbert Williams; *The Speaker*, by Miss P. M. Briers; *The Jamaican Experiment*, by Mr. Louis Byles; *The Independent Member of Parliament*, by Mr. Harold Nicolson; *The Party System and National Interests*, by Lord Samuel; and a new and revised edition of the bibliography *Books about Parliament*, by Mr. N. Wilding.

At its first annual meeting in 1945, the Hansard Society received messages from the Prime Minister (Rt. Hon. C. R. Attlee), the Rt. Hon. Winston Churchill and Viscount Samuel, wishing our Society every success in its undertaking to promote better knowledge and interest in Parliament as well as to create a wider understanding in the British Commonwealth and Empire of what that Parliament stands for.

As the person who has had the honour of being the Chairman of the Council and the Honorary Director of the Hansard Society for the past two years, I can assert without the slightest fear of contradiction that the

work in front of this educational body is unlimited in its scope, and it is only a prudent attitude towards financial obligations which prevents the Society proceeding rapidly with various plans for the extension of its work. These include the making of documentary films and the publication of a quarterly journal on parliamentary matters.

The Council of the British Hansard Society hope to see sister bodies established overseas, both in the British Dominions and in foreign countries with parliamentary systems. A Hansard Society has been established in Canada, and we should certainly welcome the formation of such societies in all the Dominions. When the Dominions have established their societies, it seems to me that it might be a hopeful thing to call an Imperial Conference of Hansard Societies, in order to exchange views and information on the whole subject of interesting people in the workings of the parliamentary system.

So far as foreign countries are concerned, a Parliamentary Society is in process of formation in Belgium, and I am hopeful that in the course of my visits to Denmark and Sweden I shall be able to sow the seeds in both those countries.

X. FINANCIAL PROCEDURE IN THE QUEENSLAND PARLIAMENT

By T. Dickson, J.P.,
Clerk of the Parliament

In its main essentials the financial procedure of the Queensland Parliament follows very closely that of the House of Commons, and has as its basis s. 18 or the Constitution Act of 1867,[1] which enjoins that no money vote or Bill is lawful unless recommended by the Governor. Legislative Assembly S.O. 302 is the same in wording as S.O. 64 of the Commons.

From 1860 until 1911 the method of setting up the principal Financial Committee—that of Supply—was based on the procedure laid down by a Standing Order which, after the Address in Reply had been agreed to, ordered the taking into consideration of the Governor's speech at the next sitting. At that sitting, the Order of the Day having been read, so much of the Speech as was addressed to the House—to wit, the words " Gentlemen of the Legislative Assembly. The Estimates for the current year will be submitted to you at an early date, etc."—was again read to the House by the Speaker. Motion was then moved that the House, at its next sitting, resolve itself into Committee to consider the Supply to be granted to His Majesty. This machinery used for the setting up of Committee of Supply was scrapped in 1911, and a new Standing Order made provision for the automatic constitution of

[1] 31 Vict. No. 38.

Committees of Supply and Ways and Means after the Address in Reply had been agreed to.

Following the presentation of the Estimates to Parliament by Governor's Message (usually in mid-September or early October) they are, by S.O. 306, ordered to be referred to the Committee of Supply. Then when the Order of the Day is read, " Supply: Opening of Committee ", Mr. Speaker is moved from the Chair. No debate is allowed on this motion. A " grievance " debate was heretofore allowed on first going into Supply after the permanent constitution of the Committee, but in 1940 the Standing Order was amended so as to prohibit debate on going into Supply and Ways and Means Committees. The delivery of the Budget Speech then follows. Debate on this usually takes 4 to 5 days, and the general financial debate is based on the first item of the Estimates—after which the Estimates, including Supplementary Estimates for the preceding year and a vote on account for the next financial year, are severally dealt with on 16 allotted days in Committee and 1 allotted day for Resolutions in the House—immediately followed by the final Appropriation Bill. The vote on account for the next ensuing financial year usually makes provision for 2 months of the following year and enables the services of the State to be carried on even though the Parliament does not meet until August. It is ordained that " at least one day in each week " shall be devoted to Supply, and our S.O. 307, like the Commons S.O. 14, also makes provision for the " guillotine of supply " on the last 2 allotted days.

The Committees of Supply and Ways and Means after being constituted are kept on the Business Paper throughout the remainder of the Session, and whenever the necessity for their use arises the Speaker automatically leaves the Chair on the Order for resumption of the Committee being read.

As the final Appropriation Bill does not ordinarily pass until end-November or early-December, it will be seen that there is still a period from end-August until November unaccounted for. To cover this period, temporary Supply is provided by means of Appropriation Bills, usually two, founded on the Resolutions of specifically constituted Committees of Supply and Ways and Means which are set up following the receipt of a Message for a Vote of Credit from the Governor. Six weeks' Supply is usually asked for, and these provisional amounts are prepared on the basis of the preceding year's Estimates.

The Estimates-in-Chief are tabulated under four headings: Payments under certain schedules (permanent charges authorized by various Acts) and Interest on Public Debt—which are not voted; Votes from Consolidated Revenue; Loan; and Trust and Special Funds. These Votes, having been passed, are reported to the House and agreed to. Allocations to the respective Funds are then made by the Ways and Means Committee. The same principle of tabulation and allocation applies to the Supplementary Estimates for the previous year, and the vote on account for the succeeding year.

It is many years since the Budget was delivered in Committee of Ways and Means in Queensland. In years gone by, when taxation was State-controlled and increased taxation was necessary, the Budget was delivered in that Committee, the new taxation proposals being the basis of the resultant debate. After agreeing to the taxation resolutions a Bill, founded on those resolutions, was then proceeded with.

A system whereby the time allowed on allotted days has been shortened has been in vogue in Queensland since 1920. Under the existing Sessional Order for days and hours of sitting, the "allotted" Supply Day would be from 11 a.m. till 5.30 p.m. Since 1920 (with variations of course in the hours) double days for Supply have been provided for by extending the sitting until 10 p.m., and counting each of the periods between 11 a.m. and 4 p.m., and between 4 p.m. and 10 p.m., as an "allotted" day under the provisions of the Standing Order.

It will be seen therefore from the foregoing that in Queensland the Committee of Supply—

(1) Is temporarily set up for the particular purpose of providing money to carry on the affairs of the State antecedent to the presentation of the Estimates-in-Chief and passage of the final Appropriation Bill.

(2) Having been constituted after conclusion of the Address-in-Reply, debate is used for the delivery of the Financial Statement or Budget, which, having been agreed to, is followed by detailed consideration of the Estimates (Revenue, Loan and Trust Fund), Supplementary Estimates for previous year, and vote on account for portion of succeeding year.

Let it be noted that the amounts authorized to be expended by the final Appropriation Bill are arrived at as follows:

Total Expenditure as shown in the Estimates		£
Less:		
Schedules, Interest on Public Debt	£	
Amounts already authorized during Session by Temporary Appropriation Bills	£	
Amount already authorized in final Appropriation Bill of previous year on account of the next financial year	£	
		£
	To be voted	£

The form of Questions in Committee of Supply and amendment and debate thereon existent in our practice does not differ from the Commons method and needs no comment.

It is unusual here for a Supplementary Estimate for the current year to be voted. Our Supplementary Votes, connected with the previous year's expenditure, are usually comprised of new items of Unforeseen Expenditure, or items of increased expenditure on previously voted amounts, given Executive authority at the time and brought down to the House in this way for final approval and validation.

In regard to the other aspect of financial procedure, that of *ad hoc* Committees for financial resolutions authorizing expenditure in connection with a Bill, as enjoined by s. 18 of our Constitution, these Messages of recommendation are presented prior to the House going into Committee to consider the desirableness of the introduction of the Bill. Rather than run the risk of having a Bill discharged as being improperly introduced, it is our practice to have a Message of recommendation if there is even the slightest suspicion of a charge.

XI. 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 1945 Session:

Hybrid Bills : Presentation of Petitions in Opposition.—On all 3 Bills the Ministers in charge moved that 10 (instead of 5) sitting days from the date of the appointment of the Select Committee be allowed for the presentation of petitions in *opposition*,[1] and on one of the Bills the period was increased by the adoption of an amendment to 15 days.[2]

Sittings of Select Committee on Opposed Bill.—Following the practice of Select Committees on *Opposed* Private Bills, Select Committees on *Opposed* Hybrid Bills sit *de die in diem*. The Select Committee on the Saldanha Bay Water Supply Bill accordingly reported to the House when, with the consent of the parties, it found a short adjournment was advisable.[3]

Absence of Member from Select Committee on Opposed Bill.—Owing to family illness a member of the Select Committee on the Dongola Wild Life Sanctuary Bill obtained leave of the House in terms of S.O. 59 (2) (Private Bills) to absent himself from his duties on the Select Committee.[4]

Quorum of Select Committee on Opposed Bill reduced.—Under S.O. 59 (1) (Private Bills) no Committee on an *Opposed* Private Bill may proceed to business if more than one of its members be absent unless by special leave of the House. Seven members were appointed on the Select Committee on the Dongola Wild Life Sanctuary Bill, and, owing to the large number of sittings held, difficulty was experienced in keeping a quorum. When one of the members was given leave of absence the quorum was accordingly reduced to 5 during his absence and, subsequently, permanently reduced to that number.[5]

Costs of Opponents covered by Compensation.—The power of Select Committees on *Opposed* Private Bills to award costs is limited by ss. 8 and 9 of the Private Bill Procedure Act, 1912. The petitioners *in*

[1] 1945 VOTES 131, 161, 506. [2] *Ib.* 506. [3] *Ib.* 426. [4] *Ib.* 719. [5] *Ib.* 719, 758.

opposition to the Saldanha Bay Water Supply Bill applied for an award of costs. As the preamble had been proved, a prerequisite to the competence of the Committee to award costs under s. 8 of the Act was the insertion in the Bill of a clause for the protection of the riparian rights of petitioners. After negotiation and by agreement between the parties a clause was adopted providing for compensation for 2 of the 6 signatories of the petition, and as a result the formal application for costs was dropped. A further amendment providing compensation for a third signatory of the petition was negatived in Select Committee but was agreed to in Committee of the Whole House.[1]

Calling of Evidence.—During the proceedings of the Select Committee on the Dongola Wild Life Sanctuary Bill the practice that witnesses, other than those from Government Departments, can only be called by the parties to Private and Hybrid Bills was emphasized when a certain organization, instead of observing the procedure in connection with *opposition* to the Bill, submitted a memorandum in *opposition* to the Bill direct to the Chairman of the Committee. The Chairman intimated to the Committee that the memorandum would have to be returned.[2]

Proceedings suspended until Next Session.—As the Select Committee on the Dongola Wild Life Sanctuary Bill was unable to complete its proceedings, leave was given by the House for the Bill to be proceeded with next Session.[3]

Consolidation Bill.—The procedure adopted in 1942 on the Electoral Quota Consolidation Bill[4] and in 1944 on the Land Bank Bill was again followed on the Natives (Urban Areas) Consolidation Bill. In the House of Assembly amendments were moved and considerable discussion took place on the Second Reading.[5]

After the Bill had been passed by both Houses it was found necessary to bring in an ordinary Public Bill to amend the Act.[6]

Discussion in Committee of Supply on Vote of House of Assembly.—Arising out of an unusual debate which took place in Committee of Supply on the Vote of the House of Assembly, the Standing Rules and Orders Committee adopted the following resolution—namely That, when discussion on the House of Assembly Vote has taken place in Committee of Supply, the Chairman of Committees draw Mr Speaker's attention to it for the information of the various House Committees.[7]

Explanatory Memoranda in Bills.—In 1926 the House adopted S.O. 160 (*a*), under which brief explanatory memoranda may be prefixed to Bills when introduced. Advantage was never taken of the Standing Order, but separate memoranda were from time to time laid on the Table. This considerably expedited the business of the House, and at the beginning of the 1945 Session the Prime Ministe

[1] *Ib.* 677; S.C. 9-'45, xiii-xv. [2] S.C. 12-'45, xii. [3] 1945 VOTES, 897, 90
[4] *See* JOURNAL, Vols. XI-XII, 212; XIII, 193. [5] 1945 VOTES, 296, 36
[6] *Ib.* 847. [7] *Ib.* 460.

at the request of members made arrangements for similar memoranda to be laid on the Table in connection with all amending legislation introduced by the Government (Prime Minister's circular addressed to all Heads of Departments, dated January 23, 1945).

Scope of Proceedings of Select Committees on Bills referred before Second Reading.—During the proceedings of the Select Committee on the subject of the Electoral Laws Amendment Bill the question arose as to whether certain amendments would be within the terms of reference of the Committee. Mr. Speaker, in a Ruling given to the Committee, emphasized that *every* Select Committee is restricted to its terms of reference and that questions considered by them must be relevant to the matter referred; but that, as pointed out in previous Rulings, Select Committees to which the subject-matter of Bills has been referred before the Second Reading have wider latitude than Select Committees on Bills referred to them after the Second Reading.[1]

Joint Sittings.[2]—In the course of the above Ruling Mr. Speaker pointed out that the disfranchisement of non-Europeans in Natal and the separate representation of coloured persons in the Cape would require a joint sitting under ss. 35 and 152 of the South Africa Act.[3]

Form of Estimates : Direct Charges on Consolidated Revenue Fund.—Expenditure which under Acts of Parliament forms a direct permanent charge on the Consolidated Revenue Fund was shown in the Estimates presented to the Cape Parliament but was not voted annually. A similar system, frequently suggested since Union, was dealt with in a memorandum by the Treasury on a proposed rearrangement of the Estimates. The memorandum was laid on the Table on March 20, 1945, and referred to the Select Committee on Public Accounts. The Committee dealt fully with the matter in its Third Report and recommended the system referred to.[4]

XII. THE CENTRAL AFRICAN COUNCIL

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

In order to show how the Central African Council came into being it has been necessary to give, in some detail, the important discussions on the amalgamation of the three territories, Southern Rhodesia, Northern Rhodesia, and Nyasaland, which led to its creation.

For many years past the question of amalgamation has been prominent in the politics of Southern and Northern Rhodesia, and the subject has been debated *ad nauseam* in Parliament, at unofficial conferences, and at congresses. This constant pressure on the United Kingdom Government, which regards certain aspects of Southern

[1] S.C. 13-'45, ix-xi. [2] *See also* Index. [3] S.C. 13-'45, x, xi.
[4] S.C. 1B-'45. [a] All footnotes are by the Author.—[Ed.]

Rhodesia native policy as at variance with the principles underlying native administration in the other two territories, has at long last resulted in the " half loaf "—the Central African Council—and not the " full loaf "—amalgamation.

The possibility of amalgamation[1] of the three adjoining territories in Central Africa—Southern Rhodesia, Northern Rhodesia and Nyasaland—was in the forefront of Southern Rhodesia politics 25 years ago.[2] The territory of that time, along with Northern Rhodesia, was brought under British administration by the British South Africa Company, which, in 1889, obtained a Charter empowering it to operate in the area north of the Transvaal and British Bechuanaland, no northern limit being fixed. The term of the Charter was fixed at 25 years. On its expiry in 1914, the only alternative to its renewal appeared to be the incorporation of Southern Rhodesia in the Union of South Africa, a development which the predominantly British electorate did not regard with favour, and the Charter was extended for a further period of 10 years.[3]

A draft scheme for the amalgamation of Northern and Southern Rhodesia was presented to the Legislative Council of Southern Rhodesia in 1916 and, in 1917, the Treasurer, Sir Francis Newton, K.C.M.G., C.V.O., moved:[4]

> That, in the opinion of this Council, it is desirable that the territories of Northern and Southern Rhodesia should henceforth be administered as one territory.

The various matters of detail for amalgamation had been settled by the Administrators of the two territories and a draft Order-in-Council had actually been prepared. The proposal on that occasion was rejected by a majority of the elected members in Southern Rhodesia and was subsequently dropped.[5]

In 1922 a referendum on the question of the incorporation of Southern Rhodesia with the Union of South Africa resulted in a majority for responsible government in spite of the favourable financial terms offered by the Union of South Africa. Responsible government was the aim of Cecil Rhodes. It is held that the future of Southern Rhodesia is more closely bound up with that of Northern Rhodesia and Nyasaland.

In 1923 Southern Rhodesia was formally annexed to the British Crown and the new constitution laid down in the Southern Rhodesia Constitution Letters Patent, 1923, creating responsible government, came into force in 1924.

Nothing further appears to have been done in the matter of amalgamation until 1930, when an unofficial conference between members of the Southern Rhodesia Legislature and the elected members of the

[1] *See also* JOURNAL, Vols. IV, 30-2; V, 50-2; VI, 66-7; VIII, 54-60; IX, 49-51; XI-XII, 61-2; XIII, 85-7.—[C.C.D.F.] [2] Order-in-Council, Oct. 29, 1889.—[C.C.D.F]. [3] Order-in-Council, March 2, 1915 (Supplemental Charter).—[C.C.D.F.] [4] 1917 S.R. VOTES, 73.—[C.C.D.F.] [5] *Ib.* 87.

Legislative Council of Northern Rhodesia was held at the Victoria Falls to discuss a cabled despatch from the Secretary of State in reply to the representations of the elected members of Northern Rhodesia who had protested against the application to Northern Rhodesia of the memorandum on native policy in East Africa. At this conference Mr. L. F. Moore, later Sir Leopold Moore, the leader of the elected members of the Legislative Council of Northern Rhodesia, moved:

> That this Conference is unanimously of the opinion that the highest interests of the peoples and races in the two territories will be best promoted by the amalgamation of Southern and Northern Rhodesia under the Constitution in force in Southern Rhodesia.

It is interesting to note that Mr. Moore, in his speech, made it perfectly clear that amalgamation with Southern Rhodesia was the choice of the lesser of two evils. He said they had been forced to take this step to escape the consequences of the memorandum on the native policy. He thought that all the Colonies should combine to prevent the Imperial Government from applying the policy of the White Paper.[1] Amalgamation with Southern Rhodesia was, he said, sought solely to protect Northern Rhodesia from the provisions of the White Paper—*i.e.*, paramountcy of the native interests.

The Southern Rhodesia members supported the Northern Rhodesia members in their protest, and a cablegram was despatched to the Secretary of State suggesting the reception by him of a delegation to discuss the question of amalgamation. This cablegram was supported by the Government of Southern Rhodesia, who welcomed the initiation of discussions on the subject. In 1931 a reply was received from the Secretary of State stating that, whilst the Imperial Government did not reject the idea of amalgamation, it felt that the time was not then ripe, and that consequently a conference on the subject would serve no useful purpose.

Since 1930 the question of amalgamation has almost become a hardy annual in the Parliament of Southern Rhodesia both in the form of Questions and of motions.

In 1930[2] Captain Bertin moved:

> That this House urges the Government to take more active steps to achieve the amalgamation of Northern and Southern Rhodesia.

The motion was negatived.

In 1933[3] Captain Bertin again moved:

> That this House approves of the amalgamation of Northern and Southern Rhodesia.

The debate on this motion was adjourned, and, owing to the prorogation of Parliament, dropped.

In 1936 another unofficial conference was held at the Victoria Falls[4] between members of the Legislatures of the two territories.[4] The

[1] *Cmd.* 3573. [2] 1930 S.R. VOTES, 102. [3] 1933 S.R. VOTES, 254.
[4] *See also* JOURNAL, Vol. IV, 31.

object of this conference was to ascertain whether the European inhabitants of Northern and Southern Rhodesia were agreed as to the terms and conditions on which amalgamation could take place. The Chairman of the Conference, Mr. J. Cowden, M.P. (Bulawayo Central), moved:

> That, subject to the settlement of suitable terms, this Conference is of the opinion that the early amalgamation of Northern and Southern Rhodesia is in the best interests of all the inhabitants of both Colonies.

As a result of this Conference the following resolutions were carried unanimously:

(1) That the Government of Southern Rhodesia ask the Imperial Government to receive a deputation from the Government of Southern Rhodesia and the elected members of Northern Rhodesia to discuss the principle of amalgamation and the draft of a Constitution for the proposed Colony of Southern Rhodesia; and
(2) That the draft Constitution be submitted to the electorates of Northern and Southern Rhodesia, respectively, by means of a Referendum.

In the same year Mr. J. Cowden moved in the Southern Rhodesia Parliament:

> That this House is of the opinion that the early amalgamation of Northern and Southern Rhodesia, under a Constitution conferring the right of complete self-government, is in the best interests of all the inhabitants of both Colonies.

After a lengthy discussion lasting several days the motion was put and agreed to.[1]

In 1937,[2] Captain Bertin again moved:

> That in view of the Resolutions passed during recent years by the Victoria Falls Conferences and by this House, the Prime Minister should make a statement as to the progress made towards the amalgamation of Northern and Southern Rhodesia.

The debate was adjourned and, owing to the prorogation of Parliament, the motion dropped.

In 1938, a Royal Commission, under the chairmanship of Lord Bledisloe, was appointed[3] "to inquire and report whether any, and if so what, form of closer co-operation or association between Southern Rhodesia, Northern Rhodesia and Nyasaland is desirable and feasible, with due regard to the interests of all the inhabitants, irrespective of race, of the territories concerned, and to the special responsibility of Our Government in the United Kingdom of Great Britain and Northern Ireland for the interests of the native inhabitants".

The Commission, while regarding amalgamation as the ultimate objective to be kept in view, did not see its way to recommending immediate amalgamation or federation;[4] the main reasons, briefly, being:

[1] *Ib.* 32 and 1936 S.R. VOTES, 120, 311. [2] 1937 S.R. VOTES, 362. [3] *See* JOURNAL, Vol. VI, 67. [4] *Cmd.* 5949.

(1) The native policy of Southern Rhodesia and principles which the administration in Northern Rhodesia and Nyasaland is seeking to apply are both in the experimental stage. It is too soon as yet to say which policy is likely in the long run to promote the well-being of the African inhabitants.

(2) Whilst Southern Rhodesia, along her own course, has progressed farthest in the provision of social and development services, that course is in some respects restrictive and will limit the opportunities open to Africans.

(3) Under any scheme of amalgamation the government of the combined territories must rest mainly in the hands of Southern Rhodesia. In view of the responsibility of the Imperial Government, there should, before amalgamation can be contemplated as a practical and salutary development, be a greater degree of certainty that the Southern Rhodesia policy of "parallel development" will eventually prove to be in the best interests of the natives, and will afford them opportunities for advancement in those fields of activity for which they are best fitted.

(4) If amalgamation took place immediately, practical difficulties would arise from the existing divergences in the trend of native policy.

(5) Another condition to be satisfied would be that the European population should be better prepared to discharge the responsibilities of governing a territory of 500,000 square miles with a native population of four millions.

(6) Witnesses examined in all territories from all sections of the population possessed an inadequate appreciation of the full implications of amalgamation.

(7) The striking unanimity in the Northern territories of the native opposition to amalgamation, based on dislike of certain features of the native policy in Southern Rhodesia, cannot be ignored.

(8) There exists considerable inequality in the degrees of stability and development which have been attained in the respective territories.

The Commission, however, made it clear that, apart from physical contiguity, the three territories had many features in common and were faced with problems of economic, social and political development which, despite the different stages of progress attained in each, were fundamentally similar. They therefore recommended close and continuous co-ordination of effort and gave it as their opinion that there was no field of public endeavour in which co-operation between the three territories would not lead to valuable results. They suggested the creation of machinery for the purpose, in the shape of an Inter-Territorial Council.

Since 1934 there had been conferences between the Governors of Northern Rhodesia and Nyasaland and the Prime Minister of Southern Rhodesia under the chairmanship of the Governor of Southern

Rhodesia, but more permanent machinery was needed so that matters could be investigated between the sittings of the tripartite conference.

In 1941 the Secretary of State for the Colonies agreed to a Secretariat being set up in Salisbury for the duration of the war only so that any problems affecting the three territories could be investigated. During the course of the war urgent war-time consultation between the three territories was effected through an Inter-Territorial Conference of official representatives of the three Governments.

In 1939, the Prime Minister of Southern Rhodesia, Sir Godfrey Huggins, K.C.M.G., C.H., F.R.C.S., proceeded to London to discuss with the Secretary of State for the Colonies the Report of the Bledisloe Commission and also to discuss military and Air Force questions. The war broke out before the discussions had reached finality, and at the request of the Secretary of State for the Colonies the matter of amalgamation was deferred for a time, but it was agreed that it should not be postponed for the duration of the war. It was also agreed that someone should be sent out to investigate the alleged difference of native policy in the three territories.

On July 30, 1941,[1] a question was asked in the House of Commons as to whether any further steps had been taken regarding the proposed closer union of Southern Rhodesia, Northern Rhodesia and Nyasaland. The Controller of the Household (Mr. Whiteley), on behalf of the Under-Secretary of State (Mr. Hall), said that arrangements were in progress for the establishment of a standing Secretariat of the existing Governors' Conference for the purpose of securing more effective co-operation in the war effort of the three Colonies. These arrangements were to be reviewed within a reasonable period after the cessation of hostilities. As regards the future relations of these territories it will be remembered that in September, 1939, it was announced that the outbreak of war had made it necessary to suspend the discussions with the Prime Minister of Southern Rhodesia, Sir Godfrey Huggins, but they were not indefinitely postponed.

