SPEAKERS AND PRESIDING OFFICERS OF THE PARLIAMENTS AND LEGISLATURES OF THE COMMONWEALTH AND EMPIRE. (For names *see* Article II: Annex C.)

(*By kind permission of* THE TIMES)

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

VOL. XIX

FOR 1950

LONDON:
BUTTERWORTH & CO. (PUBLISHERS), LTD.
BELL YARD, TEMPLE BAR

SYDNEY:
MELBOURNE:
BRISBANE: BUTTERWORTH & CO. (AUSTRALIA), LTD.
TORONTO: BUTTERWORTH & CO. (CANADA), LTD.
WELLINGTON (N.Z.):
AUCKLAND: BUTTERWORTH & CO. (AUSTRALIA), LTD.
DURBAN: BUTTERWORTH & CO. (AFRICA), LTD.

1951
[*Registered at Stationers' Hall*]

Price 30 *shillings*

USUAL SESSION MONTHS OF EMPIRE PARLIAMENTS

	Parliament.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
	United Kingdom	★	★	★	★	★	★	★	★	★	★	★	★
	Northern Ireland	★	★	★	★	★	★	★	★		★	★	★
Channel Is.	Jersey	★	★	★	★								
Channel Is.	Guernsey												
Channel Is.	Alderney												
	Canadian Dominion	★	★	★	★	★							
Canadian Provinces	Ontario		★	★							★		
Canadian Provinces	Quebec	★	★	★	★	★	★						
Canadian Provinces	Nova Scotia			★	★								
Canadian Provinces	New Brunswick			★	★								
Canadian Provinces	Manitoba		★	★	★								
Canadian Provinces	British Columbia		★	★	★							★	★
Canadian Provinces	Prince Edward Island		★	★	★								
Canadian Provinces	Saskatchewan	★	★	★	★								
Canadian Provinces	Alberta		★	★	★								
Canadian Provinces	Newfoundland												
	Australian Commonwealth			★	★	★				★	★	★	★
	New South Wales	*No set rule obtains.*											
Australian States	Queensland			★	★				★	★	★	★	★
Australian States	South Australia								★	★	★	★	★
Australian States	Tasmania		★	★						★	★	★	★
Australian States	Victoria						★	★	★	★	★	★	★
Australian States	Western Australia							★	★	★	★	★	★
	New Zealand						★	★	★	★	★	★	
	Union of South Africa	★	★	★	★	★	★						
Union Provinces	Cape of Good Hope			★		★							
Union Provinces	Natal			★	★	★	★						
Union Provinces	Transvaal			★	★	★	★						
Union Provinces	Orange Free State			★			★						
	South-West Africa			★	★	★							
	Southern Rhodesia				★	★	★	★				★	
India	Parliament of India		★	★	★						★	★	★
India	Madras	★	★	★					★	★	★	★	★
India	Bombay		★		★					★	★	★	
India	Uttar Pradesh	★	★	★	★	★	★	★	★	★	★		★
India	Bihar		★			★		★			★		
India	West Bengal												
India	East Punjab			★	★						★	★	
India	Orissa		★	★						★	★		
India	Madhya Pradesh	*No set rule obtains.*											
Dominion of Pakistan	Constituent Assembly		★	★		★							★
Dominion of Pakistan	East Bengal		★	★					★	★			
Dominion of Pakistan	West Punjab												
Dominion of Pakistan	North-West Frontier Province			★						★	★		
Dominion of Pakistan	Sind		★	★					★	★			
	Bermuda	*No set rule obtains.*											
	British Guiana				★	★	★				★	★	★
	Ceylon	★	★	★	★		★	★	★	★	★	★	★
	East African High Commission	★			★					★			
	Gold Coast and Ashanti			★			★			★			★
	Jamaica										★		
	Kenya Colony and Protectorate		★			★			★		★		
	Federation of Malaya	*No set rule obtains.*											
	Malta, G.C.	*No set rule obtains.*											
	Mauritius	*No set rule obtains.*											
	Nigeria			★	★				★				
	Singapore Colony		★	★	★	★	★	★	★	★	★	★	★
	The Sudan			★	★	★					★	★	★
	Tanganyika Territory	*No set rule obtains.*											
	Trinidad and Tobago, B.W.I.			★	★	★					★	★	★

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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;
Cons.	= Consideration;
Govt.	= Government;
O.P.	= Order Paper;
Rep.	= Report;
Sel. Com.	= Select Committee;
Stan. Com.	= Standing Committee;
R.A.	= Royal Assent;
H.M. Government	= His Majesty's Government;
U.K. Government	= United Kingdom Government;
w.e.f.	= with effect from.

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.

KING GEORGE VI

The type for this Volume was already set up in section-page form when our Good and Gracious King George VI went to His Rest, therefore reference to His Passing will be left, together with that to the Accession of Queen Elizabeth II to the Throne, for appearance in the next issue of our JOURNAL.

However, we do now wish—even in this last-minute manner but with all respect—here to give the message of sympathy which the members of our Society sent to the Royal Family, as well as the reply which Her Majesty the Queen was so gracious as to direct to be sent:

February 7, 1952.

Private Secretary, Buckingham Palace, London, England.

Members Society Clerks at Table serving Parliaments and Legislatures our Commonwealth and Empire respectfully offer heartfelt sympathies to the Queen, Queen Mother, Queen Mary, and all members Royal Family in their great grief. Our fervent prayer that Almighty God grant them comfort in their deep sorrow. Clough, Clerdom, Cape Town.

BUCKINGHAM PALACE

4th March, 1952.

Dear Sir,

I am commanded by The Queen to express to you and to all those on whose behalf you wrote her sincere thanks for your kind message of sympathy in her great loss.

Her Majesty greatly appreciates their thought of her and her family at this time.

Yours truly,
Edward Ford.

The Secretary,
The Society of Clerks at Table
serving Parliaments and Legislatures,
Cape Town.

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

VOL. XIX FOR 1950

I. EDITORIAL

Introduction to Volume XIX.—The Year of Grace, 1950, which is, from our standpoint, reviewed in this Volume, has been marked by constitutional development, principally in the Crown Colonies, some of which have been taken further on the path towards "responsible government".

The most important constitutional step of the year by any Dominion Parliament has been the abolition by New Zealand of her Upper House, the Legislative Council, but the Committee of investigation into the subject of a Second Chamber is still in being.

In Canada negotations have been continuing in regard to the method to be adopted in connection with the amendment, in Canada, of her own Constitution and the relationship between the Federal and the Provincial Governments resulting from the Conferences, which have been reported in the JOURNAL from time to time.

In the Far East there has been further constitutional progress in North Borneo where a partly elected Legislative Council has been substituted for the old Advisory Council, and in the Mediterranean the first and partly elected Legislative Council has been granted the City and Garrison of "the Rock", while in the British West Indies there has been a distinct advance in constitutional progress in Trinidad and Tobago.

The greatest constitutional development, however, towards Parliamentary government has been in the Gold Coast Colony and Ashanti, but in this issue of the JOURNAL the subject is only taken as far as "the Coussey Report" as a reconnaissance, as it were, for the Article to appear in our next issue on the new Constitution itself and its inauguration.

Throughout our Crown Colonies and Protectorates in Africa there is a constitutional awakening, while in the Condominium of the

Anglo-Egyptian Sudan great advance has been made, to be followed by further development in 1952.

In British South Central Africa, the question of the federation or amalgamation into one Dominion, of the 2 Rhodesias and Nyasaland, is under consideration. This has held up the Report of the Select Committee of Southern Rhodesia on the revision of her present Constitution, and the introduction of the bicameral system.

The Constitution of Pakistan is in the hands of the Draftsman, and we hope it will be so far advanced that the subject may be reviewed in the next (XX) Volume of the JOURNAL.

The General Elections in India will be taking place at the time this Volume goes to press and it will be interesting to see the new Constitution in full bloom.

The question of the relation of the legislature to nationalised industries was admirably treated by Mr. K. A. Bradshaw, an Assistant Clerk of the House of Commons in Volume XVIII. In this issue his Article is followed by one on what is called in Canada "Crown Corporations" from the able pen of Mr. Geo. Stephen, the Clerk of the Saskatchewan Legislative Assembly.

Australia contributes Articles on the subject of Double Dissolutions, the resulting changes following the recent enlargement in the personnel of the Commonwealth Parliament and the treatment of urgency in debate.

Another "starred" subject included in this Volume of the JOURNAL is the oft-postponed treatment on "M.P.s and Personal Pecuniary Interest".

The claim to the right of the Bishop of Sodor and Man to a writ of summons to the House of Lords presents some interesting features and marks both the Isle of Man and the Channel Islands as "outside the Realm".

The Gentleman Usher of the Black Rod in the House of Lords—Lieut.-General Sir Brian Horrocks—contributes an instructive Article on the history and duties of this ancient office. We have also been supplied, by the gracious hand of Lady Horrocks, with a sketch of the actual method of holding the Rod, which we shall be glad to circulate for inspection among those Overseas Parliaments where such an office is in being.

Mr. J. M. Hugo, the new Clerk of the Union House of Assembly, ably carries on the practice instituted by his predecessors of contributing the much admired Article on the Precedents and Unusual Points of Procedure which have occurred in his House of Parliament during the year.

After many periodical postponements, we are happy also to include in this Volume, the Article which has been on the stocks for many years, namely, on "The Office of the Clerk of the House". This omnibus Article assembles much information of interest and usefulness both to holders of this office and those who aspire thereto

in the 60 Parliaments and Legislatures co-operating in the production of our JOURNAL.

Report on another subject, the treatment of which has had to be withheld from publication in the 2 previous issues of the JOURNAL by lack of space, namely, what is popularly known as "The Lynskey Tribunal" now appears. This investigation upon the Order of the House of Commons at Westminster proves, both in its appointment and the subsequent action taken thereon, not only to our Commonwealth and Empire but to the world, how strong, among the British people, is the desire to maintain those high traditions expected of their representatives.

As the "Busman's Holiday Article" in the last issue of the JOURNAL was so well received by our readers, our Honorary-Secretary-Treasurer-Editor has been tempted to take advantage of a personal visit to Britain in 1951 to go on a similar holiday to the Channel Islands. Therefore, "Busman's Holiday Article No. II" now appears, which appropriately follows the Article on the constitutional developments in these Islands, which was dealt with in our last issue.

The most historical and intra-mural Parliamentary event of the year has been the memorable visit to Westminster of the Speakers and Presiding Officers of the Parliaments and Legislatures of our Commonwealth and Empire on the occasion of the Opening of the new House of Commons Chamber and the presentation of Addresses to His Majesty the King by the Lord Chancellor and the Speaker of the House of Commons in the ancient and historic Westminster Hall.

Truly, the most happy recollections of His Majesty's Gracious Reply to those Addresses, His warm and sincere welcome to the visiting Speakers and Presiding Members 'midst such an inspiring scene will be taken back by them to the various countries of His realm and treasured for many years to come.

Facing the title page to this Volume is a photograph of the Speaker of the House of Commons with the visiting Speakers and Presiding Officers, for which we should like to make grateful acknowledgments, both to Sir Frederic Metcalfe, the Clerk of the House of Commons, and to the Editor of *The Times*.

Under the usual "Applications of Privilege" Article, are cases in the House of Lords of "Imputations upon the Conduct of a Member and use of Privilege"; in the House of Commons of "Speech: West Belfast Election"; in the House of Commons of Northern Ireland of "Libel upon the House"; and in the Legislative Assembly of Saskatchewan "Newspaper Libel upon a Member".

We regret that for want of space it has not been found possible, in this Volume, to bring the Rulings of the Speaker and his Deputy at Westminster up to and including 1950; therefore only those for 1948-49 have been dealt with. However, in our next Volume, the subject will be brought up to and including 1951.

This issue also contains the usual collection of "Parliamentary

Expressions" which have been noted in the various Parliaments and Legislatures during 1950.

Other perennial Articles are: Reviews and suggested books published during 1950 of especial interest to "the Clerk of the House".

The Editorial, as usual, covers many matters of particular interest to those concerned in the working of the Parliamentary machine, both at Westminster and Overseas, from constitutional, Parliamentary procedure and administrative points of view.

The issue of this Volume marks the Nineteenth milestone in the life of our Society and its JOURNAL with the co-operation of its members, scattered as they are, almost in every part of the globe, more ardent than ever.

Acknowledgments to Contributors.—We have pleasure in acknowledging Articles in this Volume from: Mr. C. A. S. S. Gordon, Senior Clerk in the House of Commons; Mr. R. P. Cave, of the Parliament Office, House of Lords; Lieut.-General Sir Brian Horrocks, K.C.B., etc., Gentleman Usher of the Black Rod, House of Lords; Mr. Léon J. Raymond, O.B.E., B.A., the Clerk of the House of Commons of Canada; Mr. George Stephen, M.A., the Clerk of the Legislative Assembly, Saskatchewan; Mr. J. E. Edwards, J.P., and Mr. F. C. Green, M.C., respectively the Clerk of the Senate and the Clerk of the House of Representatives of the Commonwealth of Australia; Mr. A. A. Tregear, B.Com., A.I.C.A.,[1] Clerk-Assistant of the House of Representatives, Australia; Mr. J. M. Hugo, B.A., LL.B., J.P., the Clerk of the Union House of Assembly and Mr. M. F. A. Keen, B.A., the Clerk of the Legislative Assembly of the Anglo-Egyptian Sudan.

For Editorial paragraphs we are indebted to: Sir Frederic Metcalfe, K.C.B., the Clerk of the House of Commons; Mr. F. W. Lascelles, C.B., M.C., the Clerk-Assistant of the Parliaments; Mr. E. A. Fellowes, C.B., M.C., the Clerk-Assistant of the House of Commons; Mr. Léon J. Raymond, O.B.E., B.A., the Clerk of the House of Commons of Canada; Mr. J. E. Edwards, J.P., the Clerk of the Senate, and Mr. F. C. Green, M.C., Clerk of the House of Representatives of Australia; Mr. A. A. Tregear, B.Com., A.I.C.A., the Clerk-Assistant of the House of Representatives of Australia; Mr. H. Robbins, M.C., the Clerk of the Legislative Assembly, New South Wales; Captain F. L. Parker, F.R.G.S.A., the Clerk of the Parliaments and the Clerk of the House of Assembly of South Australia; Mr. R. S. Sarah, the Clerk of the Legislative Council of Victoria; Mr. T. Dickson, J.P., the Clerk of the Parliaments, Queensland; Mr. F. E. Islip, J.P., the Clerk of the Legislative Assembly of Western Australia; Mr. W. T. Wood, B.A., LL.B., J.P., the Clerk of the Senate, and Mr. J. M. Hugo, B.A., LL.B., J.P., the Clerk of the House of Assembly of the Union of South Africa; Mr. L. G. T. Smit, B.A., the Clerk of the Natal Provincial Council; Mr.

[1] Two articles.—[ED.]

R. St. L. P. Deraniyagala, B.A., the Clerk of the House of Representatives, Ceylon; Mr. M. N. Kaul, M.A., the Secretary to the Central Parliament of India; Mr. S. K. Sheode, B.A., LL.B., J.P., the Secretary, Legislative Department, Bombay; Mr. M. B. Ahmad, M.A., LL.M., the Secretary to the Constituent Assembly of Pakistan; Mr. S. A. E. Hussain, B.A., B.L., the Secretary to the Legislative Assembly of East Bengal, Pakistan; Colonel G. E. Wells, O.B.E., E.D., the Clerk of the Legislative Assembly, Southern Rhodesia; and Mr. V. A. Dillon, M.B.E., the Clerk of the Legislative Assembly, Malta, G.C.

Lastly, we are grateful to *all* members for the valuable and interesting matter which they have sent in, from which Articles and Editorial paragraphs have been drawn up, as well as for the co-operation they have so willingly and generously given.

Particularly should we appreciate being allowed to mention the ready and willing assistance rendered by Mr. T. Roos, B.A., the Librarian, and his Assistants, Mr. D. E. Mullany and Mr. J. C. Quinton, of the Library of the Union Parliament at Cape Town, where most of our reference work is carried out.

Questionnaire for Volume XIX.—Three of the outstanding *Questionnaire* subjects, namely: M.P.s and Personal Pecuniary Interest; the Office of the Clerk of the House and the Report on the Lynskey Tribunal are dealt with in this issue and it is hoped to include in our next Volume of the JOURNAL, other *Questionnaire* subjects outstanding.

Honours.—On behalf of our Members, we wish to congratulate the under-mentioned member of our Society who has been honoured by His Majesty the King since the last issue of the JOURNAL:

C.B.—V. M. R. Goodman, Esq., O.B.E., M.C., Reading Clerk and Clerk of Outdoor Committees, House of Lords.

The Rt. Hon. Lord Badeley, K.C.B., C.B.E.—We regret to announce the death in London on September 27, 1951, of Lord Badeley, formerly the Clerk of the Parliaments at Westminster. It was only on May 31, 1949, that we had the pleasure of being in the House of Lords to hear the great tributes paid to him by their Lordships for the long, devoted and distinguished services rendered by Sir Henry J. F. Badeley (as he was then), account of which has been given in the JOURNAL.[1] This occasion followed the letter of resignation read by the Lord Chancellor to their Lordships on the previous day, when Sir Henry intimated that the time had come for him to resign his office.

Sir Henry Badeley's official record of service appeared

[1] Vol. XVIII. 15.

in the JOURNAL some years ago[1] and describes the actual offices he had held during his Parliamentary service, including his 19 years at the Table, 15 years of which were in the office of Clerk of the Parliaments. Our departed colleague entered the Parliament office in 1897 and in 1920 became Principal Clerk and Taxing Officer in the Judicial Department at the House of Lords. In 1930 he was made Clerk-Assistant of the Parliaments and succeeded Sir Edward Alderson as Clerk in 1936.

In a tribute paid to Lord Badeley in *The Times*[2] reference is made to his service and capabilities. Especially during World War II, which entailed so great an upheaval in the machinery of government, the discarding of so much old precedent and the creation of so much that was new, was his practical knowledge and shrewd sense of such immense public value. He saw, too, the sittings of the House of Lords transferred to the Prince's Chamber to give place to the Commons, whose own Chamber had been destroyed by enemy bombs.[3] Sir Henry had also in the course of his official career in the House of Lords assisted at the trial before their Peers of 2 members of that House for bigamy and manslaughter respectively; such trials, however, have since been abolished.

In 1914 Mr. Badeley was elected a Fellow of the Royal Society of Painters-Etchers (of which he was for 10 years honorary secretary) and regularly exhibited at their exhibitions. His other extra-mural activities were as County Director (T.F.A.) of the Voluntary Aid Organization of the County of London and, from 1919 to 1923, President of the County of London Branch of the British Red Cross Society. In his Oxford days he represented the University in the 440 yds. in 1895. He also won the Parliamentary Golf Handicap in 1921.

It was, however, as a member of our Society and a contributor to its JOURNAL that we knew him best. In fact, it was greatly owing to his sympathetic help that we were accorded the use of a room in the House of Lords in which the first few issues of our JOURNAL were prepared. It is unnecessary to say how valued was his help and advice.

Few Clerks of a House of Parliament have so much endeared themselves to the members as "Jack Badeley", as he was referred to in the debate on the day his retirement was announced to the House he had served so devotedly and so well.

[1] *Ib.* XV. 30.
[2] September 28, 1951.
[3] *See* JOURNAL, Vols. IX. 5; X. 18.

In his elevation to the Peerage soon after his retirement he followed the renowned Lord Farnborough (Sir T. Erskine May). It was a misfortune that the House of Lords was only to have the benefit of his membership for so short a time, but at 77 he had long passed the allotted span, still, one did not look upon such an active personality as being his years.

Lord Badeley was unmarried and the title now becomes extinct, but if there are any of his family living, we should like, on behalf of all the members of our Society, both far and near, to offer them our deepest sympathies.

Captain Maurice J. Green, V.D., R.N.V.R.(Rtd.).—The death of Captain Green, formerly the Clerk of the Senate of South Africa, occurred at his home in Plumstead, Cape Peninsula, on February 2, 1951, the funeral taking place the following day as also his cremation at Woltemade Cemetery. The large attendance there bore testimony to his wide interests, for those present were representative of many walks of life, including Parliament, the Royal Navy and sporting bodies and institutions, in all of which he had usefully served during a life unselfishly devoted to others.

Captain Green's record of services has already appeared in the JOURNAL,[1] as well as the warm tributes paid to him in the Senate of South Africa on his retirement from the Clerkship on April 28, 1941.[2]

The writer of this obituary notice was closely associated with the late "Morrie" Green as a Senate official from 1910-1930 and always found him a valued and loyal co-operator, first as Gentleman Usher of the Black Rod and later as Clerk-Assistant at the Table of the Senate.

On the writer's retirement from the Clerkship of the First Union Senate in 1930, Captain Green succeeded him and served in that office with great distinction until he relinquished it on retirement in 1941.

Captain Green was also associated with the writer in the work of the Empire Parliamentary Association when organizing the first Overseas Delegation of the Delegates from Empire Parliaments. Captain Green's efficient organization and assistance contributed greatly to the success of the 16,000 mile tour through Southern Africa.

He served with distinction in the R.N.V.R. (S. Africa Division) both in Peace and in World War I. It was as Lieut.-Commander that he had the honour of firing the last shot in the war from H.M.S. "Dragon", in which he was serving when seconded to H.M. Navy.

[1] Vol. I. 33. [2] *Ib.* X. 9.

His interest in literature and the various fields of sport were well and widely known.

It was with great regret that the writer was unable, owing to absence in Southern Rhodesia, to act as pall bearer when his dear friend was laid to rest.

Captain Green was the essence of honour in all his dealings with others; and in whatever direction he turned his attention the work was done with an old-world thoroughness.

The writer's memory of his dear and trusty friend will always be of a true gentleman and an ardent and highly qualified Parliamentary official.

Ralph Kilpin, LL.D.[1]—On June 30, Mr. Ralph Kilpin retired from the Clerkship of the Union House of Assembly, a position he had held for 10 years.

The Prime Minister (Dr. the Hon. D. F. Malan) in moving the following unopposed Motion in the House of Assembly on June 22,[2]

That in view of his pending retirement this House desires to place on record its appreciation of the distinguished services which Mr. Ralph Kilpin, the Clerk of the House, has rendered as an officer of Parliament during the past 45 years.[3]

—said that Mr. Kilpin had, practically speaking, grown up in the atmosphere of this House and, before that time, his father had been Clerk of the Cape Colony House of Assembly for many years.

Knowledge of procedure on the part of the man who occupied the position of Clerk of the House was of the utmost importance. It was also the duty of the Clerk of the House to give information and advice to members who had come to consult him.

Speakers and Chairmen of Committees came and went but the important task of giving advice to such officers of Parliament was continuous. Mr. Kilpin had carried out his duties with devotion. He was a man who had definitely shown enthusiasm for his work. He had not only fulfilled the duties which had devolved upon him as Clerk, but he had also paid attention to the recording, practically to the drafting, of a handbook on the procedure of Parliament, which was of great value to all members of the House. The hon. the Prime Minister also understood that on Mr. Kilpin's retirement he intended to continue those activities, which was further proof of his devotion and of the enthusiasm with which he carried out his duties.

Dr. Malan wished Mr. Kilpin all prosperity and happiness in his future life.

In seconding the Prime Minister's Motion, the Leader of the Opposition (Hon. J. G. Strauss: Germiston District) said that Mr.

[1] *See also* JOURNAL, Vols. I. 134; IX. 177.
[2] 1950 VOTES, 905.
[3] 73 *Assem Hans.* 9729.

Kilpin had been the chief pilot at the Table for 10 years. The hon. member said that his personal association with Mr. Kilpin dated back over a quarter of a century to when he (the hon. member) acted as Private Secretary to the then Prime Minister (General Smuts).[1] In a sense the Clerk was the watch dog over the rights of Parliament and the rights and privileges of individual members. Mr. Kilpin was an expert on parliamentary procedure throughout the Commonwealth and had rendered outstanding services to neighbouring Territories. The House had appreciated very much Mr. Kilpin's outstanding qualities, his patience, his chivalry, as well as his impartiality and the sense of objectivity with which he had discharged his duties, without fear or favour. He had shown no bias either to the right or to the left of the Chair.

Mr. Kilpin would be missed, not only as a gentleman but as a friend by many in the House.

The hon. member joined with the Prime Minister in wishing Mr. Kilpin well in his years of retirement.

The Minister of Finance (Hon. N. J. Havenga) on behalf of the Afrikaner Party associated themselves wholeheartedly with the Motion.

The hon. member for Johannesburg City (Mr. J. Christie), the Leader of the Labour Party, also supported all that the Prime Minister and the Leader of the Opposition had said.

Mrs. V. M. L. Ballinger (Cape Eastern), on behalf of the Native Representatives, joined issue in the general recognition of Mr. Kilpin and spoke of the great kindness and consideration they had at all times received from the Clerks at the Table, but to none of them did they owe more than to Mr. Kilpin.[2]

Mr. Speaker (the Hon. J. F. T. Naude), before putting the Motion, read the following letter which had been addressed to him by Field Marshal the late Rt. Hon. J. C. Smuts:

DEAR MR. SPEAKER,

As I shall be absent from the House in the closing days of the Session, I shall not be able to join in the farewell tributes which will no doubt be paid to Mr. Kilpin, the Clerk of the House, on his retirement after 45 years of devoted service to the House.

During that long period he has not only served the House well, but he has embodied its practice in authoritative and standard works and thereby rendered an additional service to our Parliamentary institutions. His services to the Legislature in South-West Africa and to Southern Rhodesia, as Beit Lecturer on Parliamentary government, have also received grateful recognition from those younger communities in whom South Africa takes deep interest. And in other respects and directions he has also made valuable contributions to our Parliamentary literature and knowledge of our institutions.

For these and other reasons, he has deserved well of South Africa, and I wish to add my tribute to an officer of Parliament who has set so high a standard and done so much for the maintenance of our highest Parliamentary traditions.

Yours sincerely,

(*sgd.*) J. C. SMUTS.

[1] 73 *Assem. Hans.* 9730.

[2] *Ib.* 9733.

The Question on the Motion was then put and agreed to unanimously.

Mr. Speaker said that the rules of the House prevented Mr. Kilpin from thanking hon. members personally but that he had asked him to convey to the hon. the Prime Minister, Mr. Strauss, the Minister of Finance, Mr. Christie, and Mrs. Ballinger, his sincere appreciation of what they had said and to the House for the Resolution it had passed.[1]

At the close of Mr. Kilpin's last Session, the members of the Press Gallery in the House of Assembly made him a presentation of a golden fountain pen and pencil, the former bearing the following inscription:

MR. RALPH KILPIN,
Clerk of the House of Assembly.

Presented by the South African Press Gallery as a token of their esteem and as a welcome to the proud membership of Parliamentary writers.

5th May, 1950.

It is, however, not only as the holder of the office of the Clerk of the Union House of Assembly that we know Mr. Kilpin, for he is the author of a much-used work—*Parliamentary Procedure in South Africa*[2] (now in its second edition) and *Private Bill Procedure*, as well as of many articles and brochures on various aspects of the subject.

He is also the author of *The Old Cape House* and *The Romance of a Colonial Parliament*, two most interesting and popular books. But it is as a member of our Society that we are here more intimately related to him. In the first place, Mr. Kilpin is one of our few remaining Foundation Members, for it is nearly 24 years ago since this Society was formed. During all this time Mr. Kilpin has been a strong supporter of the Society and its objects as well as, when he became Clerk of the Union House of Assembly, an ardent contributor to our JOURNAL, both by Editorial Note and Article. The annual article on "Precedents and unusual Points of Procedure in the Union House of Assembly", inaugurated by his predecessor, the late Mr. D. H. Visser,[3] has been devotedly carried on by Mr. Kilpin from the time he assumed the Clerkship until his retirement in the year now under survey in this Volume.[4]

One cannot imagine Mr. Kilpin settling down to a life of ease. It is, therefore, not surprising to see him in a quiet corner of the Library of Parliament, Cape Town, writing a work on Speakers' Decisions in the Union Parliament. We wish him good health and happiness in his retirement and every success in the work in which he is now engaged.

As we go to press it has been publicly announced that, in view of his almost life-long service to Parliament and institutions in South

[1] *Ib.* 9735.
[2] *See also* JOURNAL, Vols. XIV. 271; XVIII. 307.
[3] *Ib.* Vols. III to VIII.
[4] *Ib.* IX-XVIII.

Africa, the University of Cape Town has decided to confer the *honoris causa* degree of LL.D upon Mr. Kilpin in appreciation of his long, devoted and distinguished services. Under a Resolution which was passed in the Union House of Assembly in 1925, no titles have since been given in the Union. The grant of this degree, therefore, is, to some extent, a public recognition of his services to the Union Parliament.

Sardar Bahadur Abnasha Singh,[1] Barrister at Law (Gray's Inn), retired from the position of Secretary to the East Punjab Legislative Assembly on July 31, 1951, after serving in that capacity, both in the pre-autonomy and the autonomy days, as well as after Partition. On the following day he proceeded on 6 months' leave preparatory to retirement.

A reference to his services could not be made in the States Legislature as the Punjab Legislative Assembly stands suspended under a Proclamation issued by the President of India.[2]

The Speaker (Kapoor Singh) of the suspended Legislative Assembly, however, issued the following statement to the Press:

> Sardar Abnasha Singh retires to-day after 30 years of distinguished service as the Secretary of the Punjab Legislative Assembly before and since the Partition. I have rarely come across an Officer of his calibre and to his competency, sociability and administrative ability his work bears ample testimony.
>
> It is to be regretted that his retirement should have coincided with the suspension of the Punjab Legislative Assembly which has thereby been deprived of an opportunity to acknowledge his work and merits. From my personal experience as a member of the Opposition from 1937 to 1946 and as Secretary of the Congress Assembly Party, I have no hesitation in saying that I have found him always helpful as much to the Opposition as to the Treasury Benches. Since Partition I have come into closer contact with him as the Speaker of the Punjab Legislative Assembly. His knowledge of parliamentary practice and his quick and ready grasp of legislative procedure was of great help not only to me but to the House as well. He has left an imprint of his keen intellect, sober judgment and independent views on his work. I trust his invaluable experience will be utilised in another sphere, that is, the public life of the State.