A month later at the United Party Congress held in Gwelo, Southern Rhodesia, Captain Bertin, K.C., the member of Parliament for Avondale, moved:

> That in view of the recently reported statement by the Under-Secretary of State for the Colonies that the outbreak of war had made it necessary to suspend discussions with the Prime Minister of Southern Rhodesia regarding amalgamation of Southern Rhodesia, Northern Rhodesia and Nyasaland, the President make a statement on the alleged necessity to suspend the achievement of amalgamation and on the present position.

In July, 1941,[2] a resolution was passed by the Legislative Council of Northern Rhodesia—namely:

> That the Council notes that, in the opinion of the majority of unofficial members, the situation demands the appointment of a Committee representa-

[1] *See* 373 *Com. Hans.* 5, s. 1383; *see also* JOURNAL, Vol. VIII, 58 for motion in House of Lords.

[2] 1941 N. Rhod. Leg. Co. Deb., Vol. 40, p. 295.

tive of Southern and Northern Rhodesia and Nyasaland to co-ordinate their war effort and to investigate and endeavour to remove obstacles to the amalgamation of the three territories.

In replying to Captain Bertin's resolution in regard to amalgamation at the United Party Congress, the Prime Minister, Sir Godfrey Huggins, said " that he considered the resolution passed in Northern Rhodesia was too ' milk and water ' considering what we were up against. As a Minister of the Crown he could not invade Northern Rhodesia and raise the standard of revolt, but suggested a step which would bear some resemblance to inviting the Colonial Office to halt at the muzzle of a pistol and say ' Yes ' or ' No '. He suggested that a joint Convention should be held in Southern Rhodesia of delegates from the two Rhodesias and Nyasaland, that a draft constitution be prepared, and that it should be sent to His Majesty's Government in the United Kingdom for acceptance. If it were possible to have a law embodying that Constitution passed by the Legislative Assembly of Southern Rhodesia it would, of course, be reserved for His Majesty's pleasure, but it would certainly put the issue squarely before the Imperial Government. This may seem a drastic attitude to adopt, but really there is nothing else that can be done to shift the terrible inertia of the Colonial Office in such matters. It is over a year since Lord Hailey was investigating the respective native policies of the three territories. Apart from the bogey of native policy there is nothing that can be advanced against amalgamation when it is the wish of the vast majority of the electors and settlers of all three territories. The Bledisloe Report made that clear. The war was a reason for pushing on amalgamation, not for delaying it, as the establishment of a joint Secretariat to deal with common war problems indicates. The alleged disharmony of the native policies of the three territories is far more apparent than real."

In 1944, Sir Godfrey Huggins left for England to take part in the Prime Ministers' Conference. Advantage was taken of this opportunity to discuss the question of amalgamation with the Secretary of State for the Colonies. The Secretary of State explained the reasons why the United Kingdom Government considered amalgamation, under existing circumstances, was impracticable. The United Kingdom Government, however, regarded it as of first importance that there should be the closest possible co-ordination of the policy and action of the three Governments in all matters of common interest, and that agreed and positive steps should be taken to ensure that this co-ordination should be effective and comprehensive. Proposals for a permanent Inter-Territorial Council, to be called the Standing Central African Council, with a permanent Secretariat, were put to Sir Godfrey. The Secretary of State said that any statement regarding closer co-operation between the three territories would have to make it clear that amalgamation is not practicable in existing circumstances. Sir Godfrey Huggins, although disappointed at the decision, accepted

the position and said he would have to consult his colleagues about the announcement, but he thought they would wish the announcement made at an early date. It was agreed that the date and terms of any announcement would have to be decided between His Majesty's Government and the Government of Southern Rhodesia.

The creation of a Central African Council was announced on October 18, 1944,[1] in the following terms:

His Majesty's Government have recently had under further consideration the question of relations between Southern Rhodesia, Northern Rhodesia and Nyasaland. In considering this question, they have fully taken into account the recommendations of the Royal Commission of 1938-39, and they have also taken the opportunity to discuss the present situation in the three territories with the Prime Minister of Southern Rhodesia and the Governors of Northern Rhodesia and Nyasaland during their recent visits to this country.

It is recognized that there should be the closest co-ordination of policy and action of the Governments of the three territories in all matters of common interest, and it has been agreed with them that concrete and positive steps shall be taken to ensure that this co-ordination is effective and comprehensive. With this end in view, it is proposed that a Standing Central African Council covering the three territories should be established on a permanent basis and that a permanent Inter-Territorial Secretariat should be set up. The Council will be consultative in character and its general functions will be to promote contact and co-operation between the three Governments and their administration and technical services. Its precise functions and constitution will be matters for consultation between the three Governments, but it is contemplated that it should deal with communications, economic relations, industrial development, research, labour, education, agriculture, veterinary and medical matters, currency and such other matters as may be agreed between the three Governments.

It is contemplated also that permanent Standing Committees of the Council should be set up to deal with communications, industrial development, research and such other matters as may be agreed upon and that in addition *ad hoc* Conferences should be held under the aegis of the Council to deal with technical and special subjects. It is intended that Unofficials in Northern Rhodesia and Nyasaland should be closely associated with the work of the Council and its Committees.

His Majesty's Government realize the Southern Rhodesia Government still adhere to their view that the three territories should be amalgamated. While, however, His Majesty's Government have, after careful consideration, come to the conclusion that amalgamation with the territories under existing circumstances cannot be regarded as practicable, they are confident that the present scheme will make an important contribution, by ensuring a closer contact and co-operation, to future prosperity of the two Rhodesias and Nyasaland.

During the session of Parliament in November, 1944,[2] Captain Whittington (the member for Wankie) asked the Prime Minister:

(1) Whether he agreed to the formation of a Central African Council; if so why he did so without consulting the House; and
(2) Whether he understood it would interfere with the amalgamation of the two Rhodesias.

The Prime Minister, replying, said:

(1) Following my return from England the proposal that a Central African Council should be formed was considered by Ministers. In view of the

[1] *See also* JOURNAL, Vol. XIII, 85. [2] 1944 S.R. VOTES, 234.

policy in regard to amalgamation published by the United Party, it was finally agreed to accede to the Secretary of State's suggestion as a matter of expediency although it was not what we were hoping for. It was essentially a matter for the Government to decide and take the consequences. Seeing that no steps to set up the Council have been taken as yet, the House can reject the decision if it is satisfied that it was not a decision made in the best interests of the country in the circumstances; and

(2) I am of the opinion that had we rejected the proposal it would have been the death-knell of amalgamation in the future, as it would have offended our kinsmen in the other territories. I should add that the Government here was not aware that it was proposed to increase the nominated members of the Northern Rhodesia Legislative Council and so create what amounts to a senate without any elected lower chamber. Had we known that I believe we should still have favoured clinging to the straw offered to us.

Captain Whittington then asked:

Does it mean that the Nyasaland, Northern Rhodesia and Southern Rhodesia Inter-Territorial Secretariat will be abolished?

The Prime Minister replied:

The present Secretariat, which is merely a war measure, will disappear. The Central African Council is supposed to be a semi-permanent and much bigger thing, with three representatives of each country on it.

The Council was subsequently constituted, under the chairmanship of the Governor of Southern Rhodesia, of 4 members from each territory, Southern Rhodesia being represented by the Prime Minister, 2 other Ministers, and the leader of one of the Opposition parties; Northern Rhodesia and Nyasaland by the Governor, the Chief Secretary and 2 unofficial members of their Legislative Council in the case of each.

To ensure that action flowed from the Council's deliberations and that co-operation was made ar eality, the Governments agreed to the establishment of a permanent Secretariat for the Council. The Secretariat was constituted just before the second meeting of the Council, and Mr. W. A. W. Clark, of the Colonial Service, who had served in the Dominions Office as private secretary to Mr. Attlee and Lord Cranborne ,was seconded to the post of chief secretary.

The Council held its inaugural meeting in April, 1945, and its second meeting in October, 1945, in Salisbury. Under the constitution drawn up and agreed at the inaugural meeting, the Council meets at intervals not exceeding 6 months. The following matters, *inter alia*, come within its purview:

(1) Communications by air, rail and road, and postal and telecommunications.
(2) Economic relations, including marketing of produce, distribution of goods, customs agreements, and industrial and other forms of economic development.
(3) Education.

(4) Soil and water conservation.
(5) Agricultural, veterinary and forestry matters.
(6) Medical and health matters.
(7) Tsetse control.
(8) Currency.
(9) Archives.
(10) Public relations.
(11) African labour.
(12) Research in any matter which the Council may specify.
(13) Joint services.
(14) Such other matters as may be agreed from time to time between the three Governments.

In view of its composition and the preoccupation of its members, the Council has not time to concern itself with the details of the various investigations which require to be undertaken. A number of Committees, Standing or Special, have therefore been appointed to deal with particular problems, such as civil aviation, public health, African housing, the interchange of native labour, industrial problems, joint research, etc., and the Chief Secretary has been charged with an inquiry into the possibility of various joint services for the three territories. An indication of the thoroughness with which the Committees of the Council have tackled their tasks can be given in the agreement already reached over the establishment of a joint air authority and a joint air services corporation, which will be submitted to the three Legislatures in 1946.

The air legislation referred to has now been passed by all three territories.

XIII. CONSTITUTIONAL MOVEMENTS IN CEYLON[1]

By the Editor

Ever since what the Soulbury Commission has described as "the experiment of the Donoughmore Constitution",[2] the people of Ceylon have been agitating for a constitution on broader lines.

The *Hansards* of the State Council of recent years have reported almost an annual flow of debates on the subject. Resolutions have been passed, Bills considered, Governor's powers reviewed, and White Papers issued both at Colombo and Westminster. The question has also been the subject of Question and answer and debate in the Commons. In fact, to give even a modest outline of these activities has taken up over 28 pages of this JOURNAL.

Therefore, following the action taken by the State Council in 194[illegible] and 1945, which culminated in the passing by them of a new Con[illegible]

[1] *See also* JOURNAL, Vols. II, 9, 10; III, 25; VI, 83; VII, 98; VIII, 83; IX, 6[illegible] X, 76; XI-XII, 76; XIII, 95. [2] *Cmd.* 3131 (1931).

stitution, when the Soulbury Commission was appointed by the then Secretary of State for the Colonies (Colonel Rt. Hon. Oliver Stanley), the people of Ceylon felt that they were at last to reap reward for their persistency.

To give an adequate report of the debates in the State Council on the subject in 1944 and 1945 would take up the greater part of this JOURNAL. Footnote 1 is given below for those readers who wish to dig deeper into the question.

White Paper 6690.—On July 5, 1944,[2] following an announcement by the Secretary of State for the Colonies that a Commission would be appointed to visit Ceylon to examine the draft scheme for the future Constitution of Ceylon put forward by the Ceylon Board of Ministers, Colonel Stanley presented to the House of Commons a White Paper,[3] being the text of a further statement by His Majesty's Government on the subject, the gist of which has already appeared in the JOURNAL.[4]

Soulbury Commission.—On September 20, 1944, the Secretary of State for the Colonies, in accordance with his statement in the House of Commons above mentioned, appointed a Commission with the following terms of reference:

> To visit Ceylon in order to examine and discuss any proposals for constitutional reform in the Island which have the object of giving effect to the Declaration of His Majesty's Government on that subject dated 26th May, 1943; and after consultation with various interests in the Island, including minority communities, concerned with the subject of constitutional reform, to advise His Majesty's Government on all measures necessary to attain that object.

This Commission consisted of Lord Soulbury (an ex-Commons Minister), Sir J. F. Rees and Sir F. J. Burrows, G.C.I.E.

The Commission reported to the rt. hon. the Secretary of State July 11, 1945,[5] and the printed document of 159 pp., with appendixes and map, was presented to Parliament by Command of His Majesty, September, 1945.

The Commission first met in London, November 30, 1944, where they held preliminary meetings, and arrived in Ceylon on December 22 of that year, where, by advertisement, they invited the public to submit proposals to give effect to His Majesty's Government's Declaration. Before the closing date therefor (January 15, 1945), 165 memoranda had been received and between January 22 and March 15, 20 Public Sessions had been held in the Town Hall, Colombo. In this way, 80 deputations and individual witnesses were examined, a list of whom is given in Appendix II to the Report. The Commission also had private

[1] No. 63 *Ceylon Hans.* 2624-49; 64 *Ib.* 2653-82; 65 *Ib.* 2683-2705, all of 1944; and Nos. 4 *Ib.* 312-42; 9 *Ib.* 735-61; 10 *Ib.* 781-824; 11 *Ib.* 829-79; 12 *Ib.* 890-963; 13 *Ib.* 1013-28; 14 *Ib.* 1030-90; 15 *Ib.* 1102-54; 16 *Ib.* 1163-98; 19 *Ib.* 1349-1407; 20 *Ib.* 1415-1462; 23 *Ib.* 1671-1739; 24 *Ib.* 1754-1839; 27 *Ib.* 2030-66. *See also Ceylon Sessional Papers* XXXIV of 1929; XVI of 1930; XIV and XVIII of 1938; III, VII and XXVIII of 1941; IV of 1942; III, XII, XIII and XVII of 1943; XII and XIV of 1944; 415 *Com. Hans.* 5, ss. 431, 576, 1415, 2281; 417 *Ib.* 635.

[2] *See* JOURNAL, Vol. XIII, 96; 401 *Com. Hans.* 5, s. 1142.

[3] *Cmd.* 6690.

[4] *See* Vol. XI-XII, 76.

[5] *Cmd.* 6677.

discussions with several prominent people of the Island, whose names are also given. A verbatim record of the evidence taken is available both in London and in Ceylon.[1]

Before the arrival of the Commission in Ceylon the scheme entitled "The Constitutional Scheme formulated by the Ministers in accordance with His Majesty's Government's Declaration, May 26, 1943,"[2] had already been placed before the public.[3]

On January 22, 1945, while the Public Sessions were proceeding, the Commission published in the Press the only other complete constitutional scheme received—that of the All-Ceylon Tamil Congress—and invited criticisms of it, and on February 10 and 12 a summary of the remaining proposals was similarly published, criticism also being invited.

At various periods during their stay the Commission were afforded opportunity to travel throughout the island and acquaint themselves with the life of its people; a detailed itinerary (January 6–April 1) is given in Appendix III to the Report.

> Throughout these visits and inspections [the Commission states] all classes of the community received us with marked courtesy and kindness and everywhere we were overwhelmed with hospitality. Our thanks are due to the Ministers and members of the State Council concerned and to the many private individuals whose ready co-operation made it possible for us in so short a time to see and experience so much.[4]

Before the arrival of the Commission in the Island, a number of members of the State Council, including certain Ministers, had declared their intention of continuing to press for full Dominion status and for non-co-operation with the Commission. This being so, these gentlemen did not appear before the Commission, but their views became well known to the Commission through the Press and other channels and through the debates held in the State Council during the stay of the Commission in Ceylon,[5] which debates can be referred to through the footnotes already given.

The Commission left Ceylon by air on April 7, 1945.

Chapters I and II of the Report[6] deal with: The Historical Background and Constitutional Development up to the Donoughmore Constitution of 1931. Chapters III, IV and V cover the Donoughmore Constitution: the First State Council, 1931-36; from the 1936 Election to the 1943 Declaration; and Developments since the 1943 Declaration, respectively. Chapters VI, VII, VIII, IX, X and XI deal with Social Progress under the Donoughmore Constitution; The Minorities; Discrimination and the Kandyan Problem; the Franchise; and Immigration.

Chapter XII : Electoral Abuses.—In the chapter on the Franchise the Commission stated that it was the view of certain witnesses that the grant of universal suffrage to Ceylon in 1931 had been a grave

[1] *Rep.*, § 3. [2] *Ceylon Sessional Paper* (1944), XIV. [3] *Rep.*, § 4.
[4] *Ib.* § 6. [5] *Ib.* § 8. [6] *Cmd.* 6677.

error and had led to " wholesale corruption, intimidation, sale of ballot papers and the election of unworthy representatives ",[1] and they were of opinion that, in view of the widespread illiteracy and ignorance of the electorate, literacy or educational tests should be imposed.

Chapter XI deals with immigration, and in reference to Chapter XII to the Electoral Abuses above mentioned the Commission stated that they had gone into the matter, studied the proceedings and findings of the Bribery Commission published May, 1943,[2] and had read judicial pronouncements in connection with various election petitions. The Commission said that " without doubt, serious abuses have occurred, particularly at by-elections ", but they were disposed to think that their effect had been somewhat exaggerated.[3]

In consequence of the low level of literacy among a large section of the electorate and inability of many voters to recognize the names of candidates on a ballot paper, a colour is allotted to a candidate with ballot boxes of corresponding colour. From evidence the Commission had heard, it had not been an uncommon practice for a voter to receive his paper, proceed to the ballot box, conceal the paper in his clothing and, instead of putting it into the box, to leave the booth and sell it to an agent of one of the candidates, who arranged for another voter to put it in the relevant box. The Commission, however, considered it better not to disturb the present procedure but to rely upon stricter supervision and heavier penalties in event of detection.[4]

The Commission also suggested that the best way to defeat impersonation was to have a polling booth for every 1,000 electors, so that the candidates' representatives would have less difficulty in identifying the voter.

The Commission were convinced that violence and intimidation had been practised to a considerable extent. At the hearing of a petition arising out of a Parliamentary by-election in October, 1943, the judge found that at one polling station, " unmitigated hooligans had taken control of affairs." The Commission hoped, however, that the spread of education, the training of character in school and the increase of political experience would do more than regulations to create conditions inimical to continuance of these malpractices.[5] The Commission, however, having studied the report of the Select Committee of the State Council on Election Law and Procedure,[6] were satisfied that the election law required amendment in many particulars.[7]

Chapters XIII to XIX deal respectively with: Representation; The Legislature: The Question of a Second Chamber; The First Chamber; The Executive; The Governor-General, his powers, status and salary; The Public Services—The Public Services Commission, the Auditor-General; and The Judicial Services.

Summary of Recommendations.—In their Note under this head, the Commission remarked[8] that, in the case of many features of the

[1] *Rep.*, § 191. [2] *Ceylon S.P.* (1943), XII. [3] *Rep.*, § 243. [4] *Ib.* 244, 245.
[5] *Ib.* § 247. [6] *Ceylon S.P.* (1938), XIV. [7] *Rep.*, § 248. [8] *Rep.*, p. 112.

Constitution, they confined themselves to expressing agreement with the relevant provisions of the constitutional scheme contained in *Ceylon Sessional Paper* XIV of 1944. Therefore no recommendation as to those features appears in the Summary of numbered Recommendations given below:

The Franchise (*Chapter X*) :

1. Universal suffrage on the present basis shall be retained.

Immigration (*Chapter XI*) :

2. Any Bill relating solely to the prohibition or restriction of immigration into Ceylon shall not be regarded as coming within the category of Bills which the Governor-General is instructed to reserve for the signification of His Majesty's pleasure, provided that the Governor-General may reserve any such Bill if in his opinion its provisions regarding the right of re-entry of persons normally resident in the Island at the date of the passing of the Bill by the Legislature are unfair or unreasonable.[1]

3. Any Bill relating solely to the franchise shall not be regarded as coming within the category of Bills which the Governor-General is instructed to reserve for the signification of His Majesty's pleasure.[2]

4. The Parliament of Ceylon shall not make any law rendering persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable, or confer upon persons of any community or religion any privileges or advantages which are not conferred on persons of other communities or religions.[3]

5. Any Bill, any of the provisions of which have evoked serious opposition by any racial or religious community and which, in the opinion of the Governor-General, is likely to involve oppression or serious injustice to any such community, must be reserved by the Governor-General for His Majesty's assent.[4]

Representation (*Chapter XIII*) :

6. A Delimitation Commission shall be appointed by the Governor-General consisting of 3 persons, one of whom shall be Chairman; and in making these appointments the Governor-General shall act in his discretion, avoiding as far as possible the selection of persons connected with politics.

7. The Delimitation Commission so appointed shall divide each Province of the Island into a number of electoral districts, ascertained as provided in Article 13 (2) and (3) of *S.P.* XIV but so that, wherever it shall appear to the Commission that there is a substantial concentration in any area of a Province of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Commission shall be at liberty to modify the factor of numerical equality of persons in that area and make such division of the Province into electoral districts as may be necessary to render possible the representation of that interest.

8. The Commission shall consider the creation of multi-member constituencies in appropriate areas.

9. Within one year after the completion of every census, the Governor-General shall appoint a Delimitation Commission composed as aforesaid but (except in the case of the Commission to be appointed after the census of 1946) steps shall be taken before such appointment to review the working of the scheme of representation which we recommend.

[1] *See* Recommendation 32 (ii) (*b*) and *Rep.*, §§ 234-5 and 242 (i). [2] *See* Recommendation 32 (ii) (*c*) and *Rep.*, § 332 (2) (*c*). [3] *See* Recommendation 32 (v). [4] *See* Recommendation 33 (*a*) and *Rep.*, § 332 (v).

The Legislature (Chapter XIV) :

10. There shall be a Second Chamber consisting of 30 members, which shall be called the Senate. Its members shall be known as Senators.

11. Fifteen of the seats of the Senate shall be filled by persons elected by members of the First Chamber in accordance with the system of proportional representation by means of the single transferable vote; and 15 shall be filled by persons chosen by the Governor-General in his discretion.

12. The minimum age for entry to the Senate shall be 35, and persons chosen by the Governor-General shall either have rendered distinguished public service or be such persons eminent in education, law, medicine, science, engineering, banking, commerce, industry or agriculture as the Governor-General, after consultation with the representatives of the appropriate profession or occupation, may in his discretion choose.

13. The disqualifications for membership of the Senate shall be the same as those for membership of the First Chamber.

14. The Senate shall choose one of its members to be President, who shall take precedence as near as may be in accordance with the usages of the United Kingdom. During any absence of the President, the Senate shall choose one of its members to perform his duties.

15. Not less than 2 Ministers shall be members of the Senate. If Parliamentary Secretaries are appointed, not more than 2 shall be members of the Senate.

16. The Senate shall have no power to reject or amend or delay beyond 1 month a Finance Bill; and if a Bill other than a Finance Bill is passed by the First Chamber in 2 successive Sessions and is rejected by the Senate in each of those Sessions, the Bill shall, on its second rejection, be deemed to have been passed by both Chambers.

17. A Finance Bill shall be defined in accordance with precedents already existing in the British Commonwealth, and the Speaker of the First Chamber shall, after consultation with the Attorney-General, be empowered to certify whether a Bill is in his opinion a Finance Bill.

18. There shall be power to originate Bills other than Finance Bills in the Senate.

19. The normal term of office of a Senator shall be 9 years, but 5 elected and 5 nominated Senators (*i.e.*, one-third of the total membership of the Senate) shall retire every 3 years and be eligible for re-election or re-nomination. The identity of the members called upon to retire at the end of the third and sixth year after the date of the formation of the Senate under the new Constitution shall be determined by lot. Those persons who are elected or nominated after the end of the third or sixth year will hold office for 9 years and a draw by lot will not be required after the sixth year. A person elected or nominated to fill a casual vacancy occurring at any time will hold office for the remainder of the term of office of the person he replaces.

The First Chamber (Chapter XV) :

20. There shall be a First Chamber consisting of 101 members; 95 of those members shall be elected and 6 nominated by the Governor-General.

21. The First Chamber shall be known as the House of Representatives, and its members shall be known as Members of Parliament.

22. (*a*) For the purpose of qualifying for membership of the First Chamber, ability to speak, read and write English shall no longer be required.

(*b*) Stricter rules shall be applied in the matter of governmental contracts, etc., in which members of Parliament are interested.

(*c*) Article 9 (I) (*f*) of the Ceylon (State Council) Order in Council, 1931, shall be retained, subject to the modifications indicated in para. 318.

(*d*) In the case of a free pardon, the period of disqualification of a member of Parliament shall cease from the date of the granting of that pardon.

(*e*) In addition to the provisions for disqualification contained in the Ceylon (State Council) Order in Council, 1931, provision shall be made for the disqualification of a member of Parliament for accepting a bribe or gratification offered with a view to influencing his judgment as a member of Parliament, provided that any allowance or payment made to a member of Parliament by any Trade Union or other organization solely for his maintenance shall not be deemed to be a bribe or gratification within the terms of this provision.

(*f*) Article 9 (*a*) of the Ceylon (State Council) Order in Council, 1931, shall be retained.

23. Every House of Representatives, unless sooner dissolved, shall continue for 5 years from the date appointed for its first meeting.