Varma, D. K. V. Raghava, B.A., B.L.—We regret to have to announce the retirement of Mr. Raghava Varma from the Secretaryship of the Madras Legislature after a distinguished service in many official capacities both at New Delhi as well as in the Madras Presidency. Previous to entering the Government Service, Mr. Varma practised at the Madras Bar. In addition to rendering service as Captain in the Indian Reserve of Officers, Mr. Varma also served in an active capacity during 1940-44.

The Legislative Assembly of Madras on April 4, 1951, and the Legislative Council on the 17th *idem* respectively, passed the following Resolution:

[1] *See* JOURNAL, Vol. VII. 226.

[2] *Ib.* Vol. XVIII. 234.

That the hon'ble Speaker/Chairman be requested to convey to Mr. D. K. V. Raghava Varma on his retirement from the Office of the Secretary to the State Legislature, Madras, the assurance of this House's sincere appreciation of the distinguished and outstanding services which by his ever ready advice and his great knowledge of the law and custom of the Legislature, he has rendered to it and to all its members in the conduct of their business during upwards of 22 years all of which have been spent at the Table.

There were no formal presentations on Mr. Varma's retirement but he was entertained at a tea party given by the members of both Houses of the Legislature on April 5, 1951.

Mr. Varma was a distinguished "Clerk at the Table" member and at one time was seconded for service under the Clerk of the House of Commons at Westminster. As a member of our Society since 1939, Mr. Varma's advice and co-operation was always of the highest order and we shall sorely miss him. We wish him good health in a happy retirement although we can scarcely imagine him leading an inactive life.

United Kingdom (Commons Message of Thanks to Lords).—On October 24,[1] the Lord President of the Council (Rt. Hon. Herbert Morrison) moved:

That this House again expresses its grateful appreciation of the courtesy of the House of Lords in placing their Chamber at the disposal of His Majesty for the occupation of this House after the destruction of the Commons Chamber by enemy action in 1941; warmly thanks Their Lordships for so readily consenting to this continued use of their Chamber up to the present time, and recognizes that their example of self-sacrifice and good will in the face of danger and difficulty was in accord with the highest traditions of Parliament

—when, after a short debate, the Question was put and agreed to, *nemine contradicente*.

It was further Resolved:

That the said Resolution be communicated to the Lords, and that the Prime Minister, Mr. Churchill, Mr. Clement Davies, Earl Winterton and Mr. Herbert Morrison do communicate the same.

At 4.15 the same day,[2] the House of Lords, having been informed that certain members of the House of Commons were in attendance with a Message, it was Ordered that they be called in, and the said members were called accordingly.

Then the Lord Chancellor, at the Bar, received the Message from the said members and, returning to the Woolsack, delivered it to the House (*see above*).

It was then agreed to that the Commons Message be considered immediately, and it was moved, by the Leader of the House of Lords (Viscount Addison):

That this House deeply appreciates the Message of thanks brought up from the Commons this day. It will always be a source of satisfaction that it

[1] 478 *Com. Hans.* 5, s. 2711. [2] 168 *Lords Hans.* 5, s. 1289.

was the privilege of this House to assist the other House when its Chamber was destroyed by enemy action in 1941; and to share with it the honour and the burden of maintaining the institutions of Parliamentary government through the perilous times of the Second World War and during the arduous years of re-construction.[1]

On Question, Motion agreed to *nemine dissentiente*.

Then the Lord Chancellor communicated the Resolution of the House in reply to the Commons Message to the said members, who thereupon withdrew.

United Kingdom (Ministers of the Crown: Free Facilities to).[2]—*Cars.*—On May 4,[3] Q. was asked the Financial Secretary to the Treasury (Mr. D. G. P. Jay) in the House of Commons as to how many motor cars were maintained out of public funds for the use of Cabinet and other Ministers; what was the annual cost to the taxpayer; and how such figures compared with those for 1938?

Mr. Jay replied that 19 motor cars were maintained out of public funds for the use of Cabinet Ministers and 19 for other Ministers of Cabinet Rank. The annual cost of running these cars, including depreciation, was estimated at £37,600 and the annual petrol consumption at 32,400 gallons.

Other Ministers use the pooled cars of the Official Car Service or of their Departments.

These costs of journeys carried out by Ministers were not segregated in the accounts nor were separate records kept of petrol used on such journeys.

In 1938, official cars were only provided for the Home Secretary and Service Ministers. In 1939 the provision was extended to all Cabinet Ministers and in 1943 to Ministers of Cabinet rank. Record of the annual cost of petrol consumed by these cars was not available.

Q. was also asked the Minister of Fuel and Power in the House of Commons on May 22,[4] as to how much petrol per month was allocated to Ministers of the Crown. In reply, Mr. Noel-Baker stated that no fixed allocation was made to Ministers. The 38 cars allocated to Ministers (*see above*) consumed, on an average, 2,700 gallons per month. Other Ministers used the pooled cars and no special record was kept of the petrol used.

Ministers received petrol allowances on the same terms as other rt. hon. and hon. members from the Fees Office for constituency and other approved purposes. The aggregate monthly issue to all Ministers for other purposes was estimated at 1,000 gals.

In answer to a Q. on May 16,[5] the Financial Secretary to the Treasury in the House of Commons said that it was proposed to charge Ministers 1s. 1*d*. per mile for the private use of Ministerial cars.

United Kingdom (Newfoundland (Consequential Provisions)

[1] *Ib.* [2] *See also* JOURNAL, Vol. XVIII. 31. [3] 474 *Com. Hans.* 5, s. *226.*
[4] 475 *ib. 215.* [5] *Ib.* 1010.

Bill).[1]—On March 15,[2] a Bill was introduced in the Lords by the Parliamentary Under Secretary for Commonwealth Relations (the Rt. Hon. Lord Holden):

to provide for repeals and amendments of enactments consequential on Newfoundland becoming part of Canada

—and passed 1 *R.*

In moving 2 *R.* of the Bill on March 30,[3] Lord Holden said that this was a Bill of a non-contentious and entirely technical nature. At the time of the Union of Newfoundland with Canada on April 1, 1949, there were in existence a large number of United Kingdom Acts which contained references to Newfoundland. These were either no longer appropriate or superfluous now that Newfoundland had become a Province of Canada. The object of the Bill was solely to make the necessary amendments to United Kingdom legislation. It had been necessary to consult not only other Government Departments but also the Governments of Canada and Newfoundland. For this reason and owing to the dissolution of Parliament it had not been possible to present the Bill earlier.

Clause 3 permitted of amendments being made by Order in Council in order to avoid the necessity of amending the Act should any errors or omissions be found. Any such Order would have to be laid, in draft, before Parliament.

Lord Llewellin raised the question of amendment by Order in Council as provided for in Clause 3 (1), but sub-section (2) of such Clause still left it in the hands of Their Lordships to object to any such draft put forward.

The Bill then passed 2 *R.* and on April 4,[4] the House went into *C.W.H.* on the Bill which was reported without amendment.

Part I of the Schedule to the Bill (*vide* Clause 1 thereof (Cesser of effect of certain enactments as to Newfoundland)) sets out the titles of the Acts and the extent to which each is repealed and Clause 1 (2) deals with the enactments specified in Part II of the Schedule, being either:

> (*a*) enactments which contain references both to Canada and to Newfoundland having like effect as to each, and in which the references to Newfoundland became superfluous when Newfoundland became part of Canada, or
>
> (*b*) enactments which are expressed to operate in relation to any Dominion within the meaning of the Statute of Westminster, 1931, with an exception for Newfoundland, and in which the excepting words became inoperative when Newfoundland became part of Canada,

—shall, for the purpose of removing the words so becoming superfluous or inoperative, be repealed to the extent mentioned in the third column of that Part.

[1] *See also* JOURNAL, Vols. II. 8; IV. 35; V. 61; VII 106; XI-XII. 77; XIII. 208; XIV. 97; XV. 106; XVI. 70; XVII. 221; XVIII. 183. [2] 166 *Lords Hans.* 5. s. 241. [3] *Ib.* 684. [4] *Ib.* 736.

Clause 2 of the Bill reads:

Amendment of British Nationality Act, 1948, as to potential citizens of Newfoundland.—2. For the purposes of the British Nationality Act, 1948—

(*a*) a person who, by virtue of subsection (7) of section thirty-two of that Act, was deemed to be at the date of the commencement of that Act potentially a citizen of Newfoundland shall be deemed to have been at that date potentially a citizen of Canada and not potentially a citizen of Newfoundland; and

(*b*) in relation to such a person, a citizenship law shall, notwithstanding the Citizenship Law (Canada) Order, 1948, made under subsection (8) of the said section thirty-two, be deemed not to have taken effect in Canada until the first day of April, nineteen hundred and forty-nine (being the date mentioned in section forty-six of the enactment of the legislature of Canada intituled the Statute Law Amendment (Newfoundland) Act, 13 Geo. VI. c. 6, which section relates to the extension of the Canadian citizenship laws to Newfoundland.

On April 5,[1] the Bill passed 3 *R.*, was sent to the Commons, returned agreed to, received the Royal Assent and duly became 14 Geo. VI. c. 5.

United Kingdom (Parliamentary Private Secretaries).[2]—In answer to a Q. to the Prime Minister in the House of Commons on May 25,[3] as to how many Ministers in the Commons have Parliamentary Private Secretaries, the Lord President of the Council (Rt. Hon. Herbert Morrison) replied that 20 or 25 such appointments had been made in the present Parliament. He was not, however, prepared to make an allegorical statement as the appointments were matters for arrangement between individual Ministers and the hon. members they asked to fill these posts.

United Kingdom (Consolidation of Enactments).—During the year under review in this Volume, a Joint Committee of the House of Lords and of the House of Commons was appointed to consider all Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949,[4] the objects of which were dealt with in our last issue.[5]

Being a Joint Committee, Messages had to pass between the 2 Houses.

The Committee originated in the Lords on March 14,[6] with the following Order of Reference:

Resolved: That it is desirable that in the present Session all Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, together with the Memoranda laid and any representations made with respect thereto under the Act, be referred to a Joint Committee of both Houses of Parliament.

It was then Ordered:

That a Message be sent to the Commons to communicate this Resolution, and to desire their concurrence.

[1] Ib. 858.
[2] *See also* JOURNAL, Vols. X. 103; XI-XII. 32.
[3] 475 *Com. Hans.* 5, s. 2235.
[4] 12 & 13 Geo. VI. c. 33.
[5] Vol. XVIII. 34.
[6] 166 *Lords Hans.* 5, s. 197.

The Message was received by the Commons on the same day and on March 17[1] the Lords Message (*as above*) was considered forthwith, when it was Resolved: "That this House doth concur with the Lords in the said Resolution" and a Message was sent to the Lords to acquaint them therewith.

On the 21st *idem*[2] Message was received by the Lords from the Commons that they concurred in the Resolution of the House communicated to them and on the 28th *idem*[3] the Lords Resolved:

That a Committee of six Lords be appointed to join with a Committee of the House of Commons as a Joint Committee on Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, in the present Session,

—and certain Lords were named of the Committee (*see below*).

It was then Ordered:

That such Committee have power to agree with the Committee of the House of Commons in the appointment of a Chairman.

On the same day the Lords sent a Message, etc.:

That they have appointed a Committee of 6 Lords to join with the Committee of the Commons as a Joint Committee on Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, in the present Session.

Message from the Lords was then announced in the Commons, on the same day—

That they have appointed a Committee of six Lords to join with a Committee of the Commons as a Joint Committee on Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, in the present Session.

On the 30th *idem*[4] the following entry appeared in the Commons *Hansard* that—

So much of the Lords Message [28th March] as relates to the appointment of a Committee on Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, to be considered forthwith.

Lords Message was then considered accordingly, whereupon the Commons Resolved that a:

Select Committee of six Members appointed to join with the Committee appointed by the Lords to consider all Consolidation Bills, Statute Law Revision Bills and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, together with the Memoranda laid and any representations made with respect thereto under the Act, in the present Session:

(*members named*)—Power to send for persons, papers and records: Three to be the Quorum.

Message was then sent to the Lords to acquaint them with such of the said Orders as are necessary to be communicated to their Lordships.

[1] 472 *Com. Hans.* 5, s. 1509.
[2] 168 *Lords Hans.* 5, s. 378.
[3] *Ib.* 604.
[4] 473 *Com. Hans.* 5, s. 708.

On April 4, it was announced in the Lords from the Commons:

Message from the Commons to acquaint this House that they have appointed a Committee of Six Members, to join with the Committee appointed by this House, as mentioned in their Lordships' Message of Thursday last to consider all Consolidation Bills, Statute Law Revision Bills, and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, in the present Session.

A Message was then Ordered to be sent to the House of Commons to propose that the Joint Committee on Consolidation Bills do meet in Committee Room A on *Thursday the 20th instant* at Eleven o'clock.

On the same day Message from the Lords was announced in the Commons

That the Lords propose that the Joint Committee on Consolidation Bills do meet in Committee Room A on *Thursday the 20th instant*, at Eleven o'Clock.

On April 5, the Lords Message of the 4th *idem* relating to the time and place of meeting of the Joint Committee was considered and it was Ordered that the Committee appointed by the Commons to meet the Lords Committee as proposed by their Lordships, and the Commons Ordered that Message be sent to the Lords to acquaint them therewith.

On April 5, it was Ordered in the Lords that—

The evidence taken before the Joint Committee from time to time to be *printed*, but no copies to be delivered out except to members of the Committee, and to such other persons as the Committee shall think fit, until further order. Leave given to the Committee to report from time time.

On the 8th *idem*, Message was received from the Commons:

That they have Ordered that the Select Committee appointed by them to join with the Committee of the House to consider all Consolidation Bills, Statute Law Revision Bills, and Bills presented under the Consolidation of Enactments (Procedure) Act, 1949, in the present Session, do meet the Lords Committee in Committee Room A on *Thursday* next, at Eleven o'Clock, as proposed by their Lordships.

The personnel of the Joint Committee above consisted of:

Lords.	*Commons.*
Lord Reading*	Captain Duncan
Lord Selkirk†	Mr. Forman
Lord O'Hagan	Mr. Geoffrey Hutchinson‡
Lord Belstead‡	Mr. Janner§
Lord Nathan§	Mr. Oliver‡
Lord Schuster*	Mr. Profumo

with Lord Reading as Chairman.

* K.C. † Advocate. ‡ Barrister-at-Law. § Solicitor.

We are indebted to the Clerk-Assistant of the Parliaments for the following Note on the subject:

The principle which has become established here is that such Bills are introduced in the House of Lords, their Second Reading is formal and they are then referred to a Joint Committee of both Houses which is appointed at the beginning of each Session to examine all Consolidation Bills of the Session. It is the function of this Joint Committee to ensure that the Bills are pure consolidation and contain no new law. On receiving the report of the Joint Committee to this effect, the Bills pass through their remaining stages—Committee of the Whole House and Third Reading—in the House of Lords without further discussion, and it has become an unwritten convention that no amendment is made to them in the House of Commons unless it be a purely verbal or drafting amendment.