Both Chambers:

24. A member of either Chamber shall be incapable of being chosen or of sitting as a member of the other Chamber.

Sessions of Parliament:

25. The rules and conventions obtaining in the United Kingdom as to the frequency with which Parliament is summoned, and the length of Sessions, shall be followed in Ceylon, and provision shall accordingly be made in the Constitution.

26. Parliament of Ceylon shall consist of the King, the Senate and the House of Representatives of Ceylon; and an Act of Parliament shall be expressed to be enacted by the King by and with the advice and consent of the Senate and the House of Representatives of Ceylon.

The Executive (Chapter XVI):

27. The Executive Committees and the 3 Officers of State (the Chief Secretary, Legal Secretary and Financial Secretary) shall be abolished.

28. In place of the present Board, there shall be a Cabinet of Ministers responsible to the Legislature, of whom one appointed by the Governor-General shall be Prime Minister. The Ministers other than the Prime Minister shall be appointed by the Governor-General on the recommendation of the Prime Minister.

29. The functions to be assigned to each Minister shall be determined by the Prime Minister, subject to recommendation 42 below.

30. The Governor-General may, on the recommendation of the Prime Minister, appoint Parliamentary Secretaries, but the number so appointed shall not exceed the number of Ministers.

31. A Permanent Secretary to each Ministry shall be appointed by the Governor-General on the recommendation of the Public Services Commission.

The Governor-General (Chapter XVII):

32. The classes of Bills which the Governor-General is instructed to reserve for the signification of His Majesty's pleasure shall be as follows:

(i) Any Bill relating to Defence.

(ii) Any Bill relating to External Affairs, provided that Bills of the following character shall not be regarded as coming within this category:

(*a*) Any Bill relating to and conforming with any trade agreement concluded with the approval of His Majesty's Government by Ceylon with other parts of the Commonwealth.

(*b*) Any Bill relating solely to the prohibition or restriction of immigration[1] into Ceylon, provided that the Governor-General may reserve any such Bill, if in his opinion its provisions regarding the right of re-entry of persons normally resident in the Island at the date of the passing of the Bill by the Legislature are unfair or unreasonable.

(*c*) Any Bill relating solely to the franchise.[2]

(*d*) Any Bill relating solely to the prohibition or restriction of the importation of, or the imposition of import duties upon, any class of goods, provided that such legislation is not discriminatory in character.

(iii) Any Bill affecting currency or relating to the issue of banknotes.

(iv) Any Bill of an extraordinary nature and importance whereby the Royal Prerogative or the rights and property of British subjects not residing in Ceylon or the trade or transport or communications of any part of the Commonwealth may be prejudiced.

(v) Any Bill any of the provisions of which have evoked serious opposition by any racial or religious community and which, in the opinion of the Governor-General, is likely to involve oppression or serious injustice to any such community.[3]

(vi) Any Bill which repeals or amends any provision of the Constitution, or which is in any way repugnant to or inconsistent with the provisions of the Constitution, unless the Governor-General shall have been authorized by the Secretary of State to assent thereto.

(vii) Any Bill which is repugnant to or inconsistent with the provisions of a Governor-General's Ordinance.

33. The Order in Council embodying the Constitution shall provide that:

(*a*) The Parliament of Ceylon shall not make any law rendering persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable, or confer upon persons of any community or religion any privileges or advantages which are not conferred upon persons of other communities or religions.[4]

(*b*) Parliament shall not make any law to prohibit or restrict the free exercise of any religion; or to alter the constitution of any religious body except at the request of the governing authority of that religious body.

(*c*) His Majesty in Council shall have power to legislate for Ceylon by Order in Council in regard to External Affairs and Defence.

34. The existing situation as regards the power of the Ceylon Legislature to make laws having extra-territorial operation shall be maintained.

35. Certification of all Bills prior to submission to the Governor-General for assent shall be given by the Attorney-General.

36. In summoning, proroguing and dissolving Parliament, and in the appointment and dismissal of Ministers, the Governor-General shall act in accordance with the conventions applicable to the exercise of similar functions by His Majesty in the United Kingdom.

37. In the event of the absence of the Governor-General from Ceylon, or of his being prevented from acting, the Chief Justice shall administer the Government unless there shall have been some other appointment by Dormant Commission.

38. Communications from His Majesty's Government in the United Kingdom to the Government of Ceylon shall in all appropriate cases be addressed to the Prime Minister.

39. Under the new Constitution the Governor shall bear the title "Governor-General" and shall receive an annual salary of £8,000 sterling.

Defence:

40. The Governor-General shall have power to make laws to be called Governor-General's Ordinances dealing with External Affairs and Defence.

[1] *See* Recommendation 2. [2] *See* Recommendation 3. [3] *See* Recommendation 5. [4] *See* Recommendation 4, and *Rep.*, § 242 (iii).

41. The ultimate allocation of any expenditure incurred in consequence of action taken in exercise of special powers relating to Defence shall be settled by negotiation by His Majesty's Government and the Government of Ceylon.

42. There shall be a portfolio of Defence and External Affairs held by the Prime Minister.

Then follow Recommendations: 43, dealing with the Maldives; 44-53, dealing with the Public Services (Chapter XVIII); and 54-57, on the Judicial Services.

Appendix I.—Part (1) gives the explanatory Memorandum of September 11, 1944, on the constitutional scheme formulated by the Ministers in accordance with His Majesty's Government's Declaration of May 26, 1943,[1] and subsequently withdrawn.

Part (2) of Appendix I gives the text of such constitutional scheme. Appendixes IV to XI give statistics.

Ministerial Statement in House of Commons.—On October 31,[2] the Secretary of State for the Colonies (Rt. Hon. G. H. Hall), at the end of Questions, asked Mr. Speaker's permission to make a short statement on the proposed constitutional changes in Ceylon. He presented a White Paper[3] to the House, embodying a statement of policy by His Majesty's Government on constitutional reforms in Ceylon which indicated the conclusions which His Majesty's Government had reached on the recommendations of the Soulbury Commission Report. The main decisions reached by His Majesty's Government were stated in paragraph 10 of the White Paper (which paragraph is given below).

Mr. Hall then went on to say that His Majesty's Government had decided to offer the people of Ceylon a Constitution on the general lines proposed by the Soulbury Commission with some modifications indicated in the White Paper and were anxious that Ceylon should continue to advance towards Dominion status.

Colonel the Rt. Hon. Oliver Stanley asked if the House would be given an opportunity of discussing this large constitutional change before it was put into effect, referring to a pledge the previous Secretary of State had given on that subject. He also wished to congratulate the Minister upon his conversion to the merits of the bicameral form of government.

Mr. Hall replied that if, after the rt. hon. gentleman had read the White Paper, he and others still thought a debate was required, then they would get into touch with the Leader of the House. Such was a matter for discussion through the usual channels or with his rt. hon. friend the Leader of the House.

The Lord President of the Council and Leader of the House (Rt. Hon. H. Morrison) said he would be willing to consider fairly any requests which were made.

White Paper of October 31, 1945.[4]—This Paper begins by reciting the provisions already given in the JOURNAL[5] and then quotes the terms

[1] *See* JOURNAL, Vol. XI-XII, 76. [2] 415 *Com. Hans.* 5, s. 431. [3] *Cmd.* 6690. [4] *Cmd.* 6690. [5] *See* Vol. XI-XII, 76.

of the Commission, giving a summary of its Recommendations, as above.

The White Paper then goes on to state that the powers reserved by His Majesty's Government are to be secured in the Commission's proposals in the following manner:

(*a*) *Defence*. Any Bills on this subject must be reserved by the Governor General. (Paragraphs 332 (i) and 349 *et seq.*)

(*b*) *External Affairs*. Bills in this category are also to be reserved. (Paragraphs 322 (ii), 337 and 338.)

In both these subjects the Governor-General will have power himself to enact any measures necessary to comply with the directions of His Majesty's Government. (Paragraph 337.)

(*c*) *Currency*. Legislation must be reserved by the Governor-General. (Paragraph 332 (iii).)

(*d*) *Trade, transport and communications affecting any part of the Empire.* Any Bill of an extraordinary nature or importance which may prejudice these interests must be reserved. (Paragraph 332 (iv).)

In paragraphs 6 and 7, the White Paper deals with the principal reaction of the Sinhalese majority community in regard to the 1943 Declaration, the passing by the Ceylon State Council of the so-called Sri Lanka Bill on Dominion status lines, and the reaction of the Sinhalese majority to the individual provisions of the Soulbury Constitution in regard to the Second Chamber, Governor's powers and minority safeguards.[1]

While the Sinhalese consider the Soulbury recommendations as not going far enough, the Tamil community, which forms about a quarter of the total population of the Island, regard them as going too far.[2]

The decisions of His Majesty's Government are contained in paragraphs 10 to 12 of the White Paper, which are as follows:

10. His Majesty's Government are in sympathy with the desire of the people of Ceylon to advance towards Dominion status and they are anxious to co-operate with them to that end. With this in mind, His Majesty's Government have reached the conclusion that a Constitution on the general lines proposed by the Soulbury Commission (which also conforms in broad outline, save as regards the Second Chamber, with the constitutional scheme put forward by the Ceylon Ministers themselves) will provide a workable basis for constitutional progress in Ceylon.

Experience of the working of Parliamentary institutions in the British Commonwealth has shown that advance to Dominion status has been effected by modification of existing constitutions and by the establishment of conventions which have grown up in actual practice.

Legislation such as the Statute of Westminster has been the recognition of constitutional advances already achieved rather than the instrument by which they were secured. It is therefore the hope of His Majesty's Government that the new Constitution will be accepted by the people of Ceylon with a determination so to work it that in a comparatively short space of time such Dominion status will be evolved. The actual length of time occupied by this evolutionary process must depend upon the experience gained under the new constitution by the people of Ceylon.

[1] *Cmd.* 6690, § 7. [2] *Ib.* § 8.

11. The main features of the Constitution under which Ceylon will be governed during this period will follow the general lines of the recommendations of the Soulbury Commission, with the following principal modifications:

(*a*) *Life of the Upper House.*—The provisions as regards the life of the Upper House will be changed so that one-third of the membership will retire after 2 years, and a further third after 4 years, the arrangements proposed by the Soulbury Gommission being followed for their replacement.

(*b*) *Reserve Powers of the Governor.*—In place of the recommendations of the Soulbury Commission that the Governor shall be empowered to enact special Ordinances dealing with Defence and External Affairs, His Majesty's Government will retain the power to legislate for Ceylon by Order in Council, and the Governor will be provided, by Order in Council to be brought into operation by Proclamation in case of a public emergency, with powers to make regulations for purposes such as those specified in the Emergency Powers (Defence) Act, 1939. During the operation of the new Constitution the present title of Governor will not be altered, and the channel of communication between the Government of Ceylon and His Majesty's Government in the United Kingdom will remain as at present through the Governor and the Secretary of State for the Colonies, who will retain his present ministerial responsibility in regard to Ceylon affairs.

(*c*) *Breakdown of the Constitution.*—Any contingency arising in this respect will be covered by the general power of His Majesty's Government to legislate for Ceylon by Order in Council which will include, if necessary, suspension of the Constitution.

(*d*) *Shipping.*—The Ceylon Government will be empowered to establish and regulate shipping services, both coastal and overseas, provided that no action is taken without the concurrence of His Majesty's Government in the United Kingdom, which may be interpreted as subjecting the shipping of other members of the Commonwealth to differential treatment.

(*e*) *Public Services.*—The period of exercise of the right of retirement of certain classes of officers specified in paragraph 373 (ii) of the Soulbury Report will be reduced from 3 to 2 years from the date of the first meeting of Parliament under the new Constitution; and the exercise of the special right of retirement with compensation for loss of career will not extend to officers appointed to the Public Services on agreement for a limited period of years.

The Question of the Three-quarters Majority:

12. In Section 7 of the 1943 Declaration His Majesty's Government made it clear that the acceptance of any constitutional proposals put forward by Ceylon Ministers would depend upon the subsequent adoption of such proposals by three-quarters of the members of the State Council of Ceylon, excluding the Officers of State and the Presiding Officer. This provision was inserted because the 1943 Declaration contemplated the adoption of a constitution worked out by the Ministers and did not specifically require that they should consult minority interests.

This condition was thus attached in the past to constitutional proposals to be put forward by Ceylon Ministers, and His Majesty's Government have decided not to insist upon the acceptance of the Constitution now proposed by the Soulbury Commission (after full consultation with minority interests), by so large a proportion of the State Council as three-quarters though they earnestly hope that all those with the future interests of Ceylon at heart will co-operate by giving their support to the new Constitution now offered as a foundation upon which may be built a future Dominion of Ceylon. His Majesty's Government will take into account the views expressed by the State Council and the number of those in that Council who vote in favour of adopting the new Constitution.

Questions.—On October 31,[1] an hon. member asked the Secretary of State for the Colonies when the decision to extend the life of the Ceylon Legislature till March, 1947, by which date it would be about 12 years old, was made, and if he intended to secure this Legislature's views on the proposals of the Soulbury Commission for the system of governance of post-war Ceylon.

Mr. Hall replied that the decision was made by the Ceylon (State Council—Extension of Duration) Order in Council of September 28, 1944.

On November 7,[2] an hon. member asked the Secretary of State for the Colonies what was the attitude of the Ceylonese Tamils and Indian Tamils to the Sri Lanka Bill, and if he would consider making this Bill available to members.

Mr. Hall replied that on the Third Reading in the Ceylon State Council the Bill had been passed by a majority of 40 against 7; 1 Tamil and 2 Indian members voted in opposition to the Bill. One Indian and 2 Tamil members voted for it, and 1 Indian and 2 Tamil members were absent. A copy of the Ceylon *Government Gazette* of December 18, 1944, containing the text of the Bill, would be placed in the Library of the House.

On November 14,[3] an hon. member asked the Secretary of State for the Colonies whether he was satisfied that the franchise provisions for Ceylon recommended by the Soulbury Commission would be adequate to ensure that Indian estate workers with an abiding interest in the country would be registered as voters without having to prove domicile and that registration would be effective.

Mr. Hall replied that under the existing franchise provisions, as an alternative to proving domicile in Ceylon, an estate worker could secure the vote if he obtained a certificate of permanent settlement, for which the qualifications were residence in Ceylon for 5 years and a declaration of intention to settle permanently there. The question of the Indian franchise had already been the subject of direct discussion between the Governments of Ceylon and India, and he hoped that those discussions might be resumed with the object of arriving at a settlement of any existing grievances. The hon. member, in a Supplementary, asked why it had been found necessary to include in the proposals for a new Constitution for Ceylon special provisions for the protection of the property of British subjects not residing in Ceylon; and whether he was aware of the danger that such special power might be used to hinder full control of the economic resources of Ceylon by the local population.

Mr. Hall replied that the provision referred to appeared in the Constitutions of most Colonies and in that of Southern Rhodesia. It related, of course, to the rights and property of British subjects of all races, and in Ceylon would apply equally to Indians as well as to European interests. The retention of the provision as part of the new

[1] 415 *Com. Hans.* 5, s. 576. [2] *Ib.* 1415. [3] *Ib.* 2281.

Constitution had been accepted by the State Council of Ceylon by 51 votes to 3, which included a substantial minority vote.

State Council Resolution.—On November 8,[1] the following motion was introduced by the hon. Mr. Senanayake:

> That this House expresses its disappointment that His Majesty's Government have deferred the admission of Ceylon to full Dominion status, but in view of the assurance contained in the White Paper of October 31, 1945, that His Majesty's Government will co-operate with the people of Ceylon so that such status may be attained by this country in a comparatively short time, this House resolves that the Constitution offered in the said White Paper be accepted during the interim period.

Debate on this motion was continued on the following day[2] and carried (Ayes, 51; Noes, 3).

On December 13, 1945,[3] in the House of Commons, in a statement on the Business of the House, Col. the Rt. Hon. Oliver Stanley asked the Leader of the House if opportunity would be given to discuss the constitutional changes in Ceylon early in the New Year. The Leader of the House replied that there were so many things to discuss in the New Year, and that, unless there was a general desire and there was a contention about it, he was afraid not. He thought there was general agreement.

Colonel Stanley said that there was a general feeling in the House that there should be an opportunity of discharging their responsibilities to the Colonial Empire by discussing the matter.

Mr. Morrison replied that, as far as they could see, there was no disagreement about policy, and he thought that the House had much too much to do now in the way of legislation.

Another hon. member then asked if the rt. hon. gentleman was aware that many hon. members had received reports, which appeared well founded, of general uneasiness among a considerable minority in Ceylon, and was it not essential that the matter should be discussed even if only briefly?

Mr. Morrison: " That does not accord with our information."

XIV. POWER OF KING'S DEPUTY TO RECOMMEND AMENDMENTS TO BILLS SUBMITTED FOR ROYAL ASSENT*

THE *Questionnaire* for Vol. XIV contained the following item:

VII. Please give authority for, and particulars of, Governor's power to amend Bills and instances thereof.[4]

[1] No. 70 *Ceylon Hans.* 6918-7004. [2] No. 71 *Ib.* 7006. [3] 417 *Com. Hans.* 5, s. 635.

[4] This subject had already been the subject of item VII of the *Questionnaire* for Vol. V, which read:

VII. Please give your Governor's power as to *amendment* of Bills passed by Parliament.—[ED.]

The following are the answers received, but many of the replies in this regard to the *Questionnaire* for Vol. V, sent back, with the *Questionnaire* for Vol. XIV, for revision, have not yet arrived.

United Kingdom.

Canadian Dominion Parliament.

There is no provision either in the United Kingdom or in the B.N.A. Acts for the King or his Deputy at Ottawa to recommend amendments to Bills which have passed both Houses of Parliament and are submitted for Royal Assent.

Canadian Provinces.

Standing Order 85 of the Legislative Assembly of British Columbia provides that, whenever any Bill is presented to the Lieutenant-Governor for his assent thereto, he may return the same by Message for the reconsideration of the Assembly, with such amendments as he may think fitting.

Commonwealth of Australia.

Section 58 of the Constitution[1] of the Australian Commonwealth provides that the Governor-General may return to the House in which it originated any proposed law presented to him for Royal Assent, and may transmit therewith any amendments which he may recommend and the House may deal with the recommendation.

Quick and Garran[2] states that the origin of the constitutional legislation enabling the Governor of a Colony to recommend to its Legislature amendments in proposed laws may be traced back to 5 & 6 Vict., c. 76, s. 30 (1842) (New South Wales and Van Diemen's Land), which gave the Governor authority to transmit to the Legislative Council, then merely an advisory body, drafts of such laws as appeared to him desirable to pass. The Governor was also entitled to return to the Council Bills which it had passed, recommending that amendments should be made in such Bills. This provision was reproduced in the Constitution Act of Victoria, 1855, s. 36, and in the Constitution of South Australia, s. 28.

Quick and Garran then goes on to state that:

> This power of recommending amendments, vested in the Governor, has been found in practice a very useful one, and even under our system of responsible government it has been used with advantage. It is of special value, towards the end of a Session, when Bills have been passed through all their stages in both Houses of Parliament, and when it has been found that inaccuracies or discrepancies have crept into some of them. In such circumstances Ministers formulate the required amendments, and upon their advice the Governor transmits a message to the House in which the Bill or Bills requiring rectifica-

[1] 63 & 64 Vict., c. 12.

[2] *The Annotated Constitution of the Australian Commonwealth*, 1901, pp. 689, 691.

tion originated. Thereupon amendments recommended are duly considered and dealt with, and, if adopted, are transmitted to the other Chamber for its concurrence.[1]

The procedure in regard to Governor-General's amendments is laid down in Senate S.O.s 247-250 and House of Representatives S.O.s 210-213, which provide that, whenever Bills containing such recommended amendments are returned to the House of origin, they are dealt with as intercameral amendments, and consequential amendments thereto may likewise be made. When the Governor-General's amendments have been agreed to by both Houses, with or without amendment, the Bill is fair-printed and presented by the President of the Senate for Royal Assent, but that if such amendment has been disagreed to by either House, or if no agreement thereon between the 2 Houses be arrived at, the President again presents the Bill for Royal Assent in the form as first presented therefor.

States of Australia.

New South Wales.—Nil.

Victoria.—Joint S.O. 15A provides that in case of amendments to Bills made upon a Message from the Governor, pursuant to s. 36 of the Constitution Act, after such Bills have passed both Houses, the Clerk of the Parliaments shall endorse the same on the original Bill and must then order 3 copies of the Bill on special paper as amended, and authenticate the same before presentation for the Royal Assent.

Standing Orders 296 and 297 of the Legislative Council and 262 and 263 of the Legislative Assembly provide that, whenever the Governor transmits by Message to either House any amendment he may desire to be made in the Bill, the amendment is treated in the same manner as an amendment proposed by the other House, and when the House to which such Message has been sent has agreed to the Governor's amendment it is forwarded to the other House for concurrence. But S.O. 298 of the Legislative Council provides that, whenever the Assembly has agreed to such an amendment in a Bill originated in the Assembly and has transmitted such amendment to the Council, the amendment must be agreed to, or not agreed to, by the Council, but no amendment may be proposed therein.

Queensland (unicameral).—The Standing Order governing subject reads:

> 275. When the Governor transmits by Message to Parliament an amendment which he desires to be made in a Bill presented to him for His Majesty's Assent, the amendment shall be dealt with in the same manner as original amendments in the Bill.

There have been only 3 instances, as follow: 1885 VOTES, 247; 1911-12 VOTES, 530-1; and 1919-20 VOTES, 513, 541.

The Governor's Message to Parliament runs thus:

[1] Quick and Garran, p. 692.

A Bill . . . having been presented to the Governor for the Royal Assent, the Governor, in pursuance of the authority in him vested, herewith returns the said Bill to the Legislative Assembly and recommends the following amendment therein: *(Here state amendment.)*

When it is discovered, after passage through the House, that certain errors are manifest in the Bill, the Governor, who acts on the authority which he possesses as one of the Estates comprising the Constitution, suggests necessary amendments, and so long as the suggested amendments make no alteration in the character or scope of the Bill they are dealt with by the House in the manner laid down by the Standing Order.

South Australia.—Under s. 28 of the Constitution[1] the Governor may transmit by Message to either House for consideration any amendment he may desire to be made in any Bill presented to him for Royal Assent and all such amendments are taken into consideration in such convenient manner as provided by the Rules and Orders.

Standing Orders 346-349 of the Legislative Council and 360-363 of the House of Assembly provide that Governor's amendments are treated in either House in the same manner as are amendments by the other House, and when either House has agreed to any such amendment, with or without amendment, together with consequential amendments, such shall be sent to the other House for concurrence.

When any Governor's amendment in any Bill originated in either House has been agreed to by both Houses, with or without amendment, the Bill is then fair-printed as amended and presented by Mr. President or Mr. Speaker, as the case may be, to the Governor for Royal Assent, after certification in the usual manner; but if such Governor's amendment is disagreed to by either House, or if no agreement between the 2 Houses is arrived at thereon, Mr. President or Mr. Speaker, as the case may be, again presents the Bill to the Governor in the form as first presented to him.

E. G. Blackmore, one-time Clerk-Assistant of the House of Assembly, in his excellent book,[2] which, although to some extent out of date, is yet rich in precedent and detail in regard to Parliamentary practice in the House of Assembly, gives many instances of this practice. In dealing with the procedure in the application of this Rule, Mr. Blackmore quotes instances where such amendments have been considered on the same day or printed for consideration on a future day. He observes that such amendments may be of every kind: striking out words and substituting others; inserting or adding words; omitting clauses and substituting others; provisos; or schedules. Sometimes, though rarely, the Message assigns reasons for the amendment recommended to the House, and instances of such Messages are given—*e.g.*, the date of operation of an Act being stated therein antecedent to the probable date of Assent interfering with the course of a Reserved Bill.[3]

[1] Act No. 2 of 1855-6 and s. 56, Constitution Act, 1934-39. [2] *Manual of the Practice, Procedure and Usage of the House of Assembly of the Province of South Australia*, by E. G. Blackmore. [Govt. Printer, Adelaide, 1885.] [3] *Ib.* 278-82.

When the House goes into Committee to consider the Message from the Governor recommending amendments in a Bill, Question is put: "That the Amendment be agreed to." If this passes in the affirmative, a report is made to the House, and on the House agreeing to such Report it is ordered:

> That a Message be sent to the Legislative Council transmitting a copy of the Bill intituled —— as presented by the Speaker to the Governor, for his assent, together with a copy of the Message from the Governor suggesting certain amendments, and notifying that the House, having agreed to the amendments, desires the concurrence of the Legislative Council therein.

The author observes that it is, however, equally competent for the House to disagree to any of the amendments, of which instances are given. In such cases the Message to the Council records the action of the House in disagreeing as well as agreeing, and that it is competent for the House to make any alteration in the Bill rendered necessary by such amendment.

If the Council return the Bill agreeing to the Governor's amendments with amendments, the Message and amendments of the Council are ordered to be printed and considered in Committee of the Whole House on a day fixed, when it is competent to agree to them with or without amendments.[1]

Sometimes, states Mr. Blackmore, after both Houses have agreed to the Governor's amendments, the Governor returns the Bill a second time with further amendments, the procedure being the same as in the case of the first Message.[2]

Western Australia.—Standing Orders 231-233 of the Legislative Council and 331-333 of the Legislative Assembly provide that, whenever the Governor may return a Bill to either House presented to him for Royal Assent with any amendment he may desire to propose, it shall be treated by that House in the same manner as any amendment proposed by the other House in the Bill.

When the House to which such amendment has been transmitted by the Governor has agreed to it, the Bill is then sent to the other House for concurrence, together with any consequential alterations rendered necessary to be made in the Bill, which is proceeded with as in the case of intercameral amendments.

Standing Order 234 of the Council lays down that when Governor's amendments in any Bill originated in the Council have been agreed to by both Houses, with or without amendment, the Bill is fair-printed and presented again for Royal Assent, but should any such amendment be disagreed to by the Council, or if no agreement between the 2 Houses is arrived at, the Bill is again presented to the Governor for Royal Assent in the same form as first presented to him for that purpose.

The only instance under this Standing Order was an amendment of the Divorce Law, December 22, 1911.

[1] *Ib.* 283. [2] *Ib.* 284.

Tasmania.—Under s. 30 of the Act for the Government of New South Wales and Van Diemen's Land,[1] the Governor may propose amendments to Bills presented to him for Royal Assent. The Act states that "it shall be lawful for the Governor of the said Colony of New South Wales to transmit to the said Council for its consideration . . . any amendments which he shall desire to be made in any Bill presented to him for Her Majesty's Assent . . . and it shall be lawful for the Council to return any Bill in which the Governor shall have so made any amendments, with a Message signifying to which of the amendments the Council agree, and those to which they disagree, and thereupon the Bill shall be taken to be presented for Her Majesty's Assent with the amendments so agreed to."

The procedure is now laid down in Legislative Council S.O.s 348 and 349, and House of Assembly S.O.s 283-285, but H.A. S.O. 282 provides that all Bills, whether originating in that House or in the Legislative Council, when they have passed through their second stages are forwarded to the President of the Legislative Council to await the Royal Assent, except Bills of Supply, which are so presented by Mr. Speaker.

The procedure in regard to Governor's amendments is that the Bills in which they are proposed are sent by him to the House of origin and the intercameral procedure in regard to amendments proposed by either House applies.[2]

Legislative Council S.O. 348, however, lays it down that, in the case of a Bill originating in the Council, such may be agreed to, disagreed to, agreed to with amendments, or other amendments may be proposed in lieu thereof. Otherwise the normal intercameral procedure applies.

New Zealand.

After a Bill has been passed by both Houses, on being presented to the Governor-General for Assent he may return it, under s. 56 of the Constitution Act, for such amendment to be made as he thinks needful and expedient. The Bill is returned by Message with the amendment or amendments to the Legislative Council or to the House of Representatives—usually to the House of Representatives. In practice the amendments recommended by the Governor-General are those which the Government has promised, during the passage of the Act, would be made. This most often arises in connection with amendments suggested by the Upper House, which may not have power of itself to amend the Bill but it could reject it, and it is content to pass it on receiving an assurance that the matter brought up shall be considered and returned by the Governor-General for further consideration. A Bill is also sent back if, after it has been passed, further representations are made to the Government, or the law draftsman considers that amendments made during the passage of the Bill require some consequential further amendments.

[1] 5 & 6 Vict., c. 76 (Imperial Act).

[2] *Ib.* s. 30.

Union of South Africa.

Section 64 of the South Africa Act, 1909,[1] dealing with the Royal Assent to Bills, reads:

64. When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds his assent, [or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any of the provisions of Chapter IV under the heading "House of Assembly", and all Bills abolishing provincial councils or abridging the powers conferred on provincial councils under section *eighty-five*, otherwise than in accordance with the provisions of that section, shall be so reserved.] The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with such recommendation.[2]

Provision was also made under the Constitutions of the 4 Colonies which became the 4 Provinces of the Union by which the Governor may return to Parliament any Bill presented to him for Royal Assent with any amendments he may recommend, and Parliament may deal with such recommendation. In the Cape of Good Hope,[3] and in each House of the Natal Parliament,[4] the Standing Orders made provision for such amendments to be considered in the same manner as amendments made by the other House, and when the House has agreed to any amendment transmitted to it by the Governor such amendment is forwarded to the other House for its concurrence.

In the Transvaal[5] and Orange River Colonies[6] the same provision was made in the Constitution, as in the Constitutions of the former Colonies of the Cape of Good Hope and Natal.[7]

Details of the procedure in the Union Parliament in connection with Governor-General's amendments are laid down in the Standing Orders of both Houses.[8]

The following are instances:

(1) On the last day of the 1923 Session, and for the first time since Union, the Governor-General returned the Public Service and Pensions Bill with amendments. As the Bill originated in the House of Assembly it was returned to the House of Assembly, and the amendments were transmitted by Message to the Senate for concurrence.[9]

(2) After the Drought Distress Relief Bill had been passed by the House of Assembly and had been forwarded to the Senate the Government desired to introduce an amendment which had been held to increase expenditure. The Bill was accordingly allowed to pass the Senate and was returned by the Governor-General to the House of

[1] 9 Edw. VII, c. 9. [2] The words in square brackets were struck out by the Status of the Union Act (No. 69 of 1934). [3] Leg. Co. S.O. 103; *Order-in-Council*, March 11, 1853; Assem. S.O. 300, 301. [4] Leg. Co. S.O. 303-305; Leg. Assem. 310, 311. [5] *Const.*, Art. XL. [6] *Const.*, Art. XLII. [7] *South African Parliamentary Manual*, 1909, p. 143. [8] Sen. S.O. 189; Assem. S.O. 179, 204. [9] 1923 VOTES, 904.

Assembly by Message in which the amendment was recommended. The amendment was subsequently agreed to by both Houses.[1]

(3) In the 1931-32 Session the Customs Tariff (Amendment) Bill was returned to the House of Assembly by the Governor-General, who recommended certain amendments which were agreed to by the House.[2]

(4) On the last day of the 1942 Session[3] the Governor-General returned the Income Tax Bill to the House of Assembly and recommended the insertion of a new clause. The Message was considered forthwith and the new clause agreed to.

Union Provinces.

Section 90 of the South Africa Act[4] provides that when a proposed Ordinance has been passed by a Provincial Council it is presented by the Administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council must declare within 1 month from the presentation to him of the proposed Ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed Ordinance for further consideration. A proposed Ordinance so reserved has no force unless and until within 1 year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent.

There is no power under such Act for the Governor-General-in-Council, to whom all Ordinances are submittteed for assent, to amend an Ordinance passed by a Provincial Council. He may either assent to it, reserve it for further consideration, or withhold his assent.

South-West Africa.

The power of the Administrator in regard to the amendment of Draft Ordinances passed by the Assembly is governed by s. 32 of the South-West Africa Constitution Act, 1925,[5] which provides *inter alia* that the Administrator may, before assenting to or before reserving for the signification of the pleasure of the Governor-General any Draft Ordinance passed to him for his assent, suggest such amendments therein as he may deem necessary or expedient, and the same are communicated by Message or in person to the Assembly. The amendments so suggested are then taken into consideration by the Assembly in such convenient manner as is provided in that behalf by its Standing Orders.

Instances of the application of the provisions are recorded in the Assembly.[6] Amendments to several Draft Ordinances, *before* assent, were recommended to the Assembly by Messages from the Administrator and, on unopposed motion, were adopted.

The following instance relates to an amendment of a Draft Ordinance *after* assent:

After the Game Preservation Ordinance, No. 5 of 1927, had been

[1] 192 *Ib.* 814. [2] 1931-32 *Ib.* 712. [3] 1942 *Ib.* 726. [4] 9 Edw. VII, c. 9.
[5] Union Act No. 42 of 1925. [6] 1926 VOTES 66, 67 and 70-72.

assented to and published on May 20, 1927, a clerical error was discovered and reported to the Administrator. Under his direction the Ordinance was thereupon corrected and republished,[1] and the originally signed copy was withdrawn and a corrected and signed copy filed in terms of the Constitution Act.

Southern Rhodesia.

Section 29 of the Southern Rhodesia Constitution Letters Patent, 1923, gives the Governor power to return to the Legislative Assembly any proposed law presented to him with any amendments he may recommend. Any such amendments are considered by the Legislative Assembly on a future day, either by the House or in committee, or they may be referred to a Select Committee (S.O. 162).

Should the House disagree with any amendment suggested by the Governor the Bill may be presented to him in the original form for assent.

There has been one instance in which this power has been exercised by the Governor, who recommended certain amendments to the General Loans Bill, 1937, after the Bill had been presented to him for assent. The Message from the Governor was brought up in the House by the Minister of Finance and Commerce,[2] where the reasons for the Governor's action in deferring assent in His Majesty's name are set out, together with the reasons by the Secretary of State for the Dominions for the desirability of inserting certain amendments. The suggested amendments to 3 clauses were considered by the House on the following day,[3] agreed to and incorporated in the Bill, which was reprinted and presented to the Governor for assent in the amended form.

British India.

Central Legislature.—In addition to the several other legislative powers vested in the Governor-General, the proviso to s. 32 (1) and s. 67A of the 9th Schedule to the Constitution[4] provides that when a Bill has passed both Chambers and is presented to him for the Royal Assent, the Governor-General may, in his discretion, return the Bill to the Chamber (or either Chamber) with a Message requesting that they will reconsider the Bill, or any specified provisions thereof, and, in particular, consider the desirability of introducing any such amendments as he may recommend in his Message, and the Chambers shall reconsider the Bill accordingly.

Standing Order 52 of the Council of State and S.O. 53 of the Legislative Assembly then come into operation in regard to any such Bill referred to such Council/Assembly, and the points referred for reconsideration are voted upon in the same manner as amendments to a Bill or in such other way as the President of either Chamber, as the case

[1] *S.W.A. Official Gazette Extraordinary*, No. 252, Nov. 28, 1927.
[2] 17 *S. Rhod. Hans.* 1499. [3] *Ib.* 1542-43. [4] 26 Geo. V and 1 Edw. VIII, c. 2.

may be, may consider most convenient for consideration by the Council/Assembly.

Governors' Provinces.

In addition to the several other legislative powers vested in the Governors, it is laid down in the proviso to s. 75 of the Constitution that the Governor may, in his discretion, return a Bill, which has passed the Legislature and been presented to him for Royal Assent, together with a Message requesting that the Chamber (in the unicameral Provinces) and the Chambers (in the bicameral Provinces) will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his Message and, when a Bill is so returned, the Chamber, or Chambers, shall reconsider it accordingly.

Madras.—Standing Order 96 of both Chambers provides that when a Bill which has been passed and submitted for Royal Assent has been returned by the Governor-in-Council for reconsideration as above, it becomes the first item of business after Questions:

(*a*) on the first available day for Government business if the Bill is a Government Bill; and

(*b*) on the first available day for non-official business if a non-official Bill.

The points referred for reconsideration or the amendments recommended are then put before the Council/Assembly by the President/Speaker and are discussed and voted upon in the same manner as amendments to a Bill, or in such other manner as the President/Speaker may consider most convenient for their consideration by the Council/Assembly.

No instances, however, have yet occurred in this Province.

Bombay.—Standing Orders 20B of both Chambers provide that, where a Bill which has passed both Chambers and has been presented for Royal Assent is returned by the Governor to either Chamber under ss. 75 or 76[1] above mentioned, with a Message requesting that the Council will reconsider the Bill or any specified provisions thereof, or will consider the desirability of introducing such amendments as may be recommended in the Message, motion may be made to reintroduce the Bill.

Such Messages are communicated to the Chambers by the President/Speaker, and endorsed on all Bills.

Where a Bill has been introduced as above, motion may be made in

[1] In the same manner, but only by direction of the Governor-General, the Governor of a Province may, under s. 76 of the Constitution, return a "reserved" Bill to the Chamber or Chambers, as the case may be, of the Provincial Legislature, together with such a Message as mentioned above, and when the Bill is so returned such Chamber, or Chambers, shall reconsider it accordingly and, if it is again passed by them, with or without amendment, the Bill is again presented to the Governor-General for his consideration.—[ED.]

respect of the Bill, notwithstanding that such motion raises a question substantially identical with one on which the Council/Assembly has already given a decision in the same Session. No dilatory motion, however, may be made in connection with such Bill, without the consent of the member in charge of the Bill, and if any such motion has been made but has not been carried prior to the communication to the Council/Assembly of the recommendation, such motion may not be put to the Council/Assembly.

When a Bill which has been passed is returned by the Governor to the Council/Assembly for reconsideration, the points referred for reconsideration or the amendments recommended must be put before the Council/Assembly by the President/Speaker and discussed and voted upon in the same manner as amendments to a Bill, or in such other way as the President/Speaker may consider most convenient for their consideration by the Chamber.

Otherwise, the ordinary procedure of the Council/Assembly in regard to Bills shall, as far as may be, apply to them.

Bengal.—The S.O. 72 (Rule 9, Governor's Rules) of both Chambers provide that:

(1) When a Bill is returned to the Chambers by the Governor with a Message under s. 75 or s. 76 of the Act, the Bill shall first be reconsidered by the Chamber in which it originated.

(2) (*a*) In the case of a Bill which originated in the Assembly, the Speaker shall, on a day fixed by the Governor acting in his discretion, read the Message to the Assembly.

(*b*) On the day fixed by the Governor acting in his discretion for the reconsideration of the Bill by the Assembly and within such time as the Governor acting in his discretion may allot for the purpose, the principles contained in the Message shall be discussed, and on a motion (to which no amendment shall be admissible) moved and carried in that behalf, the recommendations of the Governor contained in his Message shall, either, as the Governor acting in his discretion may direct, at once or on such later day as the Governor acting in his discretion may fix, be considered in detail and voted upon in the same manner, so far as may be and subject to the provisions of this rule as applies to Bills.

(*c*) The motion referred to in clause (*b*) and amendments to the Bill recommended by the Governor shall be moved by the member appointed by the Governor in his Message to be the member in charge of the Bill for the purposes of this rule.

(*d*) Subject to the provisions of this rule and unless the Governor in his Message otherwise directs, amendments to any amendment recommended by the Governor may be moved and the period of notice of such amendments shall be such as the Governor acting in his discretion may direct.

(*e*) As soon as possible after the amendments to the Bill have been passed by the Assembly a Message containing those amendments shall be sent to the Council, or if the motion referred to in clause (*b*) has not been carried, a Message shall at once be sent to the Council intimating that the Assembly does not agree to any of the recommendations of the Governor.

(3) In the case of a Bill which originated in the Council, the procedure provided in sub-rule (2) shall apply with the following modifications—namely:

(i) The Speaker shall also read to the Assembly the Message of the Council.

(ii) The Assembly shall consider the Message of the Governor in the light of the amendments, if any, to the Bill passed by the Council.

(iii) The Bill shall be returned to the Council with a Message that the Assembly agrees with the decision of the Council, or, as the case may be, that the Assembly disagrees with the Council in the manner and to the extent indicated.

(4) When a Bill which originated in the Assembly is returned by the Council, the provisions of Rules 66 and 72 of the Bengal Legislative Assembly Procedure Rules shall be, so far as may be, followed.

(5) (*a*) Amendments to the Bill shall be relevant to the recommendations of the Governor and shall propose only such provisions as lie between the provisions contained in the Bill first submitted for assent and the modifications thereof contained in the recommendations of the Governor.

(*b*) Rule 39 of the Bengal Legislative Assembly Procedure Rules shall not apply to the proceedings under this Rule.

(*c*) The provisions of the Legislative Assembly Procedure Rules relating to amendments shall, so far as they are not inconsistent with this Rule, apply to amendments as thereunder.

Three instances may be cited where the Governor returned the Bills with Messages:

(*a*) The Bengal Tenancy (Amendment) Bill, 1937 (Official Bill).

(*b*) The Bengal Tenancy (Third Amendment) Bill, 1939 (Official Bill).

(*c*) The Bengal Land Revenue Sales (Amendment) Bill, 1937 (Private Member's Bill).

United Provinces.—Rule 110 of the Legislative Council and Rule 66 of the Legislative Assembly provide that:

When a Bill which has been passed is returned by the Governor to the Council for reconsideration the point or points referred for reconsideration, or the amendments recommended, shall be put before the Council/Assembly by the President/Speaker and shall be discussed and voted upon in the same manner as amendments to a Bill [or in such other way as the President/Speaker may consider most convenient for their consideration by the Council/Assembly[1]].

The Punjab (unicameral).[2]

Bihar.—A similar provision to that already given in regard to the United Provinces is given in Bihar under Governor's Rule 10 and Council and Assembly Rules 81 and 109 respectively.

Central Provinces and Berar (unicameral).—The same procedure is applied by Governor's Rule 8 as in the United Provinces, but the Governor's Rule is embodied (*in italics*) in the Assembly Rules.

Assam.—Governor's Rule 11 makes the same provision as in the United Provinces.

North-West Frontier Province (unicameral).—The same provision as in the United Provinces is made by Governor's Rule 7.

Orissa (unicameral).—The same provision as in the United Provinces is made by Governor's Rule 13.

[1] The words in square brackets occur in the Council Rule only.—[Ed.]

[2] The S.O.s make no provision, but such may have been included in "Governor's Rules".—[Ed.]

Sind (unicameral).—The same provision as in the United Provinces is made by Governor's Rule 10 and Assembly Rule 161.

Burma.

The same provision is made as to the return of Bills presented for Assent by s. 38 of the Constitution[1] as in the case of the Indian Governors' Provinces above described.

It is provided by Rule of Procedure 131 that where a Bill is returned to the House of Representatives under s. 38 as above, requesting the reconsideration of the Bill or of any specified provisions thereof or the consideration of the desirability of introducing such amendments as may be recommended in the Message, a motion may be made to re-introduce the Bill.

A Message in regard to a Bill returned for consideration must be endorsed on the Bill and be communicated to the House by Mr. Speaker.

A motion may be made in respect of the Bill, notwithstanding that such motion raises a question substantially identical with one on which the House has already given a decision in the same Session; provided that no dilatory motion[2] may be made in connection with such Bill without the consent of the member in charge of the Bill, and if any such motion has been made but has not been carried prior to the communication to the House of the recommendation such motion may not be put to the House. Otherwise the ordinary procedure of the House in regard to Bills applies, so far as may be, to such Bills.

Ceylon.

The Governor may, under Art. 79 of the Order in Council and S.O. 95, return any Bill presented to him for Royal Assent to the Council of State for further consideration, with or without a statement of amendments which he recommends. The Council may only consider those matters referred to it by the Governor.

The Council may then recommit the Bill to a Committee of the Whole Council to amend the Bill in accordance with the Governor's reference, should the Council so decide, and when it has so reconsidered the Bill it is returned to the Governor by the Speaker with a report of the Council's decision and of the voting thereon. If the Council has amended the Bill such amendments are embodied in it.

Jamaica.

It is provided by s. 49 of the Jamaica (Constitution) Order in Council 1944 that the Governor, with the approval of the Executive Council, may return to the Legislative Council and the House of Representatives any Bill presented to him for Royal Assent, transmitting

[1] 26 Geo. V and 1 Edw. VIII, c. 3.

[2] Defined for this Rule as reference to a Select Committee; circulation for eliciting opinion thereon; or any other motion delaying passage of the Bill.—[Ed.]

therewith any amendments which he may recommend, and the Legislative Council and the House of Representatives then deal with such recommendation.

The Standing Orders[1] of both the Legislative Council and the House of Representatives provide that when it has been communicated to the Council/House that the Governor is prepared to signify Royal Assent to a Bill subject to certain amendments approved by the Executive Council, the amendments are appointed for consideration on a future day, and on the reading of the Order for their consideration on that day a Question is proposed—"That the amendments be now considered." Should that Question be agreed to, the amendments are then considered *seriatim* and debate and amendment are required to be relevant to the amendment under consideration. An amendment may not be proposed to the Bill unless it arises strictly from the acceptance of one of the Governor's amendments.

The House of Representatives' Standing Order only then goes on to provide that upon the conclusion of consideration of all the amendments to which the provisions of para. (1) of this Order apply, should such House agree to any of such amendments, the Bill containing the amendments agreed to must be transmitted to the Legislative Council.

Kenya.

Standing Order 88 of the Legislative Council provides that, when a Bill passed by the Council is returned to it by the Governor for amendment, the Bill must be recommitted for the consideration only of the amendments proposed, after which the Bill is resubmitted to the Governor with amendments made therein, should the Council approve of them, for Assent.

Malta, G.C.

Section 45 of the Malta Constitution Letters Patent, 1931, provided that the Governor could return to the Senate and Legislative Assembly any proposed law presented to him (for Royal Assent) notwithstanding that the same shall not affect or be alleged to affect any reserved matter, and could transmit therewith any amendments which he might recommend, and the Senate and Legislative Assembly could deal with the recommendation.

Mauritius.

Standing Order 37 of the Legislative Council provides that, when it has been communicated to it that the Governor is prepared to signify Royal Assent to a Bill subject to certain amendments, the amendments are appointed for consideration on a future day, and on the Order for their consideration being read Question is proposed that the amendments be now considered, and if such Question is agreed to the amendments are considered *seriatim*. The debate and amendment must be

[1] L.C. 42; *Reps.* 44.

relevant to the amendment under consideration. No amendment may be proposed to the Bill unless it arises strictly from the acceptance of one of the Governor's amendments.

Tanganyika Territory.

Standing Order 37 of the Legislative Council provides that, when a Bill passed by the Legislative Council is returned to it by the Governor for amendment, the Bill must be recommitted for the consideration only of the amendments proposed. The Bill is then resubmitted to the Governor with the amendments made therein, should such Council approve of them.

Trinidad and Tobago.

Standing Order 48 of the Legislative Council provides that:

> When it shall have been communicated to the Council that the Governor is prepared to signify his assent to a Bill subject to certain amendments, the amendments shall be appointed for consideration on a future day, and, on the order for their consideration on that day being read, a Question shall be proposed that the amendments be now considered. If that Question be agreed to, the amendments shall be considered *seriatim* and debate and amendment shall be relevant to the amendment under consideration and an amendment shall not be proposed to the Bill unless it arises strictly from the acceptance of one of the Governor's amendments. The Bill shall be resubmitted to the Governor with the amendments made therein as approved by the Council.

The power conferred by this Standing Order was exercised in one instance during the year 1945.[1]

XV. LEADER OF THE OPPOSITION*

THE *Questionnaire* for Vol. XII of the JOURNAL contained the following item:

> X.—Please furnish particulars as to salary, terms and authority for appointment of the " Leader of the Opposition ".

In those Parliaments and Legislatures where the office of Leader of the Opposition has been acknowledged and not previously dealt with in this JOURNAL the procedure, so far as our returns show, is as follows.

United Kingdom. (*See* JOURNAL, Vols. VI, 15, 16, 18-20; IX, 20.)

Canada.

House of Commons.—Under s. 42 of the Senate and House of Commons Act,[2] provision is made for the member occupying the recognized position of Leader of the Opposition in the House of Commons, and there is payable to him, in addition to his Session allowance, an annual allowance of $10,000. Under S.O. 37, the Leader of the Opposition,

[1] Contributed by the Clerk of the Legislative Council.—[ED.] [2] R.S.C. 1927, c. 147.

as well as the Prime Minister, 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, may speak for more than 40 minutes at a time in any debate.

In para. 223 of the 3rd ed. of his Parliamentary *Rules and Forms*, Dr. Beauchesne says that the title " His Majesty's Opposition " was first used in debate by Hobhouse, afterwards Lord Broughton, who, on April 10, 1826, in a debate on the union of the offi e of President of the Board of Trade with that of the Treasury of the Navy, remarked that it would be hard on His Majesty's Ministers to raise objections. For his part he thought it was more hard on " His Majesty's Opposition " to compel them to take this course. Canning hailed the phrase as a happy one, and Tierney said that a better phrase could not have been invented " to designate us, for we are certainly to all intents and purposes a branch of ' His Majesty's Government '." Sir Charles Tupper, in a farewell letter to the Canadian Conservative Party on January 17, 1901, said: " The duty of Her Majesty's loyal Opposition is to exercise its vast influence in restraining vicious legislation, and in giving a loyal support to proposals of the Government which commend themselves as in the interests of the country; while indicating itself such measures for the common weal as are neglected by the Administration." Mr. Ramsay MacDonald, Prime Minister, who was a witness before a Select Committee on Procedure in the British House of Commons, said on February 16, 1931: " The House of Commons consists not only of a Government, but of an Opposition, and they have both got functions and rights."[1]

Ontario.—Under R.S.O., Vol. I, 313, the member recognized by Mr. Speaker as occupying the position of Leader of the Opposition in the Legislative Assembly has, in addition to his sessional indemnity as an M.L.A., a further sessional indemnity of $3,000.