The following 10 Bills, all of which originated in the Lords, were referred to the Joint Committee during the 1950 Session: *Statute Law Revision*; *Diseases of Animals*; *Housing* (*Scotland*); *Army Reserve*; *Air Force Reserve*; *International Organizations* (*Immunities and Privileges*); *Matrimonial Causes*; *Adoption*; Arbitration; and *Shops*.

In regard to all those in italics, the Bill was reported with amendments by the Lords, recommitted to *C.W.H.*, sent to the Commons and agreed to by them. In the case of the Arbitration Bill, however, the Bill was reported from the Joint Committee without amendment and agreed to by the Lords.

In regard to the Shops Bill, the Lord Chancellor reported that, unbeknown to the Parliamentary Draftsman, the Bill did effect some slight alteration of the law but was duly authorized by himself and the Speaker of the House of Commons.

This practice of constituting a Joint Committee from the two Houses and consisting mostly of lawyers, is a satisfactory one and, moreover, effects a great saving of time, especially in the House of Commons.

The Reports from this Joint Committee bear both the H.L. and the H.C. numbers.

House of Lords (Statute Law Revision Bill).[1]—In moving 2 *R.* of this Bill on March 14,[2] the Lord Chancellor said that it was the second and last of the Statute Law Revision Bills necessary to enable the Third Edition of *Statutes Revised* to be published and it would comprise the Statute Law to the end of 1948. The body of law down to the end of 1948 was to be found in 57 Volumes containing about 45,000 pages. As a result of specific repeals by Statute Law Revision and other Acts and omissions authorized by Statute Law Revision Acts and proposed by the Bill, the text of the Statutes to be contained in such Third Edition would be reduced from 45,000 to 28,000 pages.

The Bill affects some 1,350 Statutes. Two features in this Bill have not appeared in previous Statute Law Revision Bills. First, the special provisions relating to Northern Ireland consequent upon

[1] *See also* JOURNAL, Vol. XVII. 13. [2] 167 *Lords Hans.* 5, s. 197.

the decision of that Government to publish a Revised Edition of the Statutes affecting that country, and secondly, provisions relating to the revision of Church Assembly Measures, the said Third Edition including, as a companion Volume, a Volume of such Measures.

The Bill then passed 2 *R.* and was taken through the various stages in both Houses, received the Royal Assent and became 14 Geo. VI. c. 6.

House of Commons (Statements by Ministers outside House).[1]—On "Business of the House" an hon. member, on May 25,[2] asked the Prime Minister whether he agreed that important Ministerial Statements should be made in the House where they could be subject to interrogation by the elected representatives of the People? And, if so, would he bear in mind the constant growth of Press Conferences, 2 of which were held last week, where important statements were made, which in his opinion, should have been made in the House? In view of these conferences being a war-time growth, would he consider this matter in order to prevent its future repetition?

The Lord President of the Council (Rt. Hon. Herbert Morrison) replied that he did not dissent from the initial and fundamental principal expressed by his hon. friend. It was true that sometimes announcements were made at Press Conferences which he thought appropriate, because if every statement—especially about economic and trading facilities in which certain departments were involved—were made in the House, there would be a lot and the House would get tired of them. However, he would keep the subject in view. It was a matter for judgment on the merits of the case.

The Questioner then observed that what he was asking was that they should get back to the pre-war method and that important statements, like the abolition of points and controls, should be made in the House and be immediately challengeable.

Another hon. member remarked that hon. members had been pressing this point upon all sorts of governments and asked the Lord President of the Council: "Will he remember that this is the Commons House of Parliament"?

House of Commons (Election of a Member: Clergyman of the Church of Ireland).—On March 23,[3] in the House of Commons, the hon. member for Antrim, Northern Ireland (Rt. Hon. Sir Hugh O'Neil, Bt.), by *Private Notice*, asked the Leader of the House whether he was aware that the hon. member for Belfast W. (Rev. J. G. MacManaway) had not yet taken his seat in this House owing to doubts having been expressed regarding his eligibility as a clergyman of the Church of Ireland to sit in Parliament, and could he indicate what steps he proposed to take to enable the House to determine the matter.

The Leader of the House (Rt. Hon. Herbert Morrison) replied

[1] *See also* JOURNAL, Vols. V. 18; VI. 18; IX. 20; XVI. 16.
[2] 475 *Com. Hans.* 5, s. 2246.
[3] 472 *Com. Hans.* 5, s. 2171.

that H.M. Government considered this a question best handled by setting up a Select Committee. (*Some Supplementaries followed*).

On April 23,[1] the Leader of the House moved the following Motion:

That a Select Committee be appointed to consider and report whether the election of the Reverend James Godfrey MacManaway to this Parliament as Member for Belfast West is void, by reason of the provisions[2] of the House of Commons (Clergy Disqualification) Act, 1801.

An hon. member remarked that the hon. member for Belfast W. had taken the highest legal advice before standing as a Unionist candidate but, on arrival at Westminster, when told that a common informer could obtain a reward of £500 for every day that he (Revd. MacManaway) voted in the House, he thought it more prudent to get the matter cleared up.

Another hon. member, when referring to the evenly balanced Parties in the House, said that in the events of it being impossible for the Select Committee to decide the matter, the Select Committee may follow the course set in 1913 (Sir Stuart Samuel)[3] and report the matter to the Privy Council, which would mean that it was not in the hands of the House of Commons.

Question was then put and agreed to.

It was further Ordered that certain 10 (*named*) members be members of the Committee; that they have power to send for persons, papers and records and that 3 be the quorum.

The Special Report from the Select Committee[4] was laid on May 18 and Ordered to be printed.

The Committee had 5 meetings and examined the Clerk of the House, Sir Frederic Metcalfe, K.C.B., and the Attorney General, the Rt. Hon. Sir Hartley Shawcross, K.C., the Rt. Hon. Sir David Maxwell Fyfe, K.C., Mr. Geoffrey Bing, K.C., and Mr. Conolly Gage, members of this House, and considered memoranda submitted by them. They also examined the Rev. James Godfrey MacManaway, whose election forms the subject of the Committee's inquiry, and had before them his Letters of Orders, as formal proof of his ordination as a priest and deacon according to the use of the Church of Ireland.

Of these, only the Clerk of the House and Mr. Bing were quite clear in their view that the Act of 1801 disqualified all persons episcopally ordained to the office of priest or deacon, except for those holding preferments in the Church of Wales, who were exempted by a later Statute. The others, including Sir Hartley Shawcross, seemed to be of the opinion that the intention of the Act of 1801 was merely to exclude clergy of the established church, and since the Church of Ireland had been subsequently disestablished, the Act

[1] 473 *ib.* 927. [2] 41 Geo. III. c. 63.
[3] 167 C.J. 430, 466, 500; H.C. 379, 406 and 452 (1913). [4] H.C. 68 (1950): with Proceedings and Evidence, H.C. 68-1 (1950).

should not be construed against priests of that church. The Committee, after considering a proposal to recommend that the matter be referred to the Judicial Committee of the Privy Council, compromised in their Report by recommending a reform of the law.

On May 25,[1] Q. (*by Private Notice*) was asked the Prime Minister by the Leader of the Opposition that 3 months had passed since the General Election and that a constituency with 80,000 voters had been disfranchised during that period, to which the Leader of the Opposition replied that the Government had only just received the Report from the Select Committee but had not yet seen the memoranda and the evidence. The Leader of the Opposition, in the course of his remarks, said that he proposed to advise the hon. member to take the Oath and his seat at the earliest opportunity.

On June 13,[2] the Revd. James Godfrey MacManaway, M.B.E., member for Belfast West, took and subscribed to the Oath.

The hon. and learned member for Hornchurch (Mr. G. Bing, K.C.) said that, in view of the hon. gentleman, who had just taken the Oath, having been found by the Select Committee to be a priest of the Church of Ireland and the Select Committee having been unable to decide whether or not a priest of the Church of Ireland was disqualified from sitting in this House. It was quite clear from innumerable precedents that the House had a duty not to admit to its deliberations any person who may not be a member or permit him or her to vote in this House.

Under the circumstances, therefore, Mr. Bing said that, if he might follow the tradition of the House in the ancient form, he begged to give notice that he would move tomorrow:

That the return of the member for West Belfast be taken into consideration.

Mr. Speaker then stated that he had allowed the hon. and learned Gentleman to move his Motion tomorrow but that did not mean that he would accept it. In the meantime he would give it earnest consideration.

On June 14,[3] Mr. Speaker made a statement that the hon. member for Hornchurch yesterday gave Notice of a Motion for which he claimed precedence as a matter of Privilege. Since the same matter had already been referred to a Select Committee whose report was now before the House, he could not allow the Motion to have that precedence, as the hon. member would be bound to traverse the Committee's Report.

The Report of this Committee, though not a Report from the Committee of Privileges, was so clearly akin in subject matter that his Ruling of July 10, 1947,[4] could be held to apply to the Report of this Committee as to a Report from the Committee of Privileges. Mr. Speaker pointed out that if the Motion had been taken then, that

[1] 475 *Com. Hans.* 5. s. 2241. [2] 476 *ib.* 1. [3] 476 *ib.* 223.
[4] *See* JOURNAL, Vol. XVI. 269.

would not have stopped the hon. member from voting afterwards, so that the hon. member had not lost his right in due course.

After a Q. on "Business of the House" on June 22,[1] as to obtaining the opinion of the Privy Council, the Lord President, on June 29, moved:

That an humble Address be presented to His Majesty representing that the Select Committee of this House appointed to consider whether the election of the Reverend James Godfrey MacManaway to this Parliament as Member for Belfast West is void by reason of the House of Commons (Clergy Disqualification) Act, 1801, have reported that they have heard evidence from various authorities and considered the memoranda laid before them, but they felt that the arguments on both sides of the question were evenly balanced and that they were unable to arrive at a unanimous decision on their merits; and praying that His Majesty will refer to the Judicial Committee of the Privy Council for hearing and consideration the question of law, whether the provisions of the House of Commons (Clergy Disqualification) Act, 1801, so far as they apply to persons ordained to the office of priest or deacon disable from sitting or voting in this House only persons ordained to the office of priest or deacon in the Church of England as by law established, or whether they so disable from sitting or voting other and, if so, what persons ordained to those offices and in particular whether, by reason of the fact that the said James Godfrey MacManaway has been ordained as a priest according to the use of the Church of Ireland he is disabled from sitting or voting in this House, in order that the said Judicial Committee may, after hearing argument on both sides (if necessary) advise His Majesty thereon; and further praying that His Majesty upon receiving the advice of the said Judicial Committee, will be pleased to communicate such advice to this House, in order that this House may take such action as seems to it proper in the circumstances.

In response to a request by the hon. member for Liverpool: W. Derby (Major Sir David Maxwell Fyfe) the Attorney General said that to deal with this matter by a Bill declaring that the hon. member who now sat for Belfast West, was qualified in law so to do, did not appear to the Government to be quite so simple as that. Sir Hartley Shawcross then indicated the sort of problems which might then arise. They therefore thought that the practical solution was first to ascertain what the law really was before they started to alter it.[2]

In answer to a further Question, the Attorney General said that the last precedent was that of Sir Stuart Samuel in 1913 (*see above*), when the matter was referred to the Judicial Committee, which gave advice.

After considerable debate and in reply to a question, Mr. Speaker said that no private member could introduce a Bill at the moment.[3] Question was then put and agreed to.

Address to be presented by Privy Councillors or Members of His Majesty's Household.

On July 4,[4] the Vice-Chamberlain of the Household (Mr. E. Popplewell) reported His Majesty's answer to the Address as follows:

[1] 476 *Com. Hans.* 5, s. 1475. [2] *Ib.* 2468. [3] *Ib.* 2484.
[4] 477 *ib.* 215.

I have received your Address praying that I will refer to the Judicial Committee of the Privy Council for hearing and consideration the question of law, whether the provisions of the House of Commons (Clergy Disqualification) Act, 1801, so far as they apply to persons ordained to the office of priest or deacon disable from sitting and voting in the House of Commons only persons ordained to the office of priest or deacon in the Church of England as by law established, or whether they also disable from so sitting and voting other, and, if so, what persons ordained to those offices, and, in particular whether James Godfrey MacManaway who has been ordained as a priest according to the use of the Church of Ireland, is disabled from sitting and voting in the House of Commons and further praying that I may be pleased to communicate to the House such advice as I may receive from the said Judicial Committee.

I shall give directions accordingly.

On October 17,[1] the Secretary of State for the Home Department (Rt. Hon. J. C. Ede) made a statement in the House that the King in Council had considered the Report of the Judicial Committee of the Privy Council on the eligibility of the Revd. J. G. MacManaway, which said that, for reasons set out at great length in the Report, Mr. MacManaway was disabled from sitting and voting in the House of Commons. The Leader of the House then said that if the House accepted the advice, it was for the House to declare the seat for Belfast W. vacant and a Motion would be brought forward and a writ for a by-election issued in the usual way.[2]

On October 19,[3] certain hon. members asked Mr. Speaker's Ruling on the presence of Mr. MacManaway in the House as on previous occasions when there was any doubt about the credentials of an hon. member, the person concerned was absent from the precincts. To this, Mr. Speaker replied that the hon. member for Belfast W. "is entitled to be here". The House had found nothing against him. "He is entitled to make his statement and then he must withdraw."

Another hon. member then asked Mr. Speaker why the hon. member (Revd. J. G. MacManaway) should not, under the circumstances, sit there for the whole debate until the House determined that something in his conduct required adjustment?

Mr. Speaker thought that was an error, as it was always the custom that the member, probably in his own interest, because things might be said which might cause him difficulty, should withdraw.[4]

On October 19,[5] the following Motion was moved by the Leader of the House:

That this House having taken into consideration the Report of the Judicial Committee of the Privy Council in the case of the Reverend James Godfrey MacManaway elected a member to serve in the present Parliament for the constituency of Belfast West, declares that he was at the time of his election

[1] 478 *ib.* 1882. [2] *Ib.* 1883. [3] *Ib.* 2230. [4] *Ib.* 2231.
[5] *Ib.* 2243-2276.

and is disabled from sitting and voting in the House of Commons by reason of the fact that, having been ordained a Priest according to the use of the Church of Ireland, he has received episcopal ordination.

During the considerable debate which followed, the Revd. J. G. MacManaway in his right "to stand up here and defend himself before his fellows in the House" said that having been returned to this House by the will of the people in the biggest working-class constituency in the United Kingdom, was it to be brushed aside because of some archaic legal enactment? Any clergyman of the Church of England who resigned his benefice tomorrow and any emoluments accruing could come and sit in this House. The fact that he had been episcopally ordained was not the bar. "There was the Welsh Church Act 1914[1] and if I were to join the Welsh Church tomorrow as a curate, nobody could stop me coming to sit in this House because it was laid out in such Act."