Quebec.—Under R.S.Q., 1941, c. 4, s. 86, there is payable to the member occupying the recognized position of Leader of the Opposition, over and above the sessional indemnity, an annual indemnity of $5,000.

British Columbia.—Section 64 (3) of the Constitution Act (c. 49, R.S.B.C.) provides that the Leader of the Opposition be paid $2,000 for each Session.

Saskatchewan.—In answer to a Question in the Legislative Assembly on April 2, 1942, the Premier (Hon. Mr. Patterson) said that Mr. J. H. Brocklebank, M.L.A., was the Leader of the Opposition and was paid $2,000 as sessional indemnity and $2,500 as Leader of the Opposition.

[1] *Rules and Forms of the House of Commons of Canada*, 3rd ed., by Dr. Arthur Beauchesne, C.M.G., K.C., etc. (Canada Law Book Coy. Ltd., Toronto, Ont.), p. 87, paras. 67, 223.

Australia.

Commonwealth Parliament.—Under s. 7 of the Parliamentary Allowances Act, 1920-28, in addition to any other allowances payable as a Senator or member, there is payable to the Leader of the Opposition in the Senate (elected by his Party) and the Leader of the Opposition in the House of Representatives, an allowance at the rate of £A.200 and £A.400 *p.a.*, respectively. Under the Financial Emergency Act, 1931-35, however, s. 8 provides that where a Senator or M.P. holds a "Parliamentary office" (which includes both Leaders of Opposition above mentioned) the allowance received by him as a Senator or M.P. is, for the purpose of this Act, included with the salary or allowance received by him in respect of that office and is subject to the reductions to be made from the total allowances, or of salary and allowances, received annually as a Senator or member.

New South Wales.—The Leader of the Opposition in the Legislative Council receives a salary of £250 *p.a.*

Section 28 of the Constitution Act makes provision for payment of the allowances of the Leader of the Opposition in the Legislative Assembly—namely, the allowance as member of £875 *p.a.*, with an additional allowance of £250 *p.a.* as Leader of the Opposition, a total of £1,125 *p.a.*

Beyond the provision in the Constitution Act for the payment of an additional allowance, there is no statutory provision concerning the office, such as that contained in s. 10 of the Ministers of the Crown Act, 1937 (England).

Victoria.—The allowance to the Leader of the Opposition in the Legislative Assembly is £351 and to the Leader of the United Australia Party £251. In both cases, should they again be returned to the Legislative Assembly after a dissolution, these allowances are to continue until the day before the meeting of the new Parliament.

Queensland.—Under the Constitution Act Amendment Act, 1944, the salary of the Leader of the Opposition was increased from £850 to £1,250 *p.a.*

South Australia.[1]—£300 *p.a.* is provided on the Estimates for the "Leader of the Opposition" in the House of Assembly under I.—the Legislature—Miscellaneous. The Party in opposition, at its pre-sessional meeting of members after a general election, elects the Leader. He is paid this extra allowance until a successor is elected. If for any reason the office becomes vacant, similar procedure is adopted. The certificate of the secretary of the Party as to proper election is accepted for all purposes.

Western Australia.—Under the Parliamentary Allowances Act, 1925, the Leader of the Opposition in the Legislative Assembly receives an annual allowance of £800.

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

Tasmania.—No official Leader of the Opposition is recognized in the Legislative Council, but in the House of Assembly the holder of the position receives an additional allowance of £250.

New Zealand.

House of Representatives.—The Leader of the Opposition in the New Zealand House of Representatives receives the same honorarium as any other ordinary member—namely, £500 *p.a.*, plus £250 *p.a.* (tax-free) travelling allowance. He does, however, receive, pursuant to Cabinet authority, a small grant for clerical assistance, which during the Session takes the form of the payment by the Legislative Department of £1 1*s.* 0*d.* *p.d.* to his typist, while during the recess he receives a grant of £187 to continue this payment to his typist. There is no special statutory provision relating to the office of Leader of the Opposition.[1]

Union of South Africa.

House of Assembly.—The South Africa Act Amendment Act[2] was passed by the Union Parliament in 1946, with retrospective effect to April 1 of that year, providing for the increase of certain Parliamentary salaries, which part of the Act will be dealt with in Vol. XV of the JOURNAL reviewing that year.

The Act, however, provided for an allowance of £1,000 *p.a.* in addition to the M.P.'s salary of £1,000. Leader of Opposition is defined as that member of the House of Assembly " who is for the time being the Leader in that House of the Party in opposition to the Government having the greatest numerical strength " in that House, and should there be any doubt as to which is or was at any material time the party in opposition to the Government having such greatest numerical strength, or as to who is or was such Leader, the question shall be decided for the purpose of this law by the Speaker of such House, and his decision certified in writing under his hand shall be final and conclusive.

XVI. EXPRESSIONS IN PARLIAMENT*

THE *Questionnaire* to Vol. V of the JOURNAL contained the following item:

> X. Please give full list of *expressions* in debate which have been ruled as " Unparliamentary " and also *borderland expressions* which have been allowed, quoting Volume and page number of *Hansard* in every case.

Much information has been received in reply, but there is always such a wealth of matter awaiting publication that the replies to the above-mentioned item have hitherto had to be postponed. It is proposed, however, to devote some space in future to this question in each

[1] Contributed by the Clerk of the House of Representatives.—[ED.] [2] Act No. 21 of 1946.

issue of the JOURNAL, and so attempt to keep abreast of the subject as well as gradually to include some of the information already supplied.

Disallowed.[1]

"A gang", as applied to the Opposition. (*Q'ld.*, 1925 *Assem. Hans.* 32.)
"apology for a Chairman". (*Q'ld.*, 1929 *Assem. Hans.* 2056.)
"barefaced steal", in regard to Government's action. (262 *N.Z. Hans.* 218, 219, 220.)
"biased cheapjack", to describe a University Professor. (178 *C'th. Hans.* 1597.)
"blackmailed". (398 *Com. Hans.* 5, s. 1394.)
"childish attempt". (*S. Rhod.*, 1936 *Assem. Hans.* 929.)
"comparing Brahmans to cobra". (*Madras*, XXVI *Co. Hans.* 91.)
"dabbling", used in regard to a member. (XXIV *Bombay Co. Hans.* 391.)
"deliberately misleading". (*S. Rhod.*, 1934 *Assem. Hans.* 333.)
"dingo", as applied to a member. (*Q'ld.*, 1932 *Assem. Hans.* 917.)
"dirty, low, mean attacks". (*Union*, 54 *Assem. Hans.* 582.)
"dishonest evasion". (410 *Com. Hans.* 5, s. 29.)
"divine jewel", if used satirically. (XLI *Bombay Co. Hans.* 829.)
"drivel"—an hon. member accusing another of talking. (262 *N.Z. Hans.* 687.)
"duped", that it is disrespectful to the House to say that it has been, into doing anything. (XXXVII *Bombay Co. Hans.* 944.)
"fleas on the workers". (*Q'ld.*, 1932 *Assem. Hans.* 2083.)
"futile", as applied to answers by a member of the Government. (*India*, 1921 *C. of S. Hans.*, Vol. I, p. 50.)
"hypocrite". (403 *Com. Hans.* 5, s. 1424.)
"I am not a liar like the Minister". (*N.S.W.*, 1936 *Assem. Hans.* 1037.)
"I don't care a damn about 'Order'". (355 *Com. Hans.* 5, s. 422.)
"if you (an hon. member) said that outside you would get 6 months". " (*Union*, 54 *Assem. Hans.* 2040.)
"I'll make you do it outside". (*Q'ld.*, 1863 *Assem. Hans.*, 2nd Sess. 38.)
"implying that an hon. member was a demagogue". (*Can.*, CCXXXVI *Com. Hans.* 2450.)
"incompetence of the Government" (*S. Rhod.*, 1935 *Assem. Hans.* 929.)
"just hated the sight of khaki", an hon. member referring to the members on the Government side as. (263 *N.Z. Hans.* 527.)
"justice", member for . . . incapable of. (1933 *Ceylon Hans.* 565.)
"lie". (399 *Com. Hans.* 5, s. 1120.)
"Ministers have repeatedly come to the House and have lied". (409 *Com. Hans.* 5, s. 237, 239-43.)

[1] *See also* JOURNAL, Vols. I, 48; II, 76; III, 118; IV, 141; V, 209; VII, 228; XIII, 236.

"no language is in order which can be reasonably said by a Senator to be offensive to him." (*Aust.*, 1913 *Sen. Hans.* 4127.)
"nobody but a knave or a fool", in allusion to a member. (*S. Rhod.*, 1934 *Assem. Hans.* 210.)
"only a Mussulman by name". (*India*, 1929 *Assem. Hans.* 654.)
"pompous brass hats", in reference to Defence Force Staff. (*Can.*, CCXXX *Com. Hans.* 2002.)
remark "that Mr. Speaker unduly anxious to intervene and interrupt speech". (410 *Com. Hans.* 5, s. 1947.)
"retardate worm", an hon. member describing another as a. (262 *N.Z. Hans.* 696.)
"shrimp", as applied to member. (*Q'ld.*, 1932 *Assem. Hans.* 1435.)
"suggesting that any other member has no intelligence to understand". (*India*, 1927 *Assem. Hans.* 2374.)
"that a member was inspired by something else". (*Bombay*, XXXVII *Co. Hans.* 944.)
"the Government protected financial crooks". (*N.S.W.*, 1930 *Assem. Hans.* 7878.)
"the holy and pious member for . . .". (*Q'ld.*, 1883 *Assem. Hans.* 194.)
"tool in the hands of", in relation to a member. (*Ceylon*, 1931 *Hans.* 549.)
"unmitigated lie". (403 *Com. Hans.* 5, s. 1212.)
"unscrupulous" in motion or Question. (*Ceylon*, 1933 *Hans.* 1307.)
"unspeakable blackguard". (403 *Com. Hans.* 5, s. 44.)
"we have too much to do in trying to restrain the effects of the wicked and crooked legislation of this Government". (*N.S.W.*, *Assem. Hans.*, 1930-1-2, 7862.)
"whole conception was a lie". (399 *Com. Hans.* 5, s. 1120.)
"wowser". (*Q'ld.*, 1911-12 *Assem. Hans.* 3095.)
"you are a lot of hypocrites". (*N.S.W.*, 1932 *Assem. Hans.* 222.)

Allowed.[1]

a general statement that there is a *hiatus* in the brains of the Opposition without reference to any particular member. (*Madras*, XXXII *Co. Hans.* 250.)
"a sober man would not have made that statement", treated with the contempt it deserves. (315 *Com. Hans.* 5, s. 364.)
"arch-leader" used in regard to a member. (*Madras*, XXX *L.C. Hans.* 196.)
"arrant political jobbery". (266 *N.Z. Hans.* 738, 739.)
"bulldozer". (411 *Com. Hans.* 5, s. 964.)
"but regrettable", studied offensiveness. (410 *Com. Hans.* 574.)
"foolish", used in regard to a member. (IV *Madras Co. Hans.* 1929.)

[1] *See also* JOURNAL, Vols. I, 48; IV, 140; V, 209; VI, 228.

"impotent", statement that a member is. (XV *Madras Co. Hans.* 72.)
"insincerity", charge of. (178 *C'th. Hans.* 1713.)
"irresponsible statements". (*India*, 1935 *C. of S. Hans.*, Vol. I, p. 367.)
"playing the fool", not necessarily unparliamentary. (315 *Com. Hans.* 5, s. 354.)
"legitimate", not a matter for Mr. Speaker. (342 *Com. Hans.* 5, s. 2455.)
"like a monkey on a stick", reference to a member of the Government, but not in the best of taste. (275 *Com. Hans.* 5, s. 648.)
"potential quislings", used in general terms towards certain people. (178 *C'th. Hans.* 1544.)
"ratted", saying that members. (*N.S.W.*, 1922 *Assem. Hans.* 1432.)
"skulk", if applied accurately. (360 *Com. Hans.* 5, s. 1361.)
"spy". (*India*, 1926 *C. of S. Hans.*, Vol. VII, p. 84.)
"terminological inexactitude". (357 *Com. Hans.* 5, s. 1538.)
"there are members in the House saying 'ditto' to every Ministerial proposition". (IV *Madras Assem. Hans.* 1928.)
"tricking the electors". (268 *Com. Hans.* 5, s. 1008.)
"tripe", expression inelegant, but exception cannot be taken. (314 *Com. Hans.* 5, s. 1070.)
"wily old bird", only looked upon as facetious remark. (276 *Com. Hans.* 5, s. 2109.)

General.

"blokes" not a proper expression for members to use in reference to members of the House. (410 *Com. Hans.* 5, s. 1478.)
description of record of as "muck-raking" not a point of order but a matter of taste. (400 *Com. Hans.* 5, s. 1354.)
member must restrain his language. (402 *Com. Hans.* 5, s. 1535.)
"terminological inexactitudes". (409 *Com. Hans.* 5, s. 239-43.)
undesirable: "activities of another member as subversive". (410 *Com. Hans.* 5, s. 592.)

XVII. SOME RULINGS BY THE SPEAKER AND HIS DEPUTY AT WESTMINSTER, 1944 AND 1945[1]

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 Ninth and Tenth Sessions of the XXXVIIth Parliament of the United Kingdom of Great Britain and Northern

[1] To end of XXXVIIth Parliament.—[ED.]

Ireland (7, 8 & 9 Geo. VI), are taken from the General Index to Volumes 395 to 411 of the Commons *Hansard*, 5th series, covering the period November 24, 1943, to June 15, 1945. The Rulings, etc., given during the remainder of 1945 (which fall in the 1945-46 Session, the First Session of the XXXVIIIth Parliament) will be treated in Vol. XV 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—" 395 – 945 " or " 406 – 607, 608, 1160 ". The references marked with an asterisk are indexed in the Commons *Hansard* only under the heading " Parliamentary Procedure " and include some decisions of the Chairman of Committees.

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, 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.

Address to the King.

—*Amdt.s* to.
—position of Mr. Speaker, 395 – 214.
—Speaker's decision as to selection of, 395 – 210, 213, 215, 216, 530, 643; 406 – 208.
—debate—*see* that Heading.

Adjournment.

—cannot be moved as a point of order, 397 – 853.
—*of House.*
—debate—*see* that Heading.
—no one but the Government can move to adjourn between the Orders, 402 – 1251.
—subjects already selected for, 402 – 904.
—*of House (Urgency) Motion for.*
—not accepted by Mr. Speaker, as can be put down as *amdt.* to Address in Reply to King's Speech, besides it is not a " definite matter " as no Minister can answer for it, 406 – 361.
—not allowed, as member could put down a Prayer and have it debated to-morrow, 399 – 205.
—not treated as, by Mr. Speaker, 406 – 364.
—refused by Mr. Speaker, 411 – 1163.
—subject cannot be raised as no Minister can answer on the subject, 399 – 1208.

Amendment(s).

—Address to King
—Anticipation
—Bills, Public } *see* those Headings.
•—can be negatived in member's absence, 396 – 1808.
—debate—*see* that Heading.
—has not been moved as not seconded, 401 – 1224.
—Lords—*see* Lords, House of.
—member not entitled to move, having spoken on main *amdt.*, 401 – 1407.
—member seconding an *amdt.* cannot move he next one, 401 – 1376.
•—negatived in member's absence, 396 – 1808.
•—only mover of, can ask to withdraw it, 398 – 2079.
•—ruled out of order, not in order to discuss, 404 – 1888.
—selection of—*see* Chair,

Anticipation.

—of *Amdt.*
—already down on line 5, 406 – 79.

Bills, Private.

—debate—*see* that Heading.

Bills, Private Members'.

See Bills, Public; Debate; Members.

Bills, Public.

—*Amdt.*(*s*).
—selection of—*see* Chair.
—debate
—Finance } *see* those Headings.
—grammatical error in, 402 – 1610.
—Lords *Amdt.s*—*see* Lords, House of.
—members
—Ministers } *see* those Headings.
—money, public—*see* Finance.
—printing error, 399 – 635.
—*C.W.H.*
•—*Amdt.* withdrawal of not accepted, owing to intervention (*Amdt.* negatived), 410 – 1742.
—Clause once brought before, cannot be withdrawn, must be accepted or negatived, 403 – 1428.
•—Report of Progress allowed by Chairman, his decision not open for discussion, 410 – 2676, 2678.
—*Cons.*
—as no seconder *amdt.* drops, 411 – 595.
—one *amdt.* covers 3 which follow, 410 – 2173, 2177.
—on *Rep.* stage decisions taken in *C.W.H.* are often reversed, 403 – 2422
—3 *R.*
—*Amdt.* falls as no seconder, 406 – 1427.

Business, Public.

—debate—*see* that Heading.
—exemption from S.O. (Sittings of House)—*see* Standing Orders.
—Government—*see* Standing Orders.
—Mr. Speaker cannot be asked *Q.s* on matters for Chairman in *Com.* of Supply, 407 – 374.
•—not consideration of the policy of the Government, 409 – 1991.

Business, Public (*continued*).
—*Prime Minister.*
—statement by, interval allowed for at end of *Q.s*, 400 – 1206; 411 – 1783, 1784, 1786, 1789.
•—*Q.s* on, must be asked, motion cannot be moved, 399 – 2095.
—*Statements, Ministerial.*
—at end of *Q.*, 396 – 545; 397 – 2054, 2055 to 2060; 400 – 1952, 2143; 401 – 804; 411 – 34, 1468, 1469, 1789.
—in Another Place, official statements, 403 – 723.
—Minister only commits himself, not the House, 402 – 766.
—suggestion by Mr. Speaker that the matter be raised on 3 *R.* of Consolidated Fund Bill, 411 – 1783, 1784, 1786.

Chair.
•—*Amdt.s*, selection of by, 398 – 2030, 2031.
•—always chance of withdrawing if, as discussion proceeds, it decides it should not have been called, 404 – 396.
—as point can be raised in debate, 406 – 1387.
—by Mr. Speaker of one, 408 – 1416.
•—*C.W.H.* can divide upon any, called, 398 – 1271.
—difficulty about *amdt.* handed in shortly before debate, Mr. Speaker must have time to consider it, 406 – 739.
•—if not selected, does not necessarily mean *amdt.s* out of order, 398 – 2031.
—position of, when handed in at last moment, 410 – 2186.
—Speaker's decision as to, 406 – 208 to 210.
•—conduct of *C.W.H.* proceedings to be left with, 398 – 1582.
•—debate on decision of cannot go on indefinitely on points of order, 404 – 397.
—*Member.*
•—apparently making reflection on, 400 – 1002; 401 – 200.
—has no business to address in that manner, 404 – 227.
—must address, 402 – 1309; 407 – 1028.
•—not entitled to make such great reflection upon, 397 – 1169.
—not to make accusations against, 411 – 540.
•—should address, •397 – 2100; 398 – 450; •402 – 1309, etc.
—should not cast reflections upon, 406 – 432, 439; 407 – 1420; 409 – 241, 242.
—will address Chair with respect—"*on a point of order*", 402 – 1454.
—withdraws insinuation against the Chair, 410 – 1947.
•—not responsible for way in which members talk to one another, so long as within bounds of order, 397 – 297.
—reflection on, 407 – 1420.
—reflection on as a point of order, 406 – 439.
•—Rulings of, cannot be argued, 398 – 1581.
—Speaker, Mr.—*see* that Heading.
—there is a procedure provided if a member wishes to contest the authority of, 406 – 439.

Church of England Measures.
—Government has no control of, 411 – 839.

Closure.
—entirely matter for Mr. Speaker, 402 – 1449, 1454.
—guide to Mr. Speaker as to acceptance of, 399 – 379.
—Mr. Speaker withholds assent, 410 – 43.
—motion, if accepted, must be put without *amdt.* or debate, 399 – 1156.
—responsibility for, rests with Mr. Speaker, 396 – 1982.

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—debate—*see* that Heading.
—evidence of, should not be quoted to the House unless the evidence has been reported to the House, 410 – 947.

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Debate.
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—*Amdt.s* to and allotted time, 395 – 978, 979; 406 – 208.
—*Adjournment of House.*
—anyone can ask for another member of Government to attend but up to the Government to say who is most suitable, 401 – 154.
*—anything in order, except involving legislation, 408 – 667.
—booking of, subjects raised on, new Rule, 404 – 2403.[1]
—can wander on to almost any subject but legislation, 401 – 654.
*—change of subject on, 401 – 978.
—debate on, 396 – 1278.
—King's Speech cannot be discussed on motion for, 406 – 59.
—legislation cannot be discussed on motion for, 396 – 1370; *397 – 1387; *398 – 6353; *400 – 1083; 404 – 925; 406 – 1912; 407 – 1391.
—matters to be raised on, must be booked 14 days in advance and before 10 o'clock in person at Mr. Speaker's office (War-time), 404 – 2403.
—member caught Mr. Speaker's eye, 396 – 1273.
—Minister no right to make further reply on, 396 – 1274.
*—motion for, restricted to whether the debate is to be adjourned or not, 411 – 558.
—mover of another motion can only give reasons briefly for not accepting, 400 – 2309, 2310 to 2314.
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—new (War-time) procedure on motion for, 396 – 1916.
—on almost any subject but legislation, 398 – 635; 401 – 654.
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*—only one speech for members, 398 – 1402.
—over Sitting Day, restricted, 406 – 205, 206.
—paying tribute to a Minister out of order on motion for, 398 – 2142.
—presence of Minister responsibility of the member talking, 406 – 61.
—procedure, 396 – 551, 1916; 404 – 2403.
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—raising matters in previous debate, 411 – 1208.
—subjects, change of, 404 – 2403, 2405.
*—strict Rule against raising matters on, which have been mentioned in the previous debate, 411 – 1208.
—to a particular date no *amdt.* may be moved except to substitute an alternative date and no matter may be raised in debate except reasons in favour of such alternative date, 401 – 939.
—to a particular day,
—merits of matter member wishes to debate, not allowed, 401 – 939.
—only reasons in favour of alternative date, 401 – 939.
—very inconvenient for members if subject changed, 401 – 978.
—already concluded cannot be revived, 399 – 1278.
—" *Another Place* ".
—against rules to attack character of members of, 401 – 1277.
—member may not criticize member of, except as to office he holds, 396 – 2260.

[1] *See* JOURNAL, Vol. XIII, 31.

Debate

—" *Another place*" (*continued*):
—members of, derogatory remarks about, or mentioning by name, unless they hold office, out of order, 411 – 34.
•—reference to and quotations from speeches made in, against Rules, 395 – 1205.
—reference to speeches made in, against Rules and should be withdrawn, 403 – 527.
—reflections upon member of other House not allowable, 403 – 528, 529.
—speech in, may not be referred to, 395 – 1205.
—speech in House of Lords must not be quoted, 395 – 1878.
•—speeches made by members in, must not be quoted unless statements of Government policy, 407 – 2356.
—arising and no motion before the House, 396 – 1414.
—*Bills, Private.*
—2 *R.*
—attitude of Railway Companies as a whole cannot be discussed on, 401 – 1219.
—detailed matter cannot be raised on, 401 – 1221, 1223.
—scope of, 402 – 1176.
—scope of: Mr. Speaker's statement. " The principle which regulates the scope of debate on a Private Bill is the same as on a Public Bill. On 2 *R.* of either class of Bill debate can extend beyond the contents of the Bill but must remain relevant to its purposes. It may be further extended by a reasoned *amdt.* but such *amdt.* must itself be relevant to the Bill ",[1] 402 – 1176, 1177.
—*Bills, Public.*
—2 *R.*
—always pretty wide, 402 – 82.
—as wide as one likes, 411 – 1421.
—monetarial alteration of Bill, affecting, 403 – 1757, 1944.
—mentioning of Bill not yet having had, probably not in order, 400 – 75.
—second speech not allowed, 397 – 1067.
—this is a machinery Bill, therefore subjects discussed when scheme was before House not appropriate, 404 – 1659, 1672.
—this stage a matter for speeches not *C.W.H.* interruptions and Committee points, 403 – 1667.
—what members would like to see in the Bill is a 2 *R.* not a 3 *R.* point, 399 – 2159.
—wider debate allowed as members no chance of raising such matters on a private member's motion, 397 – 1037.
•—*C.W.H.*
—cannot have 2 discussions on same subject on same Clause on same day, 396 – 1886, 1888.
•—detailed, on principle decided 2 *R.* not allowable, 400 – 1897, 1898.
•—discussion of Clause as a whole similar to discussion on 3 *R.*, 397 – 96.
•—previous Clause cannot be referred to, 398 – 1167.
—*Cons.*
—not on Clause which has been dropped, 411 – 606.
—one discussion on 3 *amdt.s*, 399 – 1850; 401 – 1378.
—2 *amdt.s* taken together, 410 – 1371, 411 – 1404.
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[1] *See also* 308 *Com. Hans.* 5, s. 1868, and 332 *Ib.* 648.