Mr. MacManaway, continuing, said that it would appear that in the case of the Church of Ireland, there must be something particularly virulent in their Orders which differentiated them from the Churches of England or Wales "inasmuch as, though we are all episcopally ordained, we only are debarred from sitting". The issue before the Privy Council was an issue of law. The issue before the House was a question of British justice. "We expect . . . that on a question of this kind party politics will be discarded and that cricket will be played."[2] *The hon. member then withdrew from the House.*

After some debate, the hon. member for Liverpool: W. Derby (Sir David Maxwell Fyfe) moved to add to the proposed Motion:

but at the same time urges that a Royal Commission be set up to deal with the state of the law as disclosed in the Report, thus avoiding in future an inconvenience similar to that now caused to the electors of Belfast West.[3]

After further debate, the Amendment was, by leave, withdrawn. Main Question put and agreed to.

The Bill.

On March 15, 1951,[4] a Bill was presented:

to indemnify the Reverend James Godfrey MacManaway from any penal consequences incurred under the House of Commons (Clergy Disqualification) Act, 1801, by sitting or voting as a member of the Commons House of the Parliament of the United Kingdom or as a member of the House of Commons of Northern Ireland

—and passed 1 *R.*

2 *R.*, *C.W.H.* and 3 *R.* were taken on April 18, 1951,[5] and the Bill was transmitted to the Lords.

Lords Amendments.—On May 9, 1951,[6] the Bill was received from the Lords with the following amendments:

to add to the second recital of the Preamble—

[1] 4 & 5 Geo. V. c. 91.
[2] 485 *ib.* 178.
[3] *Ib.* 2254.
[4] 486 *ib.* 1843, 1911.
[5] *Ib.* 2276.
[6] 487 *ib.* 1963.

and a resolution to that effect was agreed to by that House on the 19th day of October nineteen hundred and fifty.

The hon. member for Antrim S. observed that the amendment had been inserted by the Lords because it showed clearly that as far as the Judicial Committee of the Privy Council was concerned, their decision was not necessarily imposed on, but had to be adopted by this House.

Question put and agreed to.

A further Lords amendment occurred in the third recital of the Preamble, namely, to add:

and the said James Godfrey MacManaway gave notice of resignation from the House of Commons of Northern Ireland as from the twenty-second day of January nineteen hundred and fifty one.

Question put: "That the House doth agree with the Lords in the said amendment" and agreed to.

The Royal Assent was announced in Parliament on May 10, 1951, and the Bill duly became 14 & 15 Geo. VI. c. 29.

(*See also below* XX APPLICATIONS OF PRIVILEGE, 1950, "*Speech West Belfast Election*".)

House of Commons (Private Members' Time).[1]—On April 3,[2] the following Resolution was passed on the Motion of the Lord President of the Council (Rt. Hon. Herbert Morrison):

That—

(1) Save as prescribed in paragraph (2) of this Order, Government Business shall have precedence at every sitting for the remainder of this Session, and no Bills other than Government Bills shall be introduced;

(2) Unofficial Members' Notices of Motions shall have precedence over Government Business on Friday, 5th May, Friday, 12th May, Friday, 19th May, Friday, 16th June, and Friday, 23rd June; and no Notices of Motions shall be handed in for any of these Fridays in anticipation of the ballot under paragraph (3) of this Order; and

(3) Ballots for precedence of Unofficial Members' Notices of Motions shall be held after Questions on Wednesday, 19th April, Wednesday, 26th April, Wednesday, 3rd May, Wednesday, 24th May, and Wednesday, 14th June.

House of Commons (Adjournment (Urgency) Motions).[3]—The following instances occurred during the 1950 Session:

Not accepted.

On May 15—

That owing to the dumping of foreign imports the whole of the fishing industry is faced with ruin, that already large unemployment has occurred, a large number of fishing vessels are tied up and that Government action is urgently required to prevent complete chaos in the Industry.

Mr. Speaker ruled that he could not accept the Motion as it did not really qualify as a definite matter of urgent public importance.[4]

[1] *See also* JOURNAL, Vols. VII. 38; XI-XII. 33; XIII. 37-40; XVI. 123, 127, 133, 154; XVII. 19.
[2] 473 *Com. Hans.* 5, s. 869-903.
[3] *See also* JOURNAL, Vol. XIV. 59, 67.
[4] 475 *Com. Hans.* 5, s. 846.

On June 28[1]—

Arising out of the situation in Korea, namely, the need for the immediate issue of instructions to our Delegate at Lake Success to move, under Article 109, the reform of the United Nations, so that it shall become a world Government, able to make and enforce world laws.

Mr. Speaker ruled that the Motion was too wide to be considered in order and also not urgent now.

On October 23[2]—

The disappearance of Professor Pontecorvo and the failure of the Government to take adequate precautions to prevent it.

Mr. Speaker ruled that the Motion failed on the ground of urgency. "Professor Pontecorvo is not in this country, there was no particular reason for stopping him when he left the country, and the Government have no power to get him back or deal with him."

House of Commons (Time for handing in *Amdts.* to Bills in C.W.H.).[3]—The only amendment to the Public Business Standing Orders made in 1950 was to S.O. 39 (Notices of Amendments, etc.), and the effect of the amendment is to revert to the pre-war practice of not allowing committee amendments to a Bill to be handed in before the Bill has been read a second time. S.O. 39 previously had a paragraph (2) specifically permitting this practice.[3, 4]

House of Commons (Notices of Motion: Signatures).—On November 18, 1948,[5] an hon. member asked Mr. Speaker a question, of which he had given him notice—namely, if arrangements could be made to publish on the Order Paper the name of a member who takes his name off a Notice of Motion to which he had previously given support. Mr. Speaker then stated that the practice is that all Notices of Motion for an early day are filled in the Table Office where is also kept a list of all hon. members whose names were attached to the original Notice of Motion and of hon. members who added their names subsequently. When an hon. member instructs the Table Office that he wishes to withdraw his name from a Motion the Clerks in the Table Office delete his name from the list. No machinery at present exists for publishing the names of hon. members who have so withdrawn their names. If a general desire exists that names withdrawn should be published, this could be done by a memorandum at the end of the Votes and Proceedings.

The hon. member then thanked Mr. Speaker and observed that the act of supporting a Motion was a public act of an hon. member in his capacity as such and may influence the country and his constituents; that, consequently, the act of withdrawing support was an equally important public act and that some means should be found whereby information of that act could be available not merely to members of this House, but to constituents and to the country as a whole.

[1] 476 *ib.* 2293, 4.
[2] 478 *ib.* 2491.
[3] *See* JOURNAL, Vol. XVI. 138 (*vide* S.O. 33(A)).
[4] Contributed by the Clerk of the House of Commons.—[ED.]
[5] 458 *Com. Hans.* 5, s. 573.

Upon another member speaking, Mr. Speaker suggested that the matter could no doubt be pursued through the usual channels and the general opinion of members ascertained and that, if it were not an impertinence on his part, he would advise members always to be very careful in what they signed.

House of Commons (Standing Order Amendment).—During the year 1950 S.O. 113 (Place of Meeting on the first day of the Session) was repealed.[1] The new Chamber being now available, it is no longer necessary for the Commons to move down to St. Stephen's Hall when the King makes his speech to both Houses in the House of Lords' Chamber.[2]

House of Commons (Delegated Legislation).[3]—The Select Committee on Statutory Instruments was appointed[4] in the 1949-50 Session with the same Order of Reference and powers as in the 1948-49 Session.[5]

The Reports from the Select Committee, together with the Proceedings thereof, in completed form, were laid and Ordered to be printed on October 25, 1950.[6]

In the *First Report* the Committee state that they have considered the Cheese (Amendment No. 3) Order, 1950 (S.I., 1950, No. 317), a copy of which was presented on March 9, 1950, and are of opinion that the special attention of the House should be drawn to it on the ground that its form and purport call for elucidation.

The Ministry of Food in their Explanatory Memorandum reported that the Order (No. 317) had since been revoked by the Cheese (General Licence and Amendment No. 4) Order, 1950 (S.I., 1950, No. 583), which came into operation April 9, 1950, and which sets out a new Part I of the said Schedule in full; that in future it is intended to avoid the use of ditto marks with their obvious possibilities of error.[7]

This assurance, however, did not avoid a Prayer being moved in the House on May 9,[8] the form of which is:

> That an humble Address be presented to His Majesty praying that the Order, dated 6th April, 1950, entitled the Cheese (General Licence and Amendment No. 4) Order 1950 (S.I., 1950, No. 583) a copy of which was laid before this House on 6th April, be annulled.

After some debate the Question was put and negatived.

In the *Second Report* the Committee state that they have considered the Eggs (Minimum Prices for 1950-51 and 1951-52) Order, 1950 (S.I., 1950, No. 435), the Fat Stock (Minimum Prices for 1950-51 and 1951-52) Order, 1950 (S.I., 1950, No. 436), and the Milk (Minimum Prices for 1950-51 and 1951-52) Order, 1950 (S.I., 1950,

[1] 1950 VOTES, 490. [2] Contributed by the Clerk of the House of Commons.—[ED.] [3] *See also* JOURNAL, Vols. IX. 64; X. 25, 27, 83; XI-XII. 15; XIII. 160; XIV. 152; XV. 30; XVI. 33; XVII. 12; XVIII. 50 and 54; and 389 *Com. Hans.* 5. s. 1231, 1593-1692. [4] 472 *ib.* 706. [5] *See* JOURNAL, Vol. XVIII. 54. [6] H.C. 178. [7] *Ib.* at p. 4. [8] 475 *Com. Hans.* 5. s. 319.

No. 437), copies of which were presented on the 24th March, and are of the opinion that the special attention of the House should be drawn to them on the ground that their form and purport call for elucidation.

In the Explanatory Memorandum submitted by the Ministry of Agriculture and Fisheries they report that:

> With the exception, however, of special matters such as the above, the basic calculation is precisely the same in each Order, and entails the ascertainment of the total amount of money to be paid by first multiplying each different price by the quantity of produce affected by that price—for this purpose, the quantity of produce in the corresponding period of the "standard year" is used as an indicator—and totalling the resulting sums. This total amount of money is then divided by the total quantity of produce—again as indicated by the "standard year." This method of calculating the "average" price can thus be followed out either previous to the year's commencement or as the year progresses, enabling the actual variable prices paid for the produce to be fixed in advance so as to comply with the minimum annual "average" price prescribed in the Orders.[1]

In the *Third Report* the Committee state that they have considered the Housing (Rate of Interest) Regulations, 1950 (S.I., 1950, No. 1008), a copy of which was presented on June 21, and are of the opinion that the special attention of the House should be drawn to them on the ground that there appears to have been an unjustifiable delay in the laying of them before Parliament.

In the conclusion of their Explanatory Memorandum the Ministry of Health tendered their apologies to the Committee for the mistakes committed within the Department in the handling of this matter, which would not have occurred had the clear standing instructions in force been carefully observed.[2]

In this case a Prayer to annul the Regulations was moved in the House on July 25,[3] when after considerable debate it was

> Resolved: That an humble Address be presented to His Majesty, praying that the Regulations, dated 24th April 1950, entitled the Housing (Rate of Interest) Regulations 1950 (S.I., No. 1008)[4] a copy of which was laid before this House on 21st June 1950, be annulled.

To be presented by Privy Councillors or Members of His Majesty's Household.

An interesting feature in this case was that when the Question was put and the House proceeded to a division, two members were appointed Tellers for the Ayes, but no members were willing to act as Tellers for the Noes.

Mr. Deputy Speaker accordingly declared that the Ayes had it.

In the *Fourth Report* the Committee state that they have considered the Transfer of Functions (Sale of Food) Order, 1950 (S.I., 1950, No. 1044), a copy of which was presented on June 26, and the Labelling of Food Order, 1950 (S.I., 1950, No. 1061), a copy of

[1] H.C. 178 at p. 7. [2] *Ib.* at p. 8. [3] 475 *Com. Hans.* 5, s. 395-417.
[4] *See also* Special Report *below*.—[ED.]

which was presented on June 28, and are of the opinion that the special attention of the House should be drawn to them on the ground that their form and purport call for elucidation.[1]

Explanatory Memoranda were respectively submitted by the Ministry of Food.[2] However, a Prayer was moved in the House on October 17,[3] for the annulment of the Labelling of Food Order, 1950 (S.I., 1950, No. 1061), but, after considerable debate, the Question was put and negatived.

The last and *Special Report* will be quoted in full, and reads:

1. Your Committee have examined 682 Statutory Instruments and Drafts of Instruments since the beginning of the Session and have drawn the attention of the House to seven. Of the 682 Instruments examined, 325 arose out of Emergency legislation, i.e., were presented under the Supplies and Services (Transitional Powers) Act, 1945, as extended by the Supplies and Services (Extended Purposes) Act, 1947, the Emergency Laws (Transitional Provisions) Act, 1946, or the Goods and Services (Price Control) Acts, 1939 and 1941. Of the seven Instruments brought to the special attention of the House, one was reported under the fifth head of the Committee's Order of Reference (unjustifiable delay in laying before Parliament) and six under the seventh (need for elucidation). Following the practice of former Sessions, Your Committee desire to supplement their *ad hoc* Reports by submitting a Special Report upon matters which have come to their notice.

Consolidation.

2. The operation of the Statutory Instruments Act, 1946, has in one particular created an anomaly. Amendments of the rules made by the General Nursing Councils in England and Scotland are now Statutory Instruments, although the original Rules were outside the system of official publication and were privately printed. Your Committee, therefore, have had to consider these amendments without access to copies of the principal rules which they amend. This anomaly would disappear if the rules were consolidated. Your Committee have been assured that consolidation is in hand; they trust that in the interests of all concerned it will soon be carried out.

Recital of Authority.

3. In paragraphs 2 and 3 of their Special Report in the Session 1946-47[4] Your Committee, for reasons therein set out, expressed the view that an instrument should refer to the particular section or sections of the statute under which it purports to be made. This opinion was reiterated in paragraph 4 of their Special Report in the Session 1948-49. Your Committee are aware that detailed indentification of statutory powers is not always easy; in the difficult case of the Assurance Companies Rules, 1950 (S.I., 1950, No. 533), they have noted the success with which the rule-making authority has shown the relation of the various rules to the sections of the parent Act.

4. Occasionally, however—for instance, in the Register of Patent Agents Rules, 1950 (S.I., 1950, No. 804)—this information is still being withheld. There seems indeed to be a growing tendency to limit it, if the Traffic Signs (Size, Colour and Type) Regulations, 1950 (S.I., 1950, No. 953), can be regarded as typical of recent practice. In this instance the following provisions of the Road Traffic Act, 1930, are material:

> "Traffic signs shall be of the prescribed size, colour and type . . ." (section 48 (2)):

[1] H.C. 178 at p. 8.
[2] 478 *Com. Hans.* 5, s. 1985-2010.
[3] *Ib.* at pp. 9 and 10.
[4] *See* JOURNAL, Vol. XVI. 35.

" The Minister may make regulations—

(*a*) for prescribing anything which under this Part of this Act may be prescribed . . ." (section 59 (1)).