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[1] *See also* JOURNAL, Vol. XIII, 35.

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[1] But see Articles in Vols. XI-XII and XIII of JOURNAL under "Applications of Privilege" or separately treated in Special Articles. [2] *See* JOURNAL, Vol. XIII, 258.

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—another not allowed when Notice given to raise matter on Adjournment, 402 – 182.
—a very long (84 words), 402 – 1580.
*—another matter, 395 – 1526; 396 – 857; 403 – 1921.
—another Q., 395 – 1553; 397 – 329; 400 – 2310, etc.
*—another subject, 409 – 1989.
*—another and wider Q., 411 – 858.
*—another matter, 409 – 984.
—another point, 411 – 349.
—another Q., 406 – 1608, 1936; *407 – 167, 626, etc.; 407 – 1268; 408 – 14; 409 – 1522, etc.
*—beyond scope of original, 408 – 796, 1364; 411 – 1456.
—can be put only if relevant to original Q., 407 – 961; 410 – 1384.
—far from Q., 411 – 1456.
—innuendoes not allowed in, 402 – 1386.
*—issue far away from Q. on *O.P.*, 410 – 2616.
—long and connected argument, rather than, 399 – 613.
—no connection with original, 407 – 1432; *408 – 782; *411 – 670.
—no further to be allowed, 410 – 821.
—not arising, *395 – 335; *397 – 642; *398 – 2009, etc.; 406 – 1603; 407 – 961, etc.; *408 – 1534, etc.
*—not in the Q., 403 – 1108.
*—not in Q., and notice should be given, 397 – 1871.
—not relevant to original Q., 404 – 1530; *410 – 1384; *411 – 1060.
—nothing to do with Q., 397 – 339; 410 – 2456.
—on Q., not asked, cannot be asked, 404 – 1526.
—so long (60 words) that member not entitled to an answer, 402 – 1139.
—Speaker, Mr., no control over which Minister should answer Q., 399 – 1178.
—to be answered, 402 – 894.
—time taken from, cannot be given back, 396 – 658.
—to be addressed to Minister of Labour, 407 – 804.
—to Dominions Office not reached on any day, Mr. Speaker will look into it, 402 – 1169.
—to Prime Minister—*see* that Heading.
—transfer, 399 – 1178; 402 – 10; 408 – 1813, etc.; 410 – 190.
—transfer to another member, if member not able to be present, 406 – 1933.
—writing indistinct, 401 – 348.
—wrong answer, 408 – 1100.

Returns—*see* Papers.

Secret Sessions.
—matter discussed in, debate again in open Session, 402 – 905, 1608.
—proceedings of, cannot be referred to in open Session, 406 – 935.
—spying Strangers, 398 – 1053.
—statement in, not a matter for Mr. Speaker, 401 – 1878.

Select Committees—*see* Committees, Select.

Sitting.
—suspension of, by Mr. Speaker, 399 – 650; 403 – 487.

Speaker, Mr.
—accepts no responsibility for what a member says, 406 – 1740.
—*Amdt.(s)*, does not propose to call the, by, 398 – 262.
—*as the House would meet again in so short a time after the Prorogation, he did not propose to follow the ceremony of shaking hands with each hon. member individually*, 404 – 1440.
—bound by a decision of the House until it is repealed or altered, 400 – 2405.
—call of members of one side or another not all entirely in favour of the Government; length of speeches a factor too, 395 – 452.
—Closure—*see* that Heading.
—decisions of, challenging or disputing of, 410 – 821, 1947.
—duty of, only to see that *Q.* in order, 411 – 1658.
—has to look after the interests of the House and not of the *Govt.*, 411 – 1468, 1469.
—his statement of absence to attend Freedom of the City presented to General Eisenhower, 411 – 697.
—matter for *Govt.* and not for, 409 – 1318.
—matter improper to ask for Ruling upon, without Notice, 402 – 905.
—member's back turned on, 402 – 213.
—member has finished his speech and next member has been called, 406 – 988.
—Message to House, reserved for communications of ceremonial or non-political character from officially constituted Parliamentary bodies or their Presidents: Message laid on Library Table, 397 – 623.
—must not be referred to as " You ", 406 – 1522, etc.
—not for, to interpret meaning of a *Govt.* motion, 401 – 581.
—not in order to ask *Q.* of, about Report of *Sel. Com.*, 411 – 29.
—not in order to reflect on Speaker's Ruling, 401 – 1249.
—notifies that at a certain time in the Debate he will switch the debate over to Scottish members, 398 – 558.
—on suspension of Sitting, indicates the member to be called upon on resuming, 399 – 2153.
—papers, tabling of, outside province of, 399 – 766.
—Privilege—*see* that Heading; also Lords, House of.
—protector of minority opinions, 411 – 492.
—" *while I am on my feet the hon. member must resume his seat* ", 399 – 1156.
—*See also* Chair; Lords, House of.

Standing Order(s).
—Sittings of the House.
—motion for exemption from,
—can only be moved by a Minister, 397 – 853.
—must be moved without *amdt.* or debate, 396 – 709; 397 – 44, 662; 399 – 49; 404 – 964, 965; 410 – 1323.
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—the half-hour starts when the Business ends for which the Rule has been suspended, 396 – 551.

Strangers.

—Secret Session(s)—*see* that Heading.

Supply—*see* Debate; Finance; Lords, House of.

Ways and Means—*see* Debate; and Finance.

XVIII. APPLICATIONS OF PRIVILEGE

By the Editor

At Westminster.

Letter to Member.—On March 21,[1] in the House of Commons, the hon. member for Wallasey (Mr. G. L. Reakes) raised a question of Privilege, saying that he had received a communication from a firm of farmers, containing what, to him, was an obnoxious offer of monetary reward for services expected to be rendered. The whole idea had given the hon. member great annoyance, and would be found to be contrary to Parliamentary traditions and the traditions of public life. The hon. member took this earliest possible opportunity of bringing it before the notice of the House, hoping that it would agree to the usual procedure being followed in such cases.

Whereupon Mr. Speaker asked the hon. member to bring the communication to the Clerks-at-the-Table.

[*Letter delivered in and read as follows* :]

DFSH/HED.

Barochan House,
Houston,
Renfrewshire.
March 3, 1945.

George Reakes, Esq., M.P.,
House of Commons,
Westminster, S.W.1.

Dear Mr. Reakes,

Mrs. Donald Clerk appears to have had a word with you regarding my farming difficulties, and you have been so kind as to ask me to write to you.

I am sending on copies of the correspondence and perhaps when you have had time to peruse it you might advise me whether anything can be done.

I feel very strongly on this matter and would like to get a favourable decision, because I think the Department in Scotland is simply " dog in the manger " with every application from any quarter and refusing to allow a change of tenancy if the farmer who is in, is in the " A " class.

Should you be able to bring a successful conclusion to this case, I should like—if it would be in order—to donate a cheque for One Hundred Guineas to your Local Association for their Party Funds.

I shall await the favour of your reply.

With kind regards,
I am, Yours faithfully,
Don. F. S. Henderson.

P.S.—My member, Mr. H. J. Scrymgeour-Wedderburn, is on active service so that I am in order in going outwith my constituency for help.

[1] 409 *Com. Hans.* 5, s. 820.

On the motion of Mr. Reakes it was then:

Resolved.—That the matter of the Complaint be referred to the Committee of Privileges.

On March 23,[1] it was:

Ordered.—That Mr. Don. F. S. Henderson do attend the Committee of Privileges on Wednesday next at 11 o'clock.—[*Mr. Eden.*]

On May 3,[2] on Business of the House, Lieut.-Commander Hutchinson asked the Chancellor of the Exchequer (Rt. Hon. Sir John Anderson) if he realized that the matter of complaint referred to the Committee of Privileges on March 21 had not yet been reported to the House, which had entailed the person, the subject of the complaint, being under suspicion for more than 6 weeks. "Will the Chancellor take steps to expedite the presentation of the Report?"

To which the Chancellor remarked that it was a matter for the Committee, not for the Leader of the House.

Earl Winterton then asked if it was in order to raise this question at all. If so, might he, as a member of the Committee, point out that the Committee must immediately come to a decision, and the sole reason why the Report had not yet appeared had nothing to do with them. It was concerned with the mechanism of printing.

Report.—On March 28,[3] the Report[4] from the Committee of Privileges, with Minutes of Evidence and an Appendix, was brought up and read, whereupon it was ordered that the Report, etc., lie on the Table and be printed.

The Report read as follows:

1. The law of Parliament regarding the offer of bribes to members is stated in May's *Parliamentary Practice*, 13th ed., p. 93, as follows:

"On the 2nd May, 1695, the House [of Commons] resolved that 'the offer of money, or other advantage, to a member of Parliament for the promoting of any matter whatsoever depending or to be transacted in Parliament is a high crime and misdemeanour.' In the spirit of this resolution, the offer of a bribe in order to influence a member in any of the proceedings of the House, or of a Committee, has been treated as a breach of privilege, being an insult, not only to the member himself, but to the House."

2. It will be seen that the resolution refers to matters depending or to be transacted in Parliament. In the present case the letter invited the member to take up a matter with a Minister. In such a case a member need not, of course, raise the matter in Parliament, but he always can put down a question or raise the matter in other ways in the House, and it is mainly because a member has this power that constituency cases are put to him.

3. Your Committee have no doubt that an offer of money or other advantage to a member in order to induce him to take up a question with a Minister would be a breach of privilege within the principle laid down in the Resolution of 2nd May, 1695.

4. In the present case, however, there are two circumstances which, in Your Committee's opinion, are of importance. In the first place the offer is not an offer to the member and in the second Mr. Henderson asks whether the dona-

[1] *Ib.* 1153. [2] 410 *Ib.* 1597. [3] *Ib.* 1393. [4] H.C. Paper 63 of 1944-45.

tion would be in order. Your Committee have seen Mr. Henderson and are completely satisfied that he had no intention of offering a bribe and that the question was asked in the most complete good faith. They therefore conclude that no breach of privilege was committed by Mr. Henderson.

5. Without seeking to lay down what would amount to breach of privilege in hypothetical cases, Your Committee are of opinion that any offer, whether for payment to a member's Association or to a charity, conditional on the member taking up a case or bringing it to a successful conclusion is objectionable.

March 28, 1945.

The only witness called was Mr. Don. F. S. Henderson, and during the course of the short evidence the witness was asked[1]:—Why did you put in the phrase—" if it would be in order "? Was there a doubt in your mind as to the propriety of it ?; to which the witness replied:

> It is a difficult question to answer, because one knows one dare not offer any money, and I would not insult any gentleman even outside of Parliament with an offer, and I knew I was writing a member, and if there was any doubt I wanted to be in the right on it; and I think my letter states that I asked for guidance, and I expected to get it from him. But there was no suspicion in my mind that I was bribing him. I did not offer him the money.

The following letter, dated March 22, 1945, from Mr. Don. Henderson, addressed to the Clerk of the House of Commons, is recorded as the Appendix to the Select Committee's Report:

Letter from Mr. Donald Henderson to the Clerk of the House.

BAROCHAN HOUSE,
HOUSTON,
RENFREWSHIRE.
Thursday, Twenty-second March, 1945.

THE CLERK,
THE HOUSE OF COMMONS,
WESTMINSTER, S.W.1.

SIR,

I am pained to find from the columns of *The Glasgow Herald* this morning, that the letter which I sent to Mr. George Reakes, M.P., has been made public in the House and has apparently had the construction put upon it which it has.

Anything suggestive of bribery is abhorrent to me, and I note that in making the suggestion of the donation I had mentioned " if in order ". In these circumstances I would have expected Mr. Reakes to communicate with me.

Mr. Reakes was mentioned to me by a friend of his. I had no personal knowledge of him, and it was not until the day following the despatch of my letter to him that I learned he was an Independent member.

If a construction savouring of bribery or corruption can be attached to my letter, I would respectfully ask the House to accept my most sincere and humble apologies as nothing was further from my mind when the letter was written.

I am, Sir,
Your obedient servant,
DON. F. S. HENDERSON.

Secret Session : Discharge of part of Order of June 18, 1942, *and reprinting of Report.*[2]—On December 19, 1945,[3] in the House of Commons, Order (June 18, 1942) relative to the Report from the Committee

[1] Question 4. [2] *See also* JOURNAL, Vol. XI-XII, 217, 244, 249. [3] 417 *Com. Hans.* 5, s. 1437.

of Privileges on the matter of the complaint referred to their consideration on May 5, 1942, read.

The Lord President of the Council (Rt. Hon. H. Morrison) in moving:

> That so much of the Order (June 18, 1942) as relates to the disclosure, or purported disclosure, of the contents of the Report of the proceedings of, or evidence taken before, the Committee in reference to such complaint, or any portion or the substance thereof, be discharged.

said that the motion was consequential upon that to which the House had just agreed.[1] The motion refers to the Report of the Committee of Privileges presented June 23, 1942, and the proceedings which led up to that Report. It refers to Mr. Speaker's report of what took place in the Secret Session of June 25, 1942, and reported in *Hansard*.[2]

The hon. member concerned was absolved of the charge against him, but they felt that it was only fair to ask the House to agree to publication in full of the Report of the Committee of Privileges in the case.[3]

This motion was necessary, because the Journal only recorded the fact that the House agreed with the Committee of Privileges in their Report on the charge brought, but it did not say what the finding of the Committee was, and that seemed to them unfair, as a record, in relation to the hon. member concerned.

While the motion which the House had just passed would make it possible to disclose anything said in the debate on the Report, it would still be forbidden, unless the motion he was now moving was passed, to disclose anything about the contents of the Report accepted in Secret Session. They were satisfied that there were no security objections to publication, and they thought further, for the reasons that he gave on the previous motion, that it was right for the sake of the public and the country that when the risks to security had passed the security ban should be lifted.

The hon. member for Nuneaton (Mr. F. G. Bowles) on a point of order requested Mr. Deputy-Speaker to ask hon. members not to refer to this in any detail in case they did not pass the motion. Surely they did not want to refer to him by his constituency until this motion had been passed?

Mr. Deputy-Speaker (Major Milner): "I think that would be desirable. I doubt if I have any authority to enforce it upon hon. members, but I hope they will be good enough to abide by that suggestion."[4]

The hon. member for Horsham (Earl Winterton) said that this was the first time there had been any motion which took away from the Committee of Privileges the right that it had at the time, of meeting

[1] *See* Article III in this issue.—[ED.]
[2] *See* JOURNAL, Vol. XI-XII, 249.
[3] 417 *Com. Hans.* 5, s. 1437.
[4] *Ib.* 1438.

in secret. Would the rt. hon. gentleman make it plain that this ought not in any way to be taken as a precedent ?

In order to do justice to the hon. member, continued the noble Lord, all that was necessary was the following motion:

> That so much of the Order (June 18, 1942) as relates to the disclosure, or purported disclosure, of the contents of the Report of the Committee of Privileges on the matter of the complaint referred to their consideration on May 5, 1942, be discharged.

The motion before them went much further; it said—" or of the proceedings of ".

What right had they to publish evidence of witnesses before the Committee when they were told that their evidence was secret ? Had the witnesses who gave evidence been consulted as to whether they had any objection to the evidence being made public ? He should have thought it would have been far better merely to publish the Report, which would be amply sufficient to show that any member accused in any way in connection with these matters had been discharged as not guilty of the offence.[1]

Mr. Bowles said that the rt. hon. gentleman would remember that there were 2 hon. members, one within a month of the other, who were taken before the Committee of Privileges.[2] The other hon. gentleman was never referred to by name, when the question was put to Mr. Speaker as to whether there had been a breach of Privilege. Therefore why bring this matter up again ?

Would the rt. hon. gentleman be prepared to disclose to the public the Cabinet Minutes of 15, 20 or 30 years ago ? Surely Cabinet Ministers met in real belief that always would their Cabinet conversations be kept secret.[3]

The Lord President of the Council (Rt. Hon. H. Morrison) said that there were 3 points involved. The decision which the House had just revoked[4] would cause the name of the hon. member concerned to appear in the Journals of the House with certain implications of improper conduct on his part—implications, that was all. Unless the Report of the Committee of Privileges, which clearly on its recommendations came out in his favour, was now released from the ban, the hon. gentleman was without proper clearance and therefore there would be implications against him in the Journals without the Report of the Committee which cleared him. At any rate he had an agreement with the hon. gentleman, who was himself a bit worried about the first motion,[5] if something was not done on the lines of the second.[6] The Minister could not see that there was anything but the greatest liberal feeling on the part of the Government in the matter.

The Minister also said that in the House on June 18, 1942,[7] his rt.

[1] *Ib.* 1440. [2] *See* JOURNAL, Vol. XI-XII, 239 *et seq.*—[ED.] [3] 417 *Com. Hans.* 5, s. 1442. [4] *See* JOURNAL, Vol. XI-XII, 237-50.—[ED.] [5] *See* Article III hereof.—[ED.] [6] 417 *Com. Hans.* 5, s. 1445. [7] *See* JOURNAL, Vol. XI-XII, 244.

hon. friend the present Prime Minister moved a motion of a most exceptional order fettering the ordinary process of publication of a Report of the Committee of Privileges with regard to this case. The Minister's recollection was that the Committee was fettered because the whole thing was bound up with what had happened in Secret Session.[1] Therefore, had a Secret Session followed, the Report would have had to be secret also. All this was most exceptional, and on the grounds of general principle thoroughly objectionable. The purpose of the motion was to get rid of this exceptional interference with the Committee of Privileges. The Minister justified this case on its merits and considered that it should not be held to be a precedent as to future conduct. In this case, they did not propose to print the Minutes of Evidence, although he admitted that they were proposing to lift the privilege ban from the proceedings of the Committee and the evidence taken before it. The documents were in the possession of the Officers of the House, and no doubt they would exercise a proper discretion as to whom they would be made available to.

The simple issue was that the original motion would put the name of the hon. member concerned in a certain light in the Journals of the House. It was not fair to leave it there. In fairness to the hon. member, they must publish the Report. He was to have been in the House and might have taken part in the debate. No doubt he had had to go, but it was weeks, if not months, ago that he (the Minister) had had a conversation with the hon. member about the first motion, which he (the Minister) knew would raise this issue,[2] and in fairness to him the Minister had had a talk with him about it.

The second motion he was moving was a result of that conversation and was a concession as to what he thought was a fair point made on his behalf.

The Minister assured the House that the motion was moved out of a sheer sense of justice to the hon. member, to whom, otherwise, an injustice would be done.[3]

Question was then put and agreed to.

It was then ordered that the Report[4] (without the Minutes of Evidence) be reprinted.

The Report [No. 47] is headed:

> The Committee of Privileges to whom the matter of the complaint of a statement alleged to have been made by Mr. Granville, member for the County of Suffolk (Eye Division), purporting to disclose the substance of part of a speech made by the Prime Minister in the course of proceedings during the Secret Session of Thursday, April 23, 1942, was referred:—Have agreed to the following Report:

Para. 1 of the Report states that the Committee had to report whether in their opinion a breach of Privilege had been committed by Mr. Granville by a disclosure of information obtained by Mr. Granville in the course of a Secret Session.

[1] 417 *Com. Hans.* 1445. [2] *Ib.* 1446. [3] *Ib.* 1447. [4] [No. 47.]

Sir Brograve Beauchamp had been informed orally and by letter by Dr. MacManus that Mr. Granville had, in the hearing of Dr. MacManus, said:

> " Winston told us in Secret Session—but I understand we are all friends here and that no one will let this go any further—our position in the Mediterranean is absolutely disastrous—we have not one capital ship left in this sea."[1]

Mr. Granville denies making this statement.[2]

Para. 4 of the Report then describes the informal gathering before dinner in a London flat at which the statement was reported to have been made. The Committee heard evidence on oath from Sir Brograve Beauchamp, Dr. MacManus, Mr. Granville, Major Mackenzie, Captain Hare, Mr. and Mrs. Hyams and Mr. Hill, present at such gathering. Mr. Granville was present throughout the hearing of the evidence and was given every opportunity of asking any questions which he desired and of addressing the Committee.

Para. 5 refers to Dr. MacManus ringing up Sir Brograve Beauchamp, saying that he had made a record of what Mr. Granville had said, and on the following day Dr. MacManus dictated a 6-paragraph letter to Sir Brograve and later lunched with him, the letter being received by Sir Brograve on his return to London on the following day.

The text of the letter is given in the Report, the second paragraph of the letter reading:

> Later, the same man said:
> (2) " Winston told us in Secret Session—but I understand we are all friends here and that no one will let this go any further—our position in the Mediterranean is absolutely disastrous—we have not one capital ship left in this sea."

The closing paragraph of the letter reads:

> I must add that, in order to be accurate as to the words used in this conversation, I wrote it down as soon as I returned home and within half an hour of the actual utterance.[3]

The Committee state that they were only concerned with paragraph 2 of the letter[4] and were satisfied that the letter reproduced what Dr. MacManus had recorded on the previous evening and had stated to Sir Brograve at lunch, although the record written the previous evening was destroyed after Dr. MacManus had embodied its contents in a letter.[5]

The Committee remark that a very important element in the case was how far the words represented what was said in Secret Session and represented a state of affairs unknown to the public and unlikely to have been imagined by Dr. MacManus. The Prime Minister in his speech in the Secret Session described the heavy losses in the Mediterranean which led to our having for a period no capital ship available. Dr. MacManus who, though excitable and indignant, impressed the Committee as a witness convinced of the truth of what he

[1] *Rep.*, § 2. [2] *Ib.* § 3. [3] *Ib.*, p. 3. [4] *Ib.*, p. 4. [5] *Ib.* § 6.

was saying and acting under a sense of public duty, told the Committee that he had not heard from any other source that we had no capital ships in the Mediterranean. Mr. Granville agreed that it was to him a puzzle how Dr. MacManus had come to believe that he heard the words to which he swore.[1]

In regard to the others named, the Committee remark that the conversation was discursive and that it was not surprising that the witnesses did not have a clearer recollection of everything said after the lapse of some days.[2]

In the result the decision depended on the evidence of Dr. MacManus and Mr. Granville, with any assistance that could properly be derived from all the circumstances.[3]

Mr. Granville in his evidence said the statement was completely untrue and was a muddled and garbled version of a conversation in a private house. Mr. Granville repudiated anything which could be properly construed as causing the " alarm and despondency " which had been the impression created in Dr. MacManus' mind.[4]

The last 2 paragraphs of the Committee's Report read:

12. The conversation was clearly disconnected and roamed over a wide field. We have already expressed our opinion that Dr. MacManus was giving evidence in complete good faith according to the best of his recollection and the notes he had made. On the other hand it is difficult to be certain as to the accuracy of evidence of a conversation of this kind. Dr. MacManus said he did not make certain other remarks to which other witnesses deposed, and though they may not have been completely accurate in their recollection, we think that he was inaccurate in saying that he had made no such statements. We do not think it necessary to set out these remarks in detail as they are not directly related to the question of privilege. The conflict of evidence, however, illustrates the difficulty of accurate recollection of a lengthy conversation of this kind.

13. We have set out certain important points of the evidence at some length because it is on an assessment of this evidence that any conclusion must depend. In order to find any charge proved, and this is a serious charge, those who have to come to a decision must be satisfied beyond reasonable doubt. Having considered all the evidence Your Committee are not so satisfied, and they therefore report—

That the charge against Mr. Granville of having committed a breach of the privilege of this House has not been proved.

The Report of the Committee is dated June 9, 1942, and it was ordered by the House of Commons to be reprinted, December 19, 1945.

Private Member's Motion: Question of Privilege.—On June 1,[5] in the House of Commons, the hon. member for Birmingham (Handsworth) (Comdr. O. Locker-Lampson) rose on a point of order stating that a motion in the name of the hon. and gallant member for Peebles and Southern (Captain Ramsay) had appeared on the Order Paper, and the hon. member for Birmingham (Handsworth) inquired if he

[1] *Ib.*, § 8. [2] *Ib.*, § 9. [3] *Ib.*, § 10. [4] *Ib.*, § 11. [5] 411 *Com. Hans.* 5, c. 491.

was entitled to ask whether the motion was not a breach of Privilege; whether it might not also lead to every sort of serious legal consequence, and how did it get on the Order Paper?

The motion read:

[*That this House realizes that the protection afforded to His Majesty's liege subjects from arrest and punishment without trial and from Jewish extortion and exploitation by the provisions of Magna Carta signed at Runnymede in 1215, confirmed and elaborated by the Statute of Jewry passed in 1290 under Edward I, rightly acknowledged as one of the greatest lawgivers of this Realm, was mistakenly and harmfully impaired by the repeal of the Statute of Jewry in 1846, in the ninth year of Queen Victoria's reign; that the repeal of this Act released the very evils which Magna Carta and the Statute of Jewry recognized and against which they were specifically directed; that these evils have from that moment reappeared in ever-growing proportions; that they have now become a grievous menace to His Majesty's liege subjects throughout the Realm and are in turn evoking a rising tide of public feeling against the Jewish nation; that the Statute of Jewry provided for protection from all violence for all Jews who obeyed its provisions; and this House therefore calls upon His Majesty's Government to reintroduce the Statute of Jewry and enforce its provisions.*]

Mr. Speaker said: –

The motion in the name of the hon. and gallant member for Peebles and Southern (Captain Ramsay) was carefully examined before it was put on the Order Paper, and is in order, but whether one agrees with the views expressed or not is entirely another matter. My only duty is to see that the motion is in order, and if so, as protector of minority opinions, I am bound to accept it.

Union of South Africa.

Senate (*Attendance of Senator before Select Committee of the House of Assembly during long Adjournment of Senate*).—On March 12,[1] Mr. President reported that, in terms of s. 6 of the Powers and Privileges of Parliament Act, 1911,[2] he had granted leave during the adjournment (February 2–March 11) to Senator the Hon. S. J. Smith for the purpose of giving evidence before a Select Committee of the House of Assembly.

The said s. 6 reads:

No member or officer of Parliament requested to attend before a House, or any committee of the House, of which he is not a member or official, shall be at liberty or bound so to attend without the consent or order of the House of which he is a member or officer, or the consent of the President or Speaker (as the case may be), during an adjournment of such last-mentioned House.

Obstruction during Session in the Streets leading to the Houses of Parliament.—One of the earliest references to Privilege of Parliament in England is contained in an article relative to secular laws taken from the Laws of King Canute dating from the beginning or middle of the eleventh century, the translation of which, from the Anglo-Saxon, reads:

[1] 1945 MIN. 35. [2] No. 19 of 1911.

And I will that every man be entitled to grith (*i.e.*, security) to the Gemôt —and from the Gemôt—except he be a notorious thief.[1]

Provision is also made by both Houses at Westminster by Sessional Order for instruction to be given to the Commissioner of Police at the beginning of every Session to facilitate the attendance of members without interruption, that he shall keep, during the Session of Parliament, the streets leading to the House of Parliament free and open, and that no obstruction shall be permitted to hinder the passage thereto of the Lords or Commons. References are made in May to orders given to the local authorities to disperse tumultuous assemblages of people obstructing the thoroughfares, lobbies or passages.

It is also enacted,[2] with the same object, that not more than 10 persons shall repair together to the Houses of Parliament for the purpose of presenting a petition; and that not more than 50 persons shall meet together within the distance of one mile from the gate of Westminster Hall, save and except such parts of the parish of St. Paul's, Covent Garden, as are within the said distance, to consider or prepare a petition or other address to both Houses, or either House, of Parliament, on any day on which these Houses shall meet and sit.

And whenever an Overseas Parliament or Legislature has conferred upon it by its constitution, or its own Act, powers, privileges and immunities of the 2 Houses and of the members and Committees of each House, there is usually a saving provision that such powers, etc., shall not exceed those enjoyed at that time by the Imperial House of Commons, members, etc., thereof. Therefore under such provision alone any Overseas Parliament or Legislature which has such powers conferred upon it by such an enactment, enjoys the powers, etc., of the Imperial Commons House as above outlined.[3]

The Clerk of the Union House of Assembly reports that, upon earning that a demonstration would be held at the Houses of Parliament, Cape Town, on Wednesday, January 31,[4] in connection with the food shortage, steps were taken before the House met to prevent a possible disturbance within the precincts of Parliament. When the House met, the Leader of the Opposition (Dr. the Hon. D. F. Malan), on a question of Privilege, drew Mr. Speaker's attention to the fact that police were preventing members of the public from entering the precincts of Parliament, and asked Mr. Speaker whether they were acting under the authority of Mr. Speaker or the Government. Mr. Speaker stated that the control of the buildings and grounds of the House of Assembly was exercised by Mr. Speaker and that it was his duty to take such precautions as he considered necessary to prevent a demonstration in the vicinity of Parliament which might lead to disorder. The arrangements referred to by the hon. member were made under his authority.[5]

[1] *South African Parliamentary Manual*, 1909, p. 262. [2] 13 Car. II, Stat. 1, c. 5; 57 Geo. III, c. 19, s. 23. [3] May, 13th ed., 180. [4] 1945 VOTES, 91; 51 *Assem. Hans.* 471; *see also* Union Act No. 19 of 1911, s. 10 (5) & 8. [5] Similar powers are conferred upon Mr. President in regard to the Senate.—[ED.]

Southern Rhodesia.

Divulging Proceedings of Secret Session.—On April 19, 1945, the House went into Secret Session on the motion moved by the Prime Minister:

That in the opinion of the House an international airport capable of accommodating the largest airliners should be established in the Colony.

On April 23, a letter written by the hon. member for Salisbury Central (Captain E. P. Vernall) to the Mayor of Salisbury was published in the local newspaper, containing certain details of the secret debate, in particular the following passage:

The Union Government of South Africa agreed that should Southern Rhodesia turn down the proposal then they would build an aerodrome at Lusaka and at the expense of their Government. There is a great difference of opinion based on the cost of such an enterprise and the greatest opposition comes from the Parliamentary members of Gwelo and Bulawayo.

When the House met on that day, the hon. member for Bulawayo Central (W/Cmdr. Eastwood) drew Mr. Speaker's attention to the letter and handed in a copy of the newspaper in question, alleging that the disclosure in the passage quoted constituted a breach of Privilege. Mr. Speaker stated that the hon. member had established a *prima facie* case, and asked Captain Vernall for an explanation of his conduct in disclosing the information. Captain Vernall thereupon explained the reason for his conduct, expressed his regret and, having apologized to the House, withdrew. Mr. Speaker said that, as attention had been drawn to the matter and the hon. member had apologized and expressed his regret, he thought that no further action need be taken in the present instance.

On the motion of the Minister of Internal Affairs it was resolved that no further action be taken. Captain Vernall was thereupon notified that his attendance was required in the House and, having resumed his seat, Mr. Speaker informed him of the decision of the House.[1]

British India : Madras.

Freedom of Speech.—The provisions relating to Privilege are: (1) Freedom of speech (Government of India Act,[2] s. 72D (7)); (2) Freedom from arrest (Act No. 23 of 1925—p. 107 of the *Legislative Council Manual*, Vol. I). There is no other enactment relating to this subject. If a person connected with the Press offends the authority of the President, the latter can instruct the Council Office not to show him any of the concessions, or supply him with any information supplied to the Press, and he can also refuse a ticket of admission to the Press gallery if he applies for one. On April 1, 1924

[1] 1945 VOTES, 17. [2] 5 & 6 Geo. V, c. 61; 6 & 7 Geo. V, c. 37; 9 & 10 Geo. V, c. 101; 12 & 13 Geo. V, c. 20; 14 & 15 Geo. V, c. 28; 15 & 16 Geo. V, c. 83; and 17 & 18 Geo. V, c. 8, 24 and 40.

the *Swarajya* attacked the President in language which was regarded as inconsistent with his dignity and impartiality. The matter having been brought to the notice of the President, and the editor having refused to apologize, a motion was made in the Council in the following form:

That this House views with strong disapproval the action of the *Swarajya* in impugning the impartiality of its President.

When the motion came up for consideration, all sides of the House seemed anxious to support the Chair, but felt that the House had no adequate power to deal with contempts of any kind. What were construed as attacks on the Chair were taken notice of on 2 subsequent occasions—namely, in respect of an article in the *Madras Mail*, dated January 28, 1927, and of an article in *Justice*, dated August 8, 1929. But in either case, the paper came forward with an assurance that it had no intention of saying anything in disparagement of the President's dignity, and the assurance was accepted.[1]

Ceylon.[2]

Newspaper Libel on the State Council.—On June 14, 1944, the late hon. member for Narammala (Mr. Sripala Samarakkody) brought to the notice of Mr. Speaker the following extract from an article in the *Ceylon Daily News* of the 10th *idem* headed:

CEYLON'S REPRESENTATION IN INDIA. SIR BARON'S ERSTWHILE CRITICS CASHING IN ON HIS POPULARITY.

It is this same Council that fell upon each other with sobs at the passing away of the great man! There is ample reason to think that the elaborate arrangements made by the State Council for Sir Baron's (Jayatilaka)[3] cremation were insincere, and dictated not so much by the desire to honour him in the most suitable way but to create precedents for themselves and elevate themselves in the public estimation upon the dead body of the man whom "they kicked upstairs because they could not kick him down!" This is the truth as it strikes many thousands of people in the country. It may be very unpalatable to the State Council. The subject itself is certainly very unpleasant.

The hon. member submitted that this was a false and scandalous libel under s. 16 of the Privileges Ordinance, and requested Mr. Speaker to take notice of the article.

The hon. the Legal Secretary (Hon. Sir R. H. Drayton) drew attention to s. 16 (*h*) of Ordinance 27 of 1942.[4]

Mr. Speaker expressed the view that *prima facie* the extract from the article was a scandalous libel on the Council, and said:

[1] Contributed by the Deputy-Secretary of the Legislature.—[ED.] [2] *See also* JOURNAL, Vols. IV, 34; X, 76; XI-XII, 256, 261. [3] Representative of the Ceylon Government in India and formerly Minister of Home Affairs and Leader of the State Council.—[ED.] [4] Section 16 reads: any person who—(*h*) publishes any false or scandalous libel on the Council—shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees.—[ED.]

The hon. member has drawn my attention to this paragraph, and asks me to see whether there is a *prima facie* case of breach of privilege. As I said, this is the first case of its kind after the Ordinance was passed. Section 16 (*h*) of the Ordinance says that it is open to the Attorney-General to sanction a prosecution when he thinks that a *prima facie* case has been made out for a scandalous libel on the Council. It is not for me to decide. . . . But I want to find out whether, apart from that section, this Council has power to consider whether a breach of privilege has been committed.[1]

On the same day, with the approval of the Board of Ministers, it was moved and seconded:

That a Select Committee of this House consisting of: (*here follow 7 names*) be appointed to consider and report whether a breach of privilege has been committed in the publication in the *Daily News* of June 10, 1944, of the article entitled " Ceylon's Representation in India. Sir Baron's erstwhile critics cashing in on his popularity," and more particularly in the paragraph (*above*) specifically brought to the notice of the House.

Question was proposed, and after debate put and agreed to.[2]

On the 16th *idem* this Committee was authorized " to send for persons, documents and papers as it may deem necessary".

The Select Committee on Privileges held 6 meetings between June 15, 1944, and September 20, 1945, and at their first meeting asked for power to send for persons, etc. (*see supra*). The Chairman of the Board of Directors, Associated Newspapers of Ceylon, Ltd., and the editor of the *Ceylon Daily News* were called and examined.

The Committee in their Report state[3] that there is no doubt in the minds of its members that the publication of the article in question is a scandalous libel on the State Council (as the Legislature of Ceylon is called), and that its publication constitutes an offence under s. 16 (*h*) of the State Council Powers and Privileges Ordinances.[4]

As to whether the publication of the article in question constitutes a breach of Privilege, the Committee point out that such Ordinance sets out all the privileges of the Council subject to s. 33 thereof, which saves the rights, powers and privileges enjoyed prior to the enactment of the Ordinance, and that as it does not provide that the publication of a libel on the Council is a breach of Privilege, the publication of such a libel would not constitute a breach of Privilege unless it can be established that a privilege of that nature existed prior to the enactment of the Ordinance.[5]

The Committee further quote Art. 73 of the Constitution, which reads:

A law may be enacted in accordance with this Order defining the privileges, immunities, and powers to be held, enjoyed, and exercised by the Council and the members thereof; provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom and Northern Ireland or the members thereof. (*Order in Council, 20th March,* 1931, *as amended* 1934, 5 & 7.)

[1] 1945 *Cey. Hans.* No. 21, 1498. [2] 1944 MIN., item 3, June 14, 1944. [3] *Rep.*, § 2. [4] No. 27 of 1942. [5] *Rep.*, § 3.

Some of the privileges, immunities or powers of the State Council have been defined by the Ordinance above mentioned, and those not so defined have been saved by s. 33 thereof, which reads:

Nothing in this Ordinance shall be deemed, directly or indirectly, by implication or otherwise, in any way to diminish the rights, privileges, or powers of the Council, whether such rights, privileges or powers are held by custom, statute or otherwise; and the omission to define by this Ordinance all privileges, immunities and powers which could have been so defined in the exercise of the powers conferred by Article 73 of the Order in Council shall not at any time for any purpose be construed in derogation of the right hereafter to define by Ordinance any such privilege, power or immunity which is not expressly mentioned in this Ordinance.

The Committee here observe that it would appear that the rights, privileges and powers held by custom, statute or otherwise not defined by expressed law cannot be enforced until they have been defined by Ordinance. The practice of the Commons has been to treat a libel on Parliament as a breach of Privilege, and there are several instances where indignities offered to the character or proceedings of Parliament by libellous reflections have been punished as breaches of Privilege. Protection against libellous reflections is an inherent right of the Legislature, and the publication of the article in question is a distinct breach of Privilege.[1]

As to the manner in which breaches of Privilege of this nature should be punished, the Committee remark that it has been pointed out that the Ceylon State Council is not a Court, has no punitive powers whatever, and that the only method of punishment for the publication of a false or scandalous libel on the Council is by a prosecution with the sanction of the Attorney-General under s. 16 of the Ordinance.

The power of the House of Commons to commit the authors of libels, which was questioned before the Court of King's Bench in 1811 (Burdett *v.* Abbot), was admitted by all the Judges of that Court, without a single expression of doubt, and in this connection it is relevant to bring to the notice of the Council certain observations by Lord Ellenborough, Chief Justice in that case:

The privileges which belong to them (*i.e.*, the two Houses of Parliament) seem at all times to have been, and necessarily must be, inherent in them, independent of any precedent: it was necessary that they should have the most complete personal security, to enable them freely to meet for the purpose of discharging their important functions, and also that they should have the right of self-protection: I do not mean merely against acts of individual wrong; for poor and impotent indeed would be the privileges of Parliament, if they could not also protect themselves against injuries and affronts offered to the aggregate body, which might prevent or impede the full and effectual exercise of their Parliamentary functions. This is an essential right necessarily inherent in the supreme Legislature of the Kingdom, and of course as necessarily inherent in the Parliament assembled in two Houses as in one. The right of self-protection

[1] *Rep.*, § 4.

implies, as a consequence, a right to use the necessary means for rendering such self-protection effectual. Independently, therefore, of any precedents or recognized practice on the subject, such a body must *a priori* be armed with a competent authority to enforce the free and independent exercise of its own proper functions whatever these functions might be. On this ground it has been, I believe, very generally admitted in argument, that the House of Commons must be and is authorized to remove any immediate obstructions to the due course of its own proceedings. But this mere power of removing actual impediments to this proceedings would not be sufficient for the purposes of its full and efficient protection; it must also have the power of protecting itself from insult and indignity wherever offered, by punishing those who offer it. Can the High Court of Parliament, or either of the two Houses of which it consists, be deemed not to possess intrinsically that authority of punishing summarily for contempts, which is acknowledged to belong, and is daily exercised as belonging, to every Superior Court of Law, of less dignity undoubtedly than itself? And is not the degradation and disparagement of the two Houses of Parliament in the estimation of the public, by contemptuous libels, as much an impediment to their efficient acting with regard to the public, as the actual obstruction of an individual member by bodily force, in his endeavour to resort to the place where Parliament is holden? And would it consist with the dignity of such bodies, or what is more, with the immediate and effectual exercise of their important functions, that they should wait the comparatively tardy result of a prosecution in the ordinary course of law, for the vindication of their privileges from wrong and insult? The necessity of the case would, therefore, upon principles of natural reason, seem to require that such bodies, constituted for such purposes, and exercising such functions as they do, should possess the powers which the history of the earliest times shows that they have in fact possessed and used. . . .

Thus the matter stands upon the authority of precedents in Parliament, upon the recognition by statute, upon the continued recognition of all the Judges, and particularly of Lord Holt, who was one of the greatest favourers of the liberties of the people, and as strict an advocate for the authority of the common law against the privileges of Parliament as ever existed. I should have thought that this was a quantity of authority enough to have put this question to rest (which alone I am now considering), that is, whether the House of Commons has the power of commitment for a contempt of their privileges. What is there against it? Is it inexpedient that they should have such a power? And I am now confining myself to the limits in which it is exercised in the case before us. I have already said that *a priori*, if there were no precedents upon the subject, no legislative recognition, no practice or opinions in the Courts of Law recognizing such an authority it would still be essentially necessary for the Houses of Parliament to have it; indeed that they would sink into utter contempt and inefficiency without it. Could it be expected that they should stand high in the estimation and reverence of the people, if, whenever they were insulted, they were obliged to wait the comparatively slow proceedings of the ordinary course of law for their redress? That the Speaker with his mace should be under the necessity of going before a grand jury to prefer a bill of indictment for the insult offered to the House? They certainly must have the power of self-vindication and self-protection in their own hands; and if there be any authenticity in the recorded precedents of Parliament, any force in the recognition of the Legislature, and in the decisions of the Courts of Law, they have such power.

The Committee in para. 6 of their Report state:

The procedure provided in the State Council Powers and Privileges Ordinance (No. 27 of 1942) for dealing with offences under that Ordinance is clearly not one which is consistent with the dignity of the State Council. As at

present there is no satisfactory provision to deal with an offence of this nature we recommend that no further notice be taken of the article on question. We might, however, add that the newspaper published in its issue of August 26, 1944, the following correction:

LYING-IN-STATE OF SIR BARON JAYATILAKA.

A Correction.

A statement to the effect that the State Council made arrangements for the cremation of Sir Baron Jayatilaka appeared in our issue of the 10th June, 1944, in an article entitled "Ceylon's Representation in India". It has recently come to our knowledge that the statement was inaccurate and that the only part in the funeral arrangements that can be ascribed to the State Council is the loan of the State Council Building by the Speaker with the approval of the House Committee. We regret that the inaccuracy and the implications arising therefrom have received publicity.

The Committee further remark that the inquiry disclosed "an extremely unsatisfactory position with regard to the privileges of the Council in that":

(*a*) The privileges have not been fully defined; and
(*b*) There is no adequate provision to punish or to prevent breaches of its privileges.

The Dominion Parliaments which had in their Constitutions provision similar to Article 73 of our Order in Council, have well exercised that power given to them and defined their privileges, immunities and powers to be the same as those held, enjoyed and exercised by the Commons House of Parliament of Great Britain and Ireland. The relevant sections in the Constitution Act of Victoria (Australia) read as follows:

The Council and the Assembly respectively and the committees and members thereof respectively shall hold, enjoy and exercise such and the like privileges, immunities and powers as, and the privileges, immunities and powers of the Council and the Assembly respectively and of the committees and members thereof respectively are hereby defined to be the same as, at the time of the passing of the Constitution Statute, were held enjoyed and exercised by the Commons House of Parliament of Great Britain and Ireland and by the committees and members thereof, so far as the same are not inconsistent with the said Statute or with any Act of the Parliament of Victoria, whether such privileges immunities or powers were so held possessed or enjoyed by custom statute or otherwise;

Any copy of the Journals of the House of Commons printed or purporting to be printed by the order or printer of the House of Commons shall be received as *prima facie* evidence without proof of its being such copy, upon any inquiry touching the privileges immunities and powers of the Council or the Assembly or of any committee or member thereof respectively.

The Committee observe that publication outside the Parliament House (Victoria) of a newspaper article adjudged by the Legislative Assembly of Victoria to be a libel on the Assembly is a contempt for which the Assembly has authority to commit.

The Report of the Committee concludes by stating that:

The Ceylon State Council, if it is to function effectively, should—both now and under a new constitution—be possessed of no less powers, and we recommend that steps be taken to bring the law with regard to the privileges of the Council into conformity with the position in the Dominions.[1]

[1] *Ib.* § 7.

The Committee's Report was brought up before the State Council on February 27, 1945,[1] and on March 6[2] the Hon. Mr. Senanayake moved:

> That the Report of the Select Committee on the matter of privilege raised on June 14, 1944, be taken into consideration; and that the recommendations made therein be accepted.

Whereupon the first part of the Question was put and agreed to.

The following are some arguments put forward in the debate during the subsequent proceedings.[3]

The Minister of Health (Hon. G. E. de Silva) remarked that[4] from the very beginning the Privileges Bill had been emasculated by the people who were in charge of it. One hon. member observed that there were some privileges assumed in the Bill that was brought before the previous Council which went even beyond the privileges enjoyed by the House of Commons, and that it was for that reason—owing to the outcry raised by the public—that the Bill was withdrawn.[5]

The Legal Secretary (Hon. J. H. B. Nihill) said that, in order to understand the whole position with regard to privileges appertaining to their House, one had to go back to the fountain-head, Art. 73 of the Constitution.[6] Privilege, so far as their House was concerned, must be in the nature of statutory Privilege.[7] It emerged quite clearly from the Report that scandals and libels on the House of Commons have been regarded as a breach of Privilege. The hon. the Legal Secretary further said that:

> The difficulty under our law as it stands is that if you regard this as a breach of privilege there is nothing more you can do in this matter. You may have a moral satisfaction that you have said that someone had committed a breach of privilege of this House. But as the law stands, you can do nothing further in the matter to punish the offender; and therefore that is why in the last paragraph of our Report we made the recommendation to the House that the present position is unsatisfactory and we think that the existing Privileges Ordinance should be reviewed in order that there should be a further definition of the privileges appertaining to the House of Parliament which are not sufficiently defined in the existing Privileges Ordinance, also that the amount of privilege appertaining to this House should be not less than that appertaining to His Majesty's Self-governing Dominions.[8]

The Chief Secretary (Hon. Sir R. H. Drayton) observed that a breach of Privilege meant an offence punishable by a Legislature having judicial powers which enabled it to punish; the State Council had not got those judicial powers which the House of Commons possessed by reason of the fact that its full title included the word "Courts"—it was still the Court of Parliament, and its complete title indicated that it had judicial powers by which it could punish breaches of Privilege.[9]

The hon. member for Jaffna (Hon. Mr. Mahadeva) remarked that

[1] 1945 *Cey. Hans.*, No. 17, 1207. [2] No. 21, *Ib.* 1467. [3] *Ib.* 1467-1528 No. 22 *Ib.* 1538-59. [4] No. 21 *Ib.* 1467. [5] *Ib.* 1482. [6] *Ib.* 1486. [7] *Ib.* 1487. [8] *Ib.* 1490. [9] *Ib.* 1492.

their House deliberately decided that acts, which would in England have been considered a breach of Privilege and dealt with by the House, must be carried to the Courts of Law. That was the decision embodied in the Ordinance. It might be unsatisfactory, because what their House decided to be a breach of Privilege a Court of Law might consider not worth punishing and acquit the accused.[1] He understood from the reading of the Report this: " Do not take it to Court. Do not ask the sanction of the Attorney-General and take the matter to Court." He did not agree with the Committee as regards that recommendation. He would like the sanction of the Attorney-General to be sought and the matter taken to Court.[2]

Mr. Molamure submitted that Art. 73 of the Constitution gave them all the privileges of the House of Commons, only they could not overreach those powers. Their Privileges Bill was introduced for a certain specific purpose, but the very kernel of the Bill was defective. For them to go to the Attorney-General and ask him to prosecute an offender on their behalf was not in keeping with the dignity of the House.[3] The privileges of the House of Commons were inherent in them whether they were defined in the Privileges Ordinance or not. But s. 33 made things a little different. So that although the powers and privileges of the House of Commons were inherent in them, having defined certain rights by the Ordinance, they could not act according to them, though they were inherent in them, till they defined them in another Ordinance.[4]

The hon. member for Matale (Mr. B. H. Aluwihare) submitted that the whole point of the law of Privilege was that punishment should be liable to occur quickly; that the whole business should not be put into cold storage, to be taken out years afterwards and for this person to be hauled before the Courts when the whole incident was forgotten, when punishment would lose all its point, lose all its sanction. " Think of the Managing Director of the *Daily News* appearing before the Magistrate's Court six months afterwards and paying a fine of anything from *Re.* 1 to *Rs.* 1000. . . . The speed of punishment is gone."[5] When the Privileges Bill was being discussed it was felt that Mr. Speaker's certificates should be a sufficient authority and mandate and should be an order to the Attorney-General to prosecute. Unfortunately not even that provision appeared in the Privileges Ordinance.[6]

The hon. member for Kandy (Hon. G. E. de Silva) read the following from Sir Gilbert Campion's *An Introduction to the Procedure of the House of Commons* (p. 49):[7]

The following punishments could be inflicted by the Houses of Parliament:

Admonition, addressed by the Speaker to the offender at the Bar attended by the Serjeant bearing the mace.