5. Although the previous regulations of 1933 cited section 48, the 1950 regulations cite only section 59, where the general regulation-making power is to be found. The Ministry have informed Your Committee that to have mentioned section 48 would have been incorrect inasmuch as the Minister derives no power therefrom. Be that as it may, Your Committee feel that departments should contrive to indicate the particular as well as the general provisions of the parent statute to which reference needs to be made.

Dating of Instruments.

6. In paragraph 7 of their Special Report in the Session 1944-45[1] Your Committee drew attention to the dating of instruments where two or more departments jointly exercise a delegated power. They suggested that in such cases it might 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. Your Committee think this suggestion applicable to all cases where two or more departments act jointly or separately—e.g., where the parent Act authorizes a Minister to make an instrument " with the consent of the Treasury " and where in consequence two Lords Commissioners add their signatures to the document which the Minister has already signed. The instrument cannot be deemed to have been finally " made " until the Treasury's consent is given; the date when it is " made " is important if Your Committee is to discharge its duty of reporting delay in publication or laying before Parliament.

7. The Special attention of the House has already been drawn to the Housing (Rate of Interest) Regulations, 1950 (S.I., 1950, No. 1008).[2] From the instrument itself, and from the departmental memoranda reported therewith, it appears that (by an oversight which the Ministry frankly disclosed and for which it expressed regret) the date of making was wrongly stated; the date stated was in fact that on which the Minister had signed; and there was an interval of about a month between the signature of the Minister, and the signatures of the Lords Commissioners. It further appears, and Your Committee have observed, that the Treasury refrain, as a matter of departmental practice, from dating the Lord Commissioner's consents, though the practice is evidently not uniform, for, in the corresponding regulations for Scotland (S.I., 1950, No. 1057), the date is inserted below all the signatures.

8. Your Committee strongly recommend that the departmental practice be reconsidered, and that the course taken in the Scottish regulations be followed.

Simplification.

9. Your Committee feel that it is not inappropriate to remind Departments of the continuing need to make Statutory Instruments simple and easily understood by the general public. The subjects dealt with are admittedly very often of an exceedingly complex nature, but that should make clarity even more desirable. Your Committee trust that this fact will be constantly borne in mind by all rule-making authorities.

The Committee also considered 56 Regulations in regard to which an affirmative Resolution was required, of which 40 were affirmed by the House.

There were 23 Prayers to annul, only one of which (*see above*) was carried, the others being either negatived or withdrawn.

[1] *See ib.* XIV. 156.

[2] Third Report H.C. 116 (*see* p. 7).

The Select Committee held 10 meetings, at each of which Sir Cecil Carr, K.C.B., K.C., LL.D., the Counsel to the Speaker was in attendance and at their first meeting the Committee Ordered on the Motion of the Chairman, " That unless otherwise Ordered strangers be not admitted ".

On April 26[1] a written Question was asked the President of the Board of Trade as to why essential dates had been omitted from S.I., 1950, No. 508, but were supplied by correcting slip, bearing no date or authority; and if he would arrange for the Instrument to be published in proper form?

The Ministerial reply was to the effect that the essential dates were entered in the signed copy of the Order and correcting slips were issued in accordance with normal practice when the omission was discovered in the published copies. The correcting slips bore the imprint of H.M.S.O., and the number and title of the Instrument. If it was necessary to reprint the Order the dates would of course be incorporated.

On May 1,[2] the Secretary of State for Foreign Affairs was asked why, by S.I., 1950, No. 515, he had found it necessary to amend 9 former Statutory Instruments?

To which the Ministerial reply was that the purpose of such S.I. was, as stated in the Explanatory Note to the Order, to make it clear that exemption from Income Tax, granted to officials of international organizations, was limited to emoluments received from these organizations and that the exemption did not apply to income from other sources. Amendment to the 9 earlier orders was considered necessary to remove possible ambiguities.

A Supplementary was then asked by the hon. member, as to why such Explanatory Note does not specifically state that the 9 previous Orders were ambiguous?

On May 25,[3] the Minister of Agriculture was asked whether he was aware that the Select Committee had not reported that S.I., Nos. 435, 436 and 437, of March 23, 1950, called for elucidation and what action he proposed to take?

The reply was that the Minister considered that the form and purport of such S.I.s had been sufficiently elucidated by his Department's Memorandum and he did not propose to take any further action.

A Supplementary was then asked as to whether it was fair to the general public that these Orders should be left in that incomprehensible form?

House of Commons (Members' Pension Fund: Comptroller and Auditor-General's Reports for the years ended September 30, 1949 and 1950 respectively).[4]—There was an error in the Editorial Note

[1] 474 *Com. Hans. 65.* [2] *Ib.* 1406. [3] 475 *ib.* 2237.
[4] *See also* JOURNAL, Vols. V. 28; VII. 38; VIII. 103; XI-XII. 129; XIII. 175; XIV. 44; XV. 149; XVI. 143; XVII. 214 and XVIII. 57.

Volume XVIII both in the heading on p. 57 and in the first line on p. 58, "1949" should read "1948" in each case.

On March 7, 1950, the Comptroller and Auditor-General's Report[1] for the year ended September 30, 1949, and on December 12, 1950, his Report[2] for the year ended September 30, 1950, were respectively laid and printed, in which he certified that the Revenue and Expenditure Account, Investments Account and Balance Sheet respectively for those 2 years had been audited and found correct.

To follow on from the last annual report of the Comptroller and Auditor-General for the year 1947-48, as shewn in the last Volume (XVIII) at p. 58, the position therefore is:

1.	2.	3.	4.
Year.	*Excess Income Over Expenditure*	*Capital Account.*	*Investments at Cost.*
	£	£	£
1948-49	4,520 1 6	66,244 11 7	62,803 0 3
1949-50	2,691 7 11	68,935 19 6	65,826 19 7

Details of the investments at cost are given on p. 4 of each Report.

In his Report for 1949-50 the Comptroller and Auditor-General remarks that for that year the expenditure on grants, other than special hardship grants under S. 4 of the House of Commons Members' Fund Act, 1948,[3] amounted to £5,353 6s. 8d., an increase of £1,377 1s. 8d., as compared with the previous year. The increase was largely due to the payment of 12 new grants awarded by the Trustees to ex-members as the result of claims received following the dissolution of Parliament on February 3, 1950.

No gifts, devises or bequests were received by the Trustees in the years 1948-49 and 1949-50 under the House of Commons Members' Fund Acts, 1939,[4] and 1948.

The names of the M.P.s appointed Managing Trustees of the Fund, in pursuance of S. 2 of the Act of 1939,[5] were announced in the House on March 23, 1950.[6]

House of Commons (*Hansard*: Official Position of).[7]—On February 16, 1949,[8] an hon. member drew the attention of Mr. Speaker to an inaccuracy in the "Official Report" of that day in regard to the record of an Amendment as negatived when it had been made.

Mr. Speaker assured the hon. and gallant member that the mere fact that he had raised the point would automatically put the matter right.

It was a mistake, however, to call *Hansard* the Official Report.

[1] H.C. 23 (1950). [2] H.C. 49 (1950). [3] 11 & 12 Geo. VI, c. 36.
[4] 2 & 3 Geo. VI. c. 49. [5] *See* JOURNAL, Vol. VIII. 113.
[6] 472 *Com. Hans.* 5, s. 2297. [7] *See also* JOURNAL, Vol. XIV. 48.
[8] 461 *Com. Hans.* 5, s. 1146.

The official record is the one which it was Mr. Speaker's duty, by Resolution passed at the beginning of every Session to peruse daily, namely, the Votes and Proceedings.

On the following day,[1] in reply to a question by the Leader of the Opposition (Rt. Hon. Winston Churchill) Mr. Speaker said that *Hansard* was the Official Report of Parliamentary Debates, namely, a report by people who were officially appointed as part of the Staff of the House of Commons. That was the extent of the official position of *Hansard*. There was authoritative matter in its record. *Hansard*, however, had no effect whatsoever on the proceedings of the House and no authority at all. Neither is *Hansard* accepted in the Courts of Law. Under the Evidence Act of 1845,[2] copies of the Commons Journals are admitted in evidence without proof of the printing, but copies of *Hansard* are not so admitted as evidence of facts therein stated.

Mr. Speaker further observed that he agreed as to the extraordinary accuracy of *Hansard*. It seldom made a mistake. It was not any ordinary reporter who could become a reporter on *Hansard*.

He had to write down the words of some hon. members here who speak very, very fast. He has not only to do that; he has to be able to name the member, to say who is speaking and also to have a good knowledge of procedure, to know whether an amendment has been withdrawn or accepted or what has happened to it. It is not every reporter, however skilled he may be at shorthand, who can become a *Hansard* reporter, and I should like to pay tribute to them.

House of Commons (Report of Divisions in *Hansard*).—In reply to appeal for help on March 15,[3] Mr. Speaker said that Votes are not officially recorded in *Hansard*. The official record of voting in Divisions is the Votes and Proceedings.

House of Commons (Publications and Debates Committee's Report, 1949-50).[4]—This Select Committee was appointed by the House on March 17, 1950,[5] with the same order of reference, etc., as since 1944.[6] The Committee met 5 times and heard Mr. H. G. G. Welch, Controller of H.M.S.O., and Mr. T. H. O'Donoghue, Editor of *Hansard*. Mr. A. J. Moyes, O.B.E., the Accountant of the House of Commons, was examined, re-called and re-examined, but no evidence was printed.

The Report[7] with the proceedings and Minutes of Evidence was laid on October 24, 1950, and Ordered to be printed. The Committee again considered the possibility of the daily *Hansard* going to press later than at present, H.M.S.O. only being able normally to accept and print copy up to 11.30 p.m. The time taken up by the transcription and typing of shorthand notes, added to the delay

[1] *Ib.* 1347-50. [2] 8 & 9 Vict. c. 113. [3] 472 *Com. Hans.* 5, s. 1086.
[4] *See also* JOURNAL, Vols. I. 45; II. 18; VI. 157; VII. 36; IX. 89; X. 23, 24, 42; XI-XII. 30, 33; XIII. 153; XIV. 48; XV. 40; XVI. 38; XVII. 23; XVIII. 58.
[5] 472 *Com. Hans.* 5, s. 1508. [6] *See* JOURNAL, Vol. XIII. 153. [7] H.C. 176 (1950).

necessary to enable members to check the reports of their speeches, puts back to about 10.30 p.m., the hour beyond which no speech can be reported on the following day. In the light of evidence given before the Committee in 1947,[1] it was hoped to extend the time by ½ hour, but the Controller of H.M.S.O. stated in evidence that this was not practicable. The Committee, however, are continuing to investigate the problem and hope that it may be possible to have a transcript of any speech made after 10.30 p.m. placed in the Library on the following morning. In this connection, the Committee were still bearing in mind the use of modern technical devices to increase the efficiency of the service.

The Committee decided upon the issue of a House of Commons Christmas Card.

***House of Commons (Parliamentary Catering).**[2]—The Select Committee on the Kitchen and Refreshment Rooms (House of Commons) was set up on March 13, 1950,[3] with the same order of reference and powers as in force since 1944.[4]

In a *Special Report*,[5] which was laid and Ordered to be printed on May 3, 1950, the Committee state that during the last months of the last Parliament, economies in staff and service were introduced by the then Committee in an attempt to reduce the rising deficit in the year's trading, which, nevertheless, reached £7,688 2*s*. 6*d*. by the end of the year. The present Committee was undertaking a complete survey of the working of the Refreshment Department.

In addition to the Annual Statement of Income and Expenditure for the year ended December 31, 1949 (*vide* pp. 4 and 5). The Comptroller and Auditor-General, in his Report for such period, dated April 19, 1950, shows the trading loss, grants in aid and net surplus or deficit for the years 1947, 1948 and 1949 (*see below*).

A *Second Special Report*[6] was laid on May 17, 1950, and Ordered to be printed. In it the Committee state that the House expects them to provide food and drink at prices comparable to those charged in similar establishments outside, as well as a service in accordance with the dignity of the House. The estimated numbers of those using the Refreshment Rooms during the year is 1,800, of whom only 625 are M.P.s.

The Committee are handicapped by the erratic nature of the demand for food owing to unexpected early risings of the House; the haphazard layout of the buildings lowering the standard of efficiency; and the badly designed Tea Room. The Committee have carried through various economies but they report that the Department enters the financial year heavily in debt without the prospect of balancing their accounts and that the House must now accept the responsibility of placing the finances of the Department on a sound basis.

[1] *See* JOURNAL, Vol. XVI. 38. [2] *See also* JOURNAL, Vols. I. 11; II. 19; III. 36; IV. 40; VII. 41; VIII. 29; XIII. 45; XIV. 53; XV. 41, 45; XVI. 39; XVII. 24; XVIII. 59. [3] 472 *Com. Hans.* 5. s. 875. [4] *See* JOURNAL, Vol. XIV. 53. [5] H.C. 57 (1950). [6] H.C. 66 (1950).

The Committee make various suggested alterations and improvements.

The Committee state that for reasons set out in their Special Report of 1949[1] there has been an increasing trading loss in the last few years, which Treasury grants in aid have lately quite failed to cover. (*For appropriate figures see below.*)

The Committee have arranged that in future detailed trading accounts are to be presented for their inspection at regular and frequent intervals. The main cause of the present financial difficulties lies in the payment of wages to a permanent staff throughout the whole year, whether the House is sitting or not. In 1949 54 per cent. of the Department's income was paid out in staff wages and costs.

Paragraphs 19, and 21 to 23 of this Report read:

19. For the eighteen weeks and two days—in all, 128 days—of recess in 1949, the Treasury paid a subvention of some £14,300. But of the remaining 237 days, Parliament sat on only 169 (and these, in turn, saw only the equivalent of 137 days' trading). If the Treasury grant covered even the 196 days (on which Parliament did not sit) at the same rate as it did the 128, there would have been granted a sum of approximately £22,000, and this would have balanced the trading loss.

21. Your Committee wish now to point out that they started with a debt of over £9,000 at the beginning of 1950, and must in addition pay interest at 3 per cent. on the present bank overdraft of some £32,000. They point out that they are expected to act as a trading concern without any trading capital—an impossible proposition. They propose, therefore, that either the interest charge shall be borne by the Treasury or, alternatively, that working capital should be provided by the Treasury without interest being charged on it.

22. Your Committee reiterate the belief that it is their responsibility to provide refreshment at a fair price and with due regard to the dignity of the House which they serve. They observe that the experience of the last hundred years shows that it is impracticable to cater on a strictly commercial basis and provide conditions of staff employment of which the House need not be ashamed. The experience of the last few years and of the current trading year has shown that the present Treasury formula is inadequate.

23. Your Committee, therefore, ask the House to approve their proposals and to take the appropriate action. They emphasize that the Refreshment Department provides an indispensable service for the House in just the same way as any other Department that appears on the Vote of the House. They wish to make it clear that the losses are incurred mainly when the House is not sitting that the prices charged are fair and reasonable, and that the charge that Members of Parliament have their meals subsidized is groundless.

The Committee made a *Special Report*,[2] which was laid and Ordered to be printed on May 9, 1951, together with the Annual Statement of Income and Expenditure of the Comptroller and Auditor-General for the year ended December 31, 1950, duly audited and showing the trading loss, grants in aid and net surplus or deficit for such year.