Reprimand, addressed by the Speaker, in the same circumstances, in cases

[1] *Ib.* 1493. [2] *Ib.* 1494. [3] *Ib.* 1495, 1496. [4] *Ib.* 1498. [5] *Ib.* 1503. [6] *Ib.* 1504. [7] pp. 49-50.

where the offence committed has been graver, and the offender is in the custody of the Serjeant.

Imprisonment. The offender is committed in the first instance to the custody of the Serjeant, and transferred to one of His Majesty's prisons. If a member he is imprisoned in the Clock Tower. In the old Journals the Tower or Newgate are frequently referred to. The period of imprisonment is during the pleasure of the House, but cannot extend beyond the prorogation.

Fines. The House of Commons has not imposed a fine since 1666, the doubt whether it is a court of record implying the further doubt whether it has power to impose fines. The House of Lords, on the other hand, is a court of record and does inflict fines.

The hon. member for Dedigama (Hon. D. S. Senanayake) observed that the sanction of the Attorney-General had to be obtained. The one person responsible for maintaining the dignity of the House was the Speaker. The hon. member considered that Mr. Speaker should be the one person to take action. The hon. member said that he would never vote for Mr. Speaker going to the Attorney-General for sanction.[1]

Upon Question being put on an amendment to the second part of the original motion to add the words—" except the recommendation made in paragraph 6 of the Report "—the House divided (Ayes, 19; Noes, 16).

Mr. Speaker then put the Question as amended:

> That the recommendation made in the Report be accepted except the recommendation made in para. 6 of the Report.

which was put and agreed to.

XIX. REVIEWS

May's Parliamentary Practice, 14th Edition.[2]—The history of Erskine May's famous treatise on the Law, Privileges, Proceedings and Usage of Parliament will need no elaboration for the readers of this JOURNAL, but the publication of the 14th edition, one hundred and two years after the original work, will be of particular value and importance to them. A new edition has not appeared for more than twenty years, and as the editor, Sir Gilbert Campion, states in his preface, " the results of a century of rapid political change had so altered the balance of procedure, in particular the relation between the old ground-work of practice and the novel accretion of standing orders, that the original statement of the rules had become overweighted with qualifications—to the extent, in some places, that the original text was in danger of becoming a historical introduction to the footnotes."

A radical change of form and rearrangement of material was there-

[1] *Ib.* 1522.

[2] *A Treatise on the Law, Privileges, Proceedings and Usage of Parliament.* By Sir Thomas Erskine May, K.C.B., D.C.L. 14th Edition. Edited by Sir Gilbert Campion, K.C.B., Clerk of the House of Commons. (1946. Butterworth and Co. (Publishers) Ltd. London. 75*s*.)

fore undertaken, and, as a result, the present volume, though some seventy or eighty pages longer, is far easier to consult and more attractive to handle than its bulky predecessor. Instead of retaining as far as possible the original structure of the work, and in accordance with previous practice adding a multiplicity of qualifying notes or paragraphs, the editor has undertaken the formidable and immensely laborious task of reconstructing and, in effect, rewriting almost the whole book. No one surveying the results of this bold decision can deny that it was right, or that the outcome has been other than highly successful. In the course of revision, however, many picturesque pieces of information and parliamentary lore have been deliberately sacrificed. The circumstances in which, on February 6, 1845, Queen Victoria was kept waiting by the Commons for upwards of half an hour, and in which Bogo de Clare, in 1290, suffered fine and imprisonment, are no longer alluded to in lengthy footnotes. But there are many important features which have been added since the previous edition.

Throughout the new edition a comprehensive regrouping of subjects, with a graded system of cross-headings, makes reference to any particular point an easy matter. The main rules are stated in large type; the minor rules, exceptions and examples, are dealt with in small type.

The extent to which the work has been remodelled will be apparent from the following brief analysis of the new arrangement.

An introduction to the thirty-six chapters of the new volume describes the whole of procedure as being based on the authority of (i) an Act of Parliament, or (ii) standing orders or resolutions of either House, or (iii) the ancient rules or practice, or, in the Commons, (iv) modern decisions of the Chair. These four forms of authority constitute the sources of parliamentary procedure.

Book I now comprises eleven chapters which deal with the constituent parts of Parliament, the powers and jurisdiction of Parliament, and the privileges of Parliament, the latter being defined as " the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals." The application of that privilege by Parliament and by the courts has been re-examined for the first time since Erskine May wrote the original work, and a new section classifies all acts and conduct which have been held to constitute a breach of privilege or contempt. Other chapters describe the prerogatives of the Crown in summoning and dissolving Parliament, the electoral process, and the qualifications for election.

Book II contains seventeen chapters—all of them either new or extensively rewritten—which cover the whole of the practice and proceedings in each House of Parliament, apart from private legislation procedure. The first chapter of this part of the work gives a picture of the setting

in which Parliament works, including a section on party machinery in Parliament. Next, the session of Parliament is analysed, showing the distribution of the time of a session between Government and Private Members' business. The items of business taken during a day's sitting, and the process of debate on each item, by motion, question and decision, are considered. The method of passing public Bills and the system of committees are then examined. Six chapters are required to describe the general rules and details of financial procedure, including the voting of supply, the authorization of new expenditure by financial resolution, ways and means procedure, and the financial functions of the House of Lords. Other sections are devoted to communications between the Crown and Parliament and between Lords and Commons, and to the form of petitioning Parliament. The growth of delegated legislation and the degree of parliamentary control over rules and orders made by Government departments under powers given by statute, are discussed, followed by the procedure of secret sessions and a description of other emergency war-time measures.

In Book III the complete revision of the standing orders relative to private business in both Houses, which took place in 1945, following the recommendations of select committees, has been recorded, and the codification of many hitherto unwritten conventions and rules of practice has enabled this Book to be considerably shortened; its seven chapters cover the field of legislation by private Bill, by provisional order, by special order, and by Scottish provisional order, in fifty pages less than the previous edition.

It might well be asked, after reading the foregoing paragraphs, what, if any, of the original work of Erskine May now remains, and a comparison between the ninth and present editions would certainly reveal few passages in the earlier work which have not either been excised or substantially rewritten. But Parliamentary practice and procedure form a living organism in a constant state of change and development, and the present edition amply recognizes this fact. The name " May " has become a household word wherever parliamentary procedure is studied, and to discontinue its use would be a real tragedy. This latest edition can, in fact, be regarded as a substantial tribute to the memory of the eminent author.

The student of parliamentary theory would do well to study the largely new chapters on privilege, into whose misty fields the present editor has been irresistibly lured. It is a fascinating subject for those interested in the British way of life, and this fascination is by no means lessened by the fact that many of the questions and problems raised are, in the main, still unresolved, and may give rise at any moment to some *cause célèbre* in the relations between Parliament and the Courts or Press. Some of the opinions are expressed controversially and might prove unacceptable to certain schools of thought, but without controversy there is no life. A further question, however, which arises is whether the space allotted to the historical treatment of

privilege is not disproportionate to the treatment of other branches of procedure which are of greater importance under modern conditions and which have been given a curtailed historical background. It might be thought that some of these chapters would be more appropriate to a work of a more historical nature; they will remain in this edition, however, as an interesting excursion into an absorbing subject.

By its revolutionary changes in matter and set-up, the present edition renders all previous editions of Erskine May more or less out of date. It is all the more important, therefore, that all the Parliaments of the Empire and all other institutions which, in any way, base their procedure and practice on that of the United Kingdom should be in possession of this book. All will then have a common knowledge of problems common to all and an unrivalled fund of experience upon which to draw.

Parliamentary Procedure.[1]—Since the publication of the *South African Parliamentary Manual* in 1909 (long since out of print) dealing with the procedure of the Parliaments of the former Cape of Good Hope, Natal, Transvaal and Orange River Colonies, which in 1910 became the 4 Provinces of the Union of South Africa, no book has been published on South African Parliamentary procedure.

Union was the outcome of the South African National Convention, 1908-9, which gave birth to the South Africa Act, 1909, under which the Union Parliament is constituted. Therefore it is more than fitting that a guide to the procedure of the Union House of Assembly should appear, showing the practice which has grown up these 35 years, based, as it is, largely on that of the Parliament of the Colony of the Cape of Good Hope, the oldest of the former South African Parliamentary institutions.

Mr. Ralph Kilpin is a son of the late Sir Ernest Kilpin, K.C.M.G., for many years Clerk of the old Cape House of Assembly and therefore has been almost born and bred in the atmosphere of Parliament. He is also the author of books dealing with the history of the old Cape Parliament, as well as pamphlets on various questions of Parliamentary procedure.

In his introductory note to the present publication, Mr. Kilpin says that it has 2 objects, first to assist those who, knowing little about Parliamentary procedure in South Africa, want to know more, and, secondly, to assist those who, having a knowledge of the subject, want a short guide to its sources of authority. Right well have these 2 objects been achieved, and the footnotes, so liberally supplied throughout the book, give the key to those sources.

South African Parliamentary precedents go back to 1853, when "representative government" was set up at the Cape of Good Hope. The other 3 Provinces have not had the same experience. The Trans-

[1] *Parliamentary Procedure—a Short Guide to the Rules and Practice of the House of Assembly of the Union of South Africa.* 180 pp. Med. 8vo. By Ralph Kilpin, J.P., Clerk of the House of Assembly. (Juta and Co. Ltd., Cape Town. 30s.)

vaal and Orange Free State Provinces were, except for short gaps, republics with Volksraads (People's Councils) not conducted according to Westminster tradition and practice. Therefore, as there was no political party system in Natal, the Cape Colony was the only one of these Colonies where the Parliamentary system in its full sense had been in existence long enough to provide any volume of precedents.

In Chapter I, on Public Bill procedure, the author takes the reader through the life of such a Bill, and in Chapter II he is shown the intricacies of Private Bill procedure, which latter will also be of especial interest to those acting as Parliamentary Agents and others engaged in the promotion of, or opposition to, such measures. That debatable subject, the Hybrid Bill, is dealt with in Chapter III. A clear insight into the very practical Union procedure in regard to Financial Business is given in Chapter IV. The chapter following, which covers Motions, Amendments and Divisions, is also instructional to all serving, or engaged in the operation of, the Parliamentary machine.

Next follows a chapter on that much-used modern function of a House of Parliament, the Question Interrogatory, while Chapter VII deals with Rules of Debate. Another chapter is devoted to Privilege of Parliament, that sword of Damocles to warn as well as to threaten the abuse of Parliamentary power and dignity. All types of Committees are treated in Chapter X. A chapter is devoted to Joint Sittings of the 2 Houses, in which there has been much activity under Union, both in regard to the Joint Sitting as a separate body to deal *ab initio* with those subjects specially entrenched in the Constitution as well as the Joint Sitting as a means of settling disagreement between the 2 Houses on Bills originating in the Lower House. This chapter should be of great value to those other Empire Parliaments where the Joint Sitting is invoked to deal with intercameral deadlocks.

Lastly, there is an excellent chapter on that increasingly important office in the conduct of proceedings of a modern-day Parliament, the *prolocutor* of the Assembly, known as " Mr. Speaker ".

In the main, the procedure of the Union House of Assembly is based upon that of Westminster, but two of the directions in which there is a difference may be noted here.

In the Union Parliament there is no Address in Reply to the Speech from the Throne, and it is an open question whether the practice of the Address in Reply, with some limitations both as to amendment and debate, would not pay a Government of the day in order to allow escape for the flood of political waters accumulated during the Parliamentary Recess and thus ease the Session's debates generally. We know that Dr. Arthur Beauchesne, Mr. Kilpin's corresponding number at Ottawa, where the Address in Reply is in use, rather leans to its discontinuance.[1] It would therefore be of interesting usefulness if one could see how such discontinuance at Ottawa, say for a couple of Sessions, would compare with their present practice.

[1] *See* JOURNAL, Vol. XIII, 59.

A difference between the Private Bill procedure at Westminster and that of the Union House of Assembly (for the Union Senate Standing Orders in that respect follow the Westminster practice) is that in the Union House of Assembly a Private Bill is referred to Select Committee after First Reading. The practice at Westminster is to refer both Public and Private Bills to Select Committee after Second Reading, for the House has not approved of the principle of the Bill until after the Second Reading. It is true, however, that the practice of the approval of the principle of a Private Bill on Second Reading has long been extinct at Westminster but, as there is no opportunity in the Union House of Assembly for debate on the Bill on First Reading, since that is purely formal (*see* Private Bill S.O. 97), it is unknown until a Private Bill has been read the second time whether its existence will not be cut short by a negative vote in the House at that stage and thus render Select Committee proceedings an ineffectual and unnecessary expense to its promoters and, if opposed, also to its opponents. However, this review is not a dissertation on the practices of the Parliaments at Westminster and at Cape Town, but these 2 points are taken at random as a matter of interesting comparison.

Mr. Kilpin is to be congratulated on the excellence of his work. It has been well and thoroughly done and with great care. Moreover, every statement is well supported by authorities.

In the 3 Appendixes to the book are given: a time table of the House of Assembly; the stages of preliminary procedure in connection with Private Bills; and a Roll of the Speakers both of the Union and of the old Cape House of Assembly. The book is supplied with a useful and practical Index.

No matter under what particular procedure a Clerk-at-the-Table may be working, whether that of Canada, Australia, New Zealand, India or of any of the other and lesser Legislatures, Mr. Kilpin's book will be found a very useful and valuable contribution to the general subject, as well as to the particular object of providing a guide to the procedure of the Union House of Assembly. Union " M.P.s " should be indeed grateful for this book, bulging as it is with information of value to a member no matter on which side of the House he may sit; and every Clerk-at-the-Table in the Empire should have a copy of Mr. Kilpin's book.

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 JOURNAL[1] 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 II[2] gave a list of works on Canadian Constitutional subjects and Volumes IV[3] and V[4] 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] X,[12] XI-XII[13] and XIII[14] 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 1945:

Allen, C. K.—Law and Orders. (Stevens and Sons. 15*s*.)

Ammon, Lord.—Newfoundland. (Gollancz. 1*s*.)

Deakin, A.—The Federal Story. (Ed. H. Brookes.) (Robertson and Mullins. 12*s*. 6*d*.)

Elton, Lord.—Imperial Commonwealth. (Collins. 21*s*.)

Erskine May.—A Treatise on the Law, Privileges, Proceedings and Usage of Parliament. By Sir T. Erskine May, K.C.B., D.C.L. 14th ed., 1946. (Ed. Sir G. Campion.) (Butterworth and Co. Publishers Ltd. 75*s*.)

Gordon, S.—Our Parliament. (The Hansard Society, 162, Buckingham Palace Road, S.W.1. 6*s*.)

Kilpin, R.—Parliamentary Procedure: A Short Guide to the Rules and Practice of the House of Assembly of the Union of South Africa. (Juta. Cape Town. 30*s*.)

Sowden, L.—The South African Union. (Hall. 15*s*.)

[1] 123-6. [2] 137, 138. [3] 153-4. [4] 223.
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[9] 212 *et seq.* (starred items). [10] 223-6 (starred items). [11] 170.
[12] 196. [13] 267. [14] 270.

XXI. LIST OF MEMBERS

JOINT PRESIDENTS.

Sir Henry J. F. Badeley, K.C.B., C.B.E.

Sir Gilbert F. M. Campion, K.C.B.

MEMBERS.

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L. J. Middleton, Esq., Second Clerk-Assistant of the House of Representatives, Wellington.

* Barrister-at-law or Advocate.

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J. P. Toerien, Esq., Clerk of the Cape Provincial Council, Cape Town.
L. G. T. Smit, Esq., B.A., Clerk of the Natal Provincial Council, Maritzburg.
C. N. Ingwersen, Esq., Clerk of the Transvaal Provincial Council, Pretoria.

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Clerk-Assistant of the Legislative Assembly, Windhoek.

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G. E. Wells, Esq., Clerk-Assistant of the Legislative Assembly, Salisbury.
J. R. Franks, Esq., B.A., LL.B., Second Clerk-Assistant of the Legislative Assembly, Salisbury.

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Indian States.

Sir Mohammad Yaqub, Reforms Adviser, State of Hyderabad.

K. Pherozeshaw Poonegar, Esq.,* B.A., LL.B., Secretary of the Representative Assembly and Legislative Council, Old Public Offices, Bangalore, Mysore State, India.

Secretary to Government, Praja Sabha (Assembly) Department, Jammu, Jammu and Kashmir State, India.

S. M. Pattel, Esq., B.A., LL.B.,* Secretary of the Dhara Sabha, Baroda, Baroda State, India.

Secretary of the Sri Mulam Assembly, and of the Sri Chitru State Council, Trivandrum, Travancore, South India.

* Barrister-at-law or Advocate.

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G. S. C. Tatem, Esq., B.A.(Oxon), Clerk of the House of Assembly, Hamilton.

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U Ba Dun,* Secretary of the Burma Legislature and of the House of Representatives, Simla, India.

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Kenya Colony.

Clerk of the Legislative Council, Nairobi.

The Malayan Union.[1]

Clerk of the Legislative Council, Kuala Lumpur, Malaya.

Malta, G.C.

Lt.-Col. Victor G. Vella, O.B.E.(Mil.), Clerk of the Council of Government, Valetta.

Mauritius.

Clerk of the Council of Government, Port Louis.

Colony of Singapore.[2]

Clerk of the Legislative Council, Singapore.

Tanganyika Territory.

Clerk of the Legislative Council, Dar-es-Salaam.

Trinidad and Tobago, B.W.I.

W. J. Boos, Esq., Clerk of the Legislative Council, Port of Spain.

[1] Comprising the Malay States, the Settlement of Malacca and the Settlement of Penang.—[Ed.]

[2] Comprising the Island of Singapore, the Cocos or Keeling Islands and Christmas Island.

* Barrister-at-law or Advocate.

Ex Clerks-at-the-Table.

W. R. Alexander, Esq., C.B.E., J.P. (Victoria, Australia).
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Honorary Secretary-Treasurer and Editor : Owen Clough.

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.*

Boos, W. J.—Clerk of the Legislative Council, Trinidad and Tobago, and Assistant-Secretary, Secretariat. Joined the Government Service November, 1928, and except for the first 2 months all service has been in the Secretariat. His official duties as Assistant-Secretary, Secretariat, include the duties of the Clerk of the Legislative Council, which he has been performing since August, 1940.

du Toit, C. T., M.A., LL.B., B.Ed.—Second Clerk-Assistant, House of Assembly, Union of South Africa, 1946; *b.* September, 1907; *ed.* High School, Richmond, Cape, University of Cape Town and of South Africa; advocate of the Supreme Court; appointed Translators' Office, House of Assembly, 1930; Chief Translator, 1940; appointed to present office April 1, 1946.

du Toit, S. F., LL.B., J.P., and Commissioner of Oaths.—*b.* May 30, 1897, at Riebeeck West, Cape Province; *ed.* Victoria College, Stellenbosch, and University of Cape Town; 3 years as

journalist; Chief Translator of the Senate, 1920; Gentleman Usher of the Black Rod, 1926; Clerk-Assistant, 1930; Clerk of the Senate, 1941. Appointed to the Secretariat of the Speaker's Conference on the constitution of the Senate, 1941; admitted as Advocate of the Supreme Court of South Africa (Cape Division), 1935; *m.* Violet Ruth Fichat; two *c.* Hon. Sec. Huguenot Commemoration Committee and compiler of a genealogy of the descendants of the French Huguenots in South Africa; member of the Executive of the " Rugbybond, Weskaapland ", of the Western Province Rugby Union and of the South African Rugby Football Board; member of the Executive Committee of the Ratepayers' Association and Vice-Chairman of the Public Service Medical Benefit Association.

Hugo, J. M., B.A., LL.B.—Clerk-Assistant, House of Assembly, Union of South Africa, 1946; *b.* June, 1898; *ed.* Boys' High School, Worcester, University of Cape Town; advocate of the Supreme Court; appointed in Cape Provincial Administration, 1922; Translators' Office, House of Assembly, 1926; Chief Translator, 1937; Second Clerk-Assistant, 1940; appointed to present office April 1, 1946.

Knoll, J. F.—Clerk of the Senate, Union of South Africa; *b.* December, 1889; *ed.* Boys' High School, Pretoria, and privately; appointed as temporary Junior Clerk, Transvaal Public Service, February, 1906; permanent establishment in office of Commissioner of Police, February, 1908; Dept. of Justice, October, 1912; junior Committee Clerk, Union House of Assembly, September, 1916; Chief Committee Clerk, October, 1930; Second Clerk-Assistant, October, 1934; Secretary and shorthand-writer to various Government Commissions; Assessor at elections of Senators for the Cape Province; Clerk-Assistant of the Union House of Assembly, September, 1940; appointed to present office April 1, 1946.

Poonegar, K. P., B.A., LL.B.—Secretary to the Mysore Legislature; *b.* July 23, 1893; entered Mysore Judicial Service November 11, 1924; Assistant Secretary to Government in the Law Department from June, 1939, to November, 1945; Secretary, Committee for the Prohibition of Beggary in Mysore State, 1942-43; Secretary, Mysore Local Service Examinations Board, from September, 1940; appointed to present office November 7, 1945.

Rao, M. S., B.A. B.L.—Deputy Secretary, Madras Legislature, and Secretary, Madras Legislative Council; *b.* June 24, 1904; entered service as Assistant Secretary to the Legislature March 16, 1937; B.L.(Madras University); practised in the High Court of Judicature at Madras.

Smit, L. G. T., B.A.—Appointed Clerk of the Natal Provincial Council, Union of South Africa, December 1, 1944; *b.* November 2, 1907, Pearston, C.P.; *ed.* Pearston Secondary School and Jeppe High School, Johannesburg; B.A. (extramural), Natal University College; appointed to the Public Service, November, 1928; Administrator's Office, Natal, 1928-35; Natal Education Department, 1935-37; Natal Provincial Audit Office, 1937-40; Clerk-Assistant, Provincial Council, October, 1940.

Varma, R. D. K. V., B.A., B.L.—Secretary to the Madras Legislature; *b.* July 23, 1896. Entered the service March 5, 1929; Bachelor of Laws of Madras University; practised at the Bar; Assistant Secretary to the Madras Legislative Council, March 5, 1929, to March 14, 1937; deputed to England to study Parliamentary procedure and practice from October 31, 1929, to July 29, 1930; Captain in the Army in Indian Reserve of Officers; officiated as Secretary to the Legislative Council from July 30 to August 10, 1935, August 27 to October 2, 1935, January 28 to April 28, 1936, and August 1 to October 2, 1936. Awarded the Coronation Medal in 1937. Military duty, September 5, 1940, to August 21, 1944; Under-Secretary to Government of India, Supply Department, November 2, 1944, to June 6, 1945; Deputy Secretary to Government of India, Supply Department, June 7 to July 6, 1945; Controller of Supplies, July 12, 1945, to January 31, 1946; appointed Secretary to the Madras Legislature February 1, 1946.

Vella, Lieut.-Col. V. G., O.B.E.(Mil.).—Clerk of the Executive Council and the Council of Government, Malta, G.C.; *b.* 1902. Higher Division of the Clerical Establishment of the Malta Civil Service, July 1, 1922; Secretary to the Æsthetics Board, the Board of Works, the New Hospital Committee, the Supply and Prices Committee during the Abyssinian crisis; the Economies Commission, 1940; Private Secretary to the Head of the Ministry under Self-Government, 1928; Deputy Clerk to Councils, March 16, 1945; appointed Clerk to the Executive Council and to Council of Government, December 1, 1945.

Commissioned 2-Lt. King's Own Malta Regt., November, 1931; Captain with "D" Pass in promotion examination for Major, 1937; qualified small arms course, Hythe, 1938; Major and Second-in-Command 1st King's Own Malta Regt., November, 1942, which command he held until his return for service with the Civil Government, March, 1945. Awarded O.B.E. for War Services, New Year's Honours, January 1, 1946.

Wood, W. T., B.A., LL.B.—Clerk-Assistant of the Senate Union of South Africa, 1946; Clerk of the Papers, 1936; Gentleman Usher of the Black Rod, 1941.

INDEX TO SUBJECTS DEALT WITH IN EARLIER VOLUMES

NOTE.—*The Roman numeral gives the Volume and the Arabic numeral the Page. Constitutional matters are arranged under Countries and Procedure, etc., under Subject headings.*

Speaker's Rulings of the House of Commons are not included in this Index as the Articles thereon are an index in themselves (vide Volumes of the JOURNAL, *I to VII inclusive and XIII, covering "Com. Hansard," Volumes* 251-393, 5 *series.)*

(Art.) = Article in Journal. Amdts. = Amendments.
C.W.H. = Committee of the Whole House. (Com.); House of Commons.
Q. = Questions. O.P. = Order Paper. Sel. Com. = Select Committee.

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