Paragraph 1 of the Special Report of 1951 reads:

[1] *See* JOURNAL, Vol. XVIII. 60. [2] H.C. 187 (1951).

1. In order to determine more exactly where losses are incurred, Your Committee have this year sought the help of the Comptroller and Auditor-General in designing a scheme of departmental accounts to bring out the trading results of each section of the Refreshment Department. These accounts are now being prepared periodically and Your Committee hope, by a study of them, to see if and where the losses can be reduced.

Paragraphs 2, 3 and 4 of the Comptroller and Auditor-General's Report for the year ended December 31, 1950, are as follows:

Grant in Aid from the Vote for the House of Commons—£16,150.

2. This grant in aid was provided in the Vote for the House of Commons, 1950-51, towards the net cost of the staff of the Refreshment Department during the periods in 1950 when the House was not sitting. Owing to the General Election, closed periods in 1950 were greater than expected and exceeded those of 1949 by 5½ weeks. As a result, the sum of £16,150 fell short of the calculated net cost of staff in those periods by £3,184 12*s*. An additional grant in aid of this amount has since been received from the Vote for the House of Commons, 1951-52, and will be brought to account in 1951.

New Press Dining Room.

3. A new Press Dining Room with its own separate kitchen was opened in October, 1950. Furniture and heavy equipment were provided free of charge by the Ministry of Works, but light equipment (cutlery, plate, napery, etc.) was purchased by the Refreshment Department at a cost of £4,107 17*s*. 1*d*., and this value is included in the Balance Sheet as a new and separate item. As the Room was only open for two months in 1950, no provision for depreciation was made in the Profit and Loss Account for that year.

Bank Overdraft.

4. The bank overdraft of £43,352 at 31st December, 1950, was £10,702 higher than at the end of the previous year. The increase was mainly due to the net loss of £8,598 for the year 1950 (after taking into account the grant in aid) and to the expenditure of £4,108 on the equipment of the new Press Dining Room, offset by a reduction of £2,218 in the value of stocks held.

The Committee observe that there has been an increasing trading loss during the last 4 years; which the Treasury grants have failed to cover. The appropriate figures, taken from the Special Reports H.C. 66 (1950) and H.C. 187 (1951) are as follows:

Year.	*Trading Loss.*	*Treasury Aid.*	*Net Profit or Loss.*
	£	£	£
1947	13,014	13,951	+937
1948	19,247	14,048	−5,199
1949	20,013	14,324	−7,688
1950	24,748	16,150	−8,598

United Kingdom: Northern Ireland: House of Commons (Propaganda in Members' Pigeon-holes).—On March 15,[1] in the House of Commons the hon. member for Pottinger: Belfast (Dr. Rodgers) asked Mr. Speaker if he was aware that propaganda directly attacking the Constitution of Northern Ireland had been inserted in the

[1] XXXIV N.I. *Com. Hans.* Vol. 34, No. 7, 335.

pigeon-holes officially provided for members' correspondence in the members' Lobby, and in envelopes without name or address on them? The hon. member, in exhibiting the copy, asked if Mr. Speaker would please take steps to protect the members from this interference with their rights and privileges?

Mr. Speaker said:

In reply to the point of order raised by the hon. member for Pottinger, I have no hesitation in ruling that the distribution in members' pigeon-holes in the lobby of matter of this kind is definitely out of order, and I have given strict instructions to prevent a recurrence of such an incident. The pigeon-holes are for the distribution of Parliamentary Papers only. Correspondence for members should be left at the Vote Office, from which it will be given or forwarded to members, as the case may be; but printed matter of any nature placed in unaddressed envelopes must not be distributed in the Parliamentary precincts.

United Kingdom: Northern Ireland: House of Commons (Parliamentary Papers).—On December 8,[1] 1949, Mr. Speaker made the following statement:

I have to inform the House that owing to a dispute in the printing trade it has not been possible to publish the Parliamentary Papers in the usual way. My staff, with the co-operation of the duplicating section of the Stationery Office, have published roneod copies for the use of Members, and I ask the indulgence of the House for any inconvenience caused by reason of the size and bulk of the Papers, which I hope will be of only temporary duration.

United Kingdom: Northern Ireland (Delegated Legislation).—In 1950[2] the Order of Reference for the Statutory Rules, Orders and Regulations Joint Committee was the same as that for 1948 and 1949, subject to the following additional Orders of Reference:

Ordered, That the Committee be instructed that before reporting that the special attention of the House should be drawn to any Order, Rule, Regulation or Draft, the Committee do afford to any Government Department concerned therewith an opportunity of furnishing orally or in writing such explanation as the Department think fit.
Ordered, That the Committee 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 or relating to the printing or publication thereof.
Ordered, That the Committee have leave to sit notwithstanding any adjournment of the House and to report from time to time.

A multitude of Regulations were submitted to this Joint Committee, which issued 13 Reports, and most cases were reported upon as "there are no reasons for drawing the special attention of the House to them on any of the grounds set out in the Order of Reference to the Committee".

In regard to the following matters, however, the Joint Committee reported as follows:

[1] 33 N.I. *Com. Hans.*, No. 51, 2086. [2] 34 N.I. *Sen. Hans.*, No. 3, 54; *ib.* 88.
[3] *See* JOURNAL, Vol. XVIII. 62.

	Committee's Remarks.
Fourth Report.[1] Children and Young Persons (Boarding Out) Regulations.	That the special attention of the House should be drawn to them under sub-paragraph (3) of the Order of Reference on the ground that Regulation No. 21 appears to make some unusual or unexpected use of the powers conferred by the Statute under which it is made.
Fifth Report.[2] Intermediate School (Grant Conditions) Amending Regulations.	That the special attention of the House should be drawn to them under sub-paragraph (1) of the Order of Reference on the ground that they impose an additional charge on the Public Revenues.
Seventh Report.[3] Grammar School (Grant Conditions) Amending Regulations. Intermediate School (Grant Conditions) Amending Regulation, No. 2. Primary Schools (General) (Amending) Regulations.	That the special attention of the House should be drawn to them under sub-paragraph (3) of the Order of Reference on the ground that they appear to make some unusual or unexpected use of the powers conferred by the Statute under which they are made.
Eleventh Report.[4] Training Colleges (Admission of Students) Regulations.	That the special attention of the House should be drawn to them under sub-paragraph (3) of the Order of Reference on the ground that Regulation 6 appears to make an unusual use of the powers conferred by the Statute under which it is made, inasmuch as it appears to violate S. 5 of the Government of Ireland Act, 1920.[5]

Canada: Order in Council (Prerogative of Mercy).[6]—The following is an Order in Council[7] passed by the Privy Council of Canada on March 18, 1949:

His Excellency the Governor-General in Council, on the recommendation of the Right Honourable Louis S. St. Laurent, the Prime Minister, and under the provisions of the Public Service Rearrangement and Transfer of Duties Act, R.S.C. 1927, Chapter 165, is pleased to order that the powers and duties with regard to all matters pertaining to the exercise of the Royal Prerogative

[1] H.C. 909. [2] *Ib.* 912. [3] *Ib.* 919. [4] *Ib.* 936. [5] 10 & 11 Geo. V, c. 67.
[6] *See also* JOURNAL, Vol. XIII. 12, 75. [7] No. P.C. 1303.

of Mercy, including the responsibility for tendering advice to the Governor-General in Council in relation thereto, be and they are hereby transferred to the Solicitor-General.

Canada: House of Commons (Defence Committee).—During the debate upon the Address-in-Reply in the House of Commons of Canada on September 1,[1] the Leader of the Opposition (Mr. George A. Drew) pointed out that at Westminster there was a Sub-Committee on Defence, which had authority to call people before it and to obtain information in regard to expenditure and quoted Mr. Churchill in the House of Commons at Westminster, who, in referring to the method of inquiry into Defence by congressional committees of the United States said:

> These Congressional Committees, especially those of the House of Representatives, have enormous powers of obtaining information for their members. They can summon generals, admirals, air-marshals and other experts before them subject only to the veto of the Minister in charge of the department, very rarely exercised, and can examine them to any extent, either in public or in secret.
>
> There is no doubt whatever that the American House of Representatives exercises its responsibilities towards its constituents in a far more vigilant and rigorous manner than anything we have adopted over here. We are a very ill-informed body on defence questions compared to them. . . .

Mr. Drew urged the Prime Minister to assure them that a special Committee on Defence be appointed so that at this critical hour the whole subject might be dealt with on a non-political basis.[1] Mr. Drew further suggested that this special Committee should meet immediately and that, "instead of this special Session proroguing, it should adjourn and come back to hear a report by that special Committee on National Defence at the earliest possible day".[1]

How could the representatives of the people in their House, or the people whom they represented, know the circumstances unless they had a great deal more information than had been given so far.[2]

The hon. member could not recall a single case when anyone had suggested that a Defence Committee would have it within its authority to declare policy for the Department of National Defence, any more than a Committee on External Affairs declares policy for the Department of External Affairs.[3]

***Canada: House of Commons (Accelerated Meeting).**[4]—On September 14,[5] the Prime Minister (Rt. Hon. L. S. St. Laurent), in moving the following Motion:

> That when this House adjourns on completion of current business of the Session it stand adjourned until February 14, 1951, provided always that if it appears to the satisfaction of Mr. Speaker, after consultation with His Majesty's government, that the public interest requires that the House should meet at an earlier time during the adjournment, Mr. Speaker may give notice that he is so satisfied, and thereupon the House shall meet at the time stated in such notice, and shall transact its business as if it had been duly adjourned to that time.

[1] 91 *Com. Hans.*, No. 4, 114. [2] *Ib.*, No. 7, 306. [3] *Ib.* 309-10.
[4] *See also* JOURNAL, Vols. XI-XII. 35; XIII. 51. [5] 91 *Com. Hans.*, No. 15, 747.

—said that the Motion was drafted in the terms used in 1941 and 1942 and that, of course, the date mentioned was *pro forma*. By the terms of the Motion, Mr. Speaker was required to consult with the Government in that respect, but that did not in any way imply that he was to be regarded in any other capacity than that which Mr. Speaker asserted to the Crown upon his appointment, as the servant of the House. Naturally, Mr. Speaker would be quite prepared at any time to receive representations from any member of the House that, in his view, an earlier meeting was required, and Mr. Speaker, representing the whole House, would have to consider the reasons urged and take the responsibility of deciding whether or not he was satisfied that the public interest required to meet earlier. It would be Mr. Speaker's decision. He would consult the Government and the Government would make available to him all information it had, bearing upon whatever subject was then the topic concerning which it was suggested that the House should meet earlier, but the responsibility for making the decision would be that of "His Honour Mr. Speaker", as the servant of the whole House.

The Leader of the Opposition (Mr. George A. Drew) supported the adjournment of the House instead of prorogation, at this time. The hon. member also hoped it would carry some measure of reassurance to the people of Canada that it was intended that members of the House should be on call to deal as expeditiously as possible with any events that might arise before the regular Session would be called. Nevertheless, Mr. Speaker, as the servant of the House, must, of necessity, and in good judgment, be guided by the advice of the Government as to whether or not there was legislation to be placed before the House which would call for disposition by the elected representatives of the people. The hon. member then moved the following amendment:

That the words "February, 14, 1951", in the second and third lines of the Motion be deleted and the following substituted therefor: "November 15, 1950".[1]

The amendment was negatived on division.

Mr. Speaker then said: "The question is on the main Motion. Does the main Motion carry?"

Motion agreed to, on division.

Canada: House of Commons (Adjournment (Urgency) Motion).[2] —*Not accepted.*

On March 10,[3] an hon. member asked leave under S.O. 31 to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance and stated the subject to be:

The Report that a group of Liberal Members of Parliament have met with the Managing Director of the Canadian Commercial Corporation for the pur-

[1] *Ib.* 748.
[2] *See also* JOURNAL, Vols. XIII. 52; XIV. 59; XVI. 152; XVIII. 63.
[3] XCII. C.J. 95.

pose of discussing the placing of defence contracts on a patronage basis, together with the report that consideration will be given to reasonable demands for the distribution of some defence contracts where they may do the most good to party supporters.

Mr. Speaker ruled the proposed motion out of order on the ground that opportunity will be given to discuss such a matter in the near future, more particularly during the Debate on the Address and also on the Motion for the House to resolve into Committee of Supply.

On May 8,[1] an hon. member asked leave under S.O. 31, to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, and stated the subject to be:

A report of the Canadian Press dated May 5, 1950, which attributes to the Minister of Fisheries, Honourable Robert Mayhew, who sailed this morning to attend the Commonwealth Economic Conference in Sydney, Australia, as the representative of Canada, a statement that he believes an organization will be set up in accordance with his recommendations to this House on March 13, 1950, that an organization be established to promote barter trading between Canada and other nations, which statement of policy is directly contrary to the statement of policy made on behalf of the Government on different occasions by the Minister of Trade and Commerce, and therefore suggests that at Sydney a plan will be put forward which violates the well-established constitutional principle of collective ministerial responsibility to the House of Commons.

Mr. Speaker ruled the proposed Motion out of order on the ground that this matter is not one of such urgency that it should be discussed at this time.

Canada: House of Commons (Amendment on Motion to go into Com. of Supply).[2]—On February 28,[3] upon the House resuming debate on a proposed Motion: "That Mr. Speaker do now leave the Chair for the House to resolve itself into Committee of Supply" an amendment was moved to the proposed Motion to omit all words after the first word "That" to the end of the Question in order to substitute the following:

this House is of the opinion that the Government should take immediate steps to convene at the earliest possible date a conference of the nations of the British Commonwealth and the countries of the Empire to devise policies to restore our lost markets and thereby to provide jobs for our Canadian people.

After further debate, Mr. Speaker made the following statement:

Before putting the question, I should like to observe that I have had some doubt as to whether the amendment is in order under our rules.

It is true that wide latitude is given in respect of amendments to the Motion for going into supply. It is equally true, however, that there are well-established classes of amendments which, for good reason, cannot be moved on such a Motion. For instance, a matter of which notice has been given or which stands upon the order paper cannot be introduced as an amendment to a Motion for going into supply. (*See* Bourinot's Parliamentary Procedure, IV. ed., 420.)

The opening clause of the amendment to the Address in response to the

[1] *Ib.* 349.
[2] *See also* JOURNAL, Vols. V. 21; XIII. 36; XVI. 120.
[3] XCII. C.J. 47-8.

Speech from the Throne, moved by the Leader of the Opposition (Mr. Drew), reads as follows:

We respectfully submit to Your Excellency that Your Excellency's advisers have:

(1) Failed to take adequate measures to preserve and expand markets for Canada's surplus products of farm, forest, sea and mine, and to deal with the problems of increasing unemployment and reduced income to Canadian farmers and other producers.

The present amendment is similar to the amendment just quoted in that it deals with a particular phase or aspect of the broader question, and recommends a particular method for resolving it. The subject matter of the present amendment could be, and I believe, already has been introduced in the Debate on the Address.

I feel bound to disclose to the House the doubt I entertain as to the admissibility of this amendment. It is a borderline case, but I think that the doubt should be resolved in favour of the honourable member for Lake Centre (Mr. Diefenbaker). For that reason I am not going to rule the amendment out of order.

Canada: House of Commons (2 *R.* Debate on Amending Bill).—On February 24,[1] when the Unemployment Insurance Act 1940 Amendment Bill (No. 8) was being debated on 2 *R.*, the question was raised as to whether the present discussion was not relevant to the principle of the Bill before the House, upon which Mr. Speaker ruled:

That the discussion should relate to the principle of the amending Bill. As the present Bill refers to amendments to the Unemployment Insurance Act and not to the methods of providing employment, Members should limit their remarks accordingly.

Canada: House of Commons (*Com.* Supply: Debate revival not allowed).—On March 17,[2] the House being in *Com.* of Supply, objection was taken to the decision of the Chairman (Mr. Dion) that the discussion was out of order, Mr. Speaker resumed the Chair and the Chairman of Committees made the following report:

In Committee of Supply, Mr. Macdonnell (Greenwood) was discussing the advisability of appointing a Special Committee to consider National Defence Estimates, the Chairman ruled the discussion out of order as reviving a Debate already concluded.

Whereupon Mr. Drew appealed from the ruling of the Chairman.

The question being put by Mr. Speaker: "Shall the ruling of the Chairman be confirmed?" it was decided in the affirmative—Yeas, 84; Nays, 29.

The Committee of Supply then resumed.

Canada: House of Commons (Reference in Debate to sitting Royal Commission).—On March 21,[3] when the House had resumed the adjourned debate on the Motion: "That Mr. Speaker do now leave the Chair for the House to resolve itself again into *Com.* of Supply" a point of order was raised by Mr. Stewart (Yorkton), that at the present time a Debate should not be permitted on any matter affect-

[1] XCII. C.J. 31. [2] XCII. C.J. 127. [3] XCII. C.J. 134.

ing transportation, because a Royal Commission has been set up to inquire into that matter.

Whereupon Mr. Speaker ruled as follows:

The honourable member has quoted as his authority citation 490 in Beauchesne's Third Edition, which refers to a Royal Commission set up to deal with certain charges against a county court judge.

I should like to quote from the citation:

> A member endeavoured to discuss the findings of a royal commission . . . The Chairman ruled that the report not having been brought down, the matter was still *sub judice* and the discussion could not take place.

I think the reason for that ruling was that it was a judicial matter, a charge against a judge, and that members were endeavouring to debate the findings in a report not yet brought down by the royal commission. I have never thought that because a matter has been referred to a royal commission it cannot be discussed generally in the House at the same time. I have no precedent to this effect, but there is a precedent to the effect that when a matter is referred to a committee of the House it can be discussed in the House, but the House cannot refer to the procedure and evidence in the committee before it has reported.

It seems to me that a similar principle might well govern the reference of a matter to a royal commission and that citation 490 of Beauchesne's Third Edition lends support to this view.

I would accordingly rule that it is not out of order to discuss transportation problems generally when such matters have been referred to a royal commission. On the other hand, I would also rule that reference should not be made to the proceedings, or evidence, or findings of a royal commission before it has made its report.

I thank the honourable member for Yorkton (Mr. Stewart) for bringing the matter to my attention. It was a new question for me, and I hope my ruling meets with the general approval of the House.

Canada: House of Commons (Inadmissibility of Amendment and Sub-Amendment).—On March 16,[1] upon consideration of a Motion for the appointment of a Joint Committee of the 2 Houses, the first paragraph of which reads as follows:

The House then resumed the adjourned Debate on the proposed Motion of Mr. Martin:

that a joint committee of both Houses of Parliament be appointed to examine and study the operation and effects of existing legislation of the Parliament of Canada and of the several provincial legislatures with respect to old age security; similar legislation in other countries; possible alternative measures of old age security for Canada, with or without a means test for beneficiaries, including plans based on contributory insurance principles; and also the possibility of the immediate removal of the means test from the present old age pension; the probable cost thereof and possible methods of providing therefor; the constitutional and financial adjustments, if any, required for the effective operations of such plans and other related matters; and to examine the possibility of granting pensions to incurables who are unable to earn a livelihood.[2]

(*Amendments proposed, are as shown above, the insertion or addition being underlined.*)

[1] XCII. C.J. 121. [2] IV. ed. 316.

Whereupon Mr. Speaker ruled:

During Friday's debate on the Motion of the Minister of National Health and Welfare to appoint a Joint Committee on Old Age Security, a proposed amendment was moved by the honourable member for Winnipeg North Centre (Mr. Knowles), and a proposed sub-amendment by the honourable member for Macleod (Mr. Hansell). During the course of the debate the Deputy Chairman of Committees, who was then in the Speaker's Chair, issued a caveat concerning the admissibility of the proposed amendment and sub-amendment.

I have listened with interest to the very able and cogent arguments which have been advanced to the effect that S.O. 50 is not applicable and it may be that on another occasion serious consideration may have to be given to these representations.

There are, however, other precedents which must be considered at this time. For instance, Bourinot states clearly that:

The object of an amendment is to effect some alteration in a question . . .

Proposed amendments which neither add to nor subtract from the main Motion have been held to be inadmissible.[1]

The main Motion, in this instance, empowers the proposed joint committee to examine and study " possible alternative measures of old age security for Canada, with or without a means test for beneficiaries, including plans based on contributory insurance principles ". The proposed amendment of the honourable member for Winnipeg North Centre would insert immediately thereafter the following words:

> . . . and also the possibility of the immediate removal of the means test from the present old age pension.

It seems clear that the words " possible alternative measures of old age security for Canada " are sufficiently broad to cover the removal of the means test from the present old age pension. It seems equally clear that the concluding words:

> . . . with or without a means test for beneficiaries, including plans based on contributory insurance principles

were not intended to, and do not in fact, limit in any way the generality of the immediately preceding words. This being so, I must conclude that the proposed amendment adds nothing to and subtracts nothing from the main Motion. Since the proposed amendment is otoise, I must rule that it is out of order. Moreover, even if the proposed amendment would, in fact, have conferred wider powers on the Committee, it would in my view have run counter to citation 546 of Beauchesne's Third Edition, which reads as follows:

> When the House is considering a Motion, of which Notice has been given, for the appointment of a select committee, a member cannot move an amendment that the committee be given wider powers than those which were set down in the Notice.

I believe that citation applies particularly to the sub-amendment which was moved by the honourable member for Macleod.

It reads as follows:

That the following words be added to the end of the first paragraph, " and to examine the possibility of granting pensions to incurables who are unable to earn a livelihood ".

The amendment being out of order, the proposed sub-amendment is of course also out of order. However, while it is not necessary for me to do so, I should perhaps add that, in any event, it does not purport to amend the amendment, and therefore it would be inadmissible as a sub-amendment.[2] Moreover, even if moved as an amendment, it would in my view be out of order under citation 546 of Beauchesne's Third Edition.

[1] IV. ed. 316. [2] 74 C.J. 229; 1948 *Com. Hans.* 1993; Beauchesne III. ed. 407. Beauchesne III. 364.

***Canada (Sessional Allowances, etc., to Senators and M.P.s).**[1]— In the Third (Special) Session of XXI Parliament, 14 Geo. V, 1950, an Act[2] was passed respecting payment of Sessional Allowances and transportation expenses to members of the Senate and the House of Commons, owing to a Special Session of Parliament having been called to consider certain urgent matters and other urgent matters which may arise, it being considered expedient that the present Session should not now be prorogued.

Section 1 of the Act therefore provides as follows:

1. *If either House adjourned for more than one week.*—For the purposes of the provisions of the Senate and House of Commons Act,[3] relating to the payment of sessional allowances to Members of the Senate and House of Commons, whenever during the session of Parliament that commenced on the twenty-ninth day of August, nineteen hundred and fifty, either House is adjourned for more than one week, the number of days of such adjournment shall not be reckoned as days of attendance for members of that House, and if after any such adjournment the sittings of that House are resumed, the provisions of the said Act relating to payment to each member of moving, transportation and living expenses while on the journey between his place of residence and Ottawa shall apply in respect of the members of that House as though the resumed sittings were a new session.

Canada: Newfoundland (Offices of Profit under the Crown).— The Legislative Disabilities (Amendment) Act, 1949,[4] provides that:

(1) any person holding office as a Minister of the Crown and the persons who may respectively hold the offices of Speaker, or Deputy Speaker or Chairman of Committees of the House of Assembly; or

(2) who accepts the office, place or appointment and remuneration of a director of Bowater's Newfoundland Pulp and Paper Mills, Ltd., as a director nominated thereto as a Government director; shall not be considered as holding any Office of Profit under the Crown.

Canada: Newfoundland (Offices of Profit and Government Contracts).—Section 4 of the Act provides that when any member of the House of Assembly accepts any office, place or appointment of profit or emolument from or under the Crown or the Newfoundland Government or under any board or public body, the members thereof are nominated by the Government, or

(*b*) undertakes, executes, or enjoys, in whole or in part, directly or indirectly by himself or by any person whomsoever in trust for him or for his use or benefit or on his account, any contract or agreement for or on account of the public service, or

(*c*) tenders, by writing under his hand, to the Governor the resignation of his seat in the House of Assembly, or

(*d*) becomes bankrupt or declared insolvent,

his seat shall thereupon become vacant but this section shall not apply to any person mentioned in and privileged by paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15) of Section 2 of this Chapter, except in the case of the insolvency or bankruptcy or the resignation of such person, or to any person holding office as a Minister of the Crown, or to the persons who may respectively hold the offices of Speaker or Deputy Speaker

[1] *See also* JOURNAL, Vol. I. 102. [2] 14-15 Geo. VI. c. 10. [3] R.S., c. 147.
[4] No. 37.

or Chairman of Committees of the House of Assembly or the member of the House of Assembly holding the recognized position of Leader of the Opposition.

The number of persons holding office as Ministers of the Crown exempted by this Chapter may not exceed 12.

Canada: Newfoundland (Standing Orders).—Under S. 3 of Act No. 51 of 1949, provision is made for the repeal of S. 4 of Chapter 2 of the Consolidated Statutes of Newfoundland (3rd Series) and the substitution of the following:

4. The House may establish rules for its Government and the attendance of its members and the conduct of its business, and for limiting the length of time that members may speak, and may alter, amend and repeal the same: Provided that no such rules shall be altered, amended or repealed except by a vote of two-thirds of the members of such House: Provided also, that, save as aforesaid, no such rule or order or anything in this Chapter shall, or shall be construed to, limit or restrict the liberty and privilege of speech or debate of such House, or any rights or privileges of such House now existing.

Canada: Newfoundland (Privilege).—By Act No. 51 of 1949, the following S. 17 is added to Chapter 2 of the Consolidated Statutes of Newfoundland (3rd Series):

17. The House of Assembly and the members thereof shall hold, enjoy and exercise such and the like privileges, immunities and powers as are now held, enjoyed and exercised by the House of Commons of the Parliament of Canada and by the members thereof.

Canada: Newfoundland (Presentation of Mace).—On April 5, at St. John's (N.F.) Mr. Herbert Anscombe, Deputy Premier of British Columbia, presented a Mace to the Newfoundland House of Assembly on behalf of the Pacific Province. The Mace, which was made in Canada of British Columbia silver and weighs 75 lb., is of magnificent design and craftsmanship, consists of hundreds of pieces of sterling silver, etched and gold-plated before assembly. From the orb and cross at the tip to the thunder bird crest at the bottom—the former a symbol of the British Crown and the latter of British Columbia, each part is symbolic of Britain, Canada and Newfoundland. Dolphins are emblems of the Newfoundland Fisheries and golden ropes of the shipping industry.[1]

Australia (The Jubilee of Federation).—Although this issue of the JOURNAL is in survey of the year 1950, it is felt that it would not be untimely to mention that 1951 is the JUBILEE year of the Australian Commonwealth Federation, May 9 being dedicated as a public holiday to commemorate the opening of the Federal Parliament 50 years ago. Each State has a full programme of events during the year. The first meeting of the Convention was held in Adelaide in 1897 and to commemorate this a bronze tablet, for which Captain F. L. Parker, F.R.G.S.A., the Clerk of the Parliaments and Clerk of the House of Assembly, at the request of the Jubilee Committee, has been respon-

[1] *The Times*, April 6, 1950.

sible, has been affixed on the front of the Houses of Parliament Building and was unveiled on March 22. The wording of the tablet is as follows:

Federal
Coat of
Arms

AUSTRALASIAN FEDERAL CONVENTION
ADELAIDE MEETING

March 22-May 5, 1897

President: Hon. Charles Cameron Kingston, Q.C., M.P.
Chairman: Hon. Sir Richard Chaffey Baker, K.C.M.G., M.L.C.
Clerk: Edwin Gordon Blackmore

This tablet was erected to commemorate the framing and the adoption by the Convention of the draft Bill for a Federal Constitution for Australasia.

The drafting Committee consisted of:

Edmund Barton, Q.C.
Hon. Sir John William Downer, Q.C., K.C.M.G., M.P.
Hon. Richard Edward O'Connor, Q.C., M.L.C.

Unveiled 22nd March, 1951.[1]

***Australia: Federal (Intercameral Difficulties in 1950).**[2]—Intercameral difficulties of some importance occurred in the Australian Parliament during the year 1950, and concerned the following Bills:

Social Services Consolidation Bill.—This Bill was introduced into the Senate on March 15, its main purpose being to provide for the payment of Child Endowment of 5*s*. per week in respect of the first child.

The Senate having at that time an Opposition majority, amended the Bill (*a*) to increase the endowment to 10*s*., and (*b*) to direct the Federal Arbitration Court to ignore the payment of Child Endowment in respect of the first child in any determination it might make concerning the basic wage. These amendments were not acceptable to the Government and so when the Bill was considered by the House of Representatives amendments were made which had the effect of restoring the Bill to its original state. These amendments were disagreed to by the Senate on June 20, and the Bill returned to the

[1] It is interesting here to note that in the Legislative Chamber of Prince Edward Island there is a bronze tablet bearing the following inscription:

UNITY IS STRENGTH.

In the hearts and minds of the delegates who assembled in this room on September the 1st, 1864, was born the Dominion of Canada. Providence being their guide, they builded better than they knew. This tablet is erected on the occasion of the 50th anniversary of the event.—[ED.]

[2] For instances in other countries see Index hereto, "Second Chambers."—[ED.]

House of Representatives. On June 21 the House of Representatives informed the Senate that it insisted on the amendments it had made and requested their reconsideration. The Senate then agreed to accept the amendments concerning the amount of endowment payable, but further insisted on the provision directing the Federal Arbitration Court, and requested a conference with the House of Representatives. This request was refused by the House of Representatives and the Senate finally, on June 22, agreed to the amendment which deleted any reference to the Federal Arbitration Court, and the Bill was passed in practically its original form.

Communist Party Dissolution Bill.—This Bill was introduced into the House of Representatives on April 27 for the purpose of banning the Communist Party and removing from public offices officials with communistic sympathies and whose interests, in the opinion of the Government, were prejudicial to the defence of the nation.

Of the many amendments made when the Bill was considered by the Senate, several were at the instance of the Opposition majority and were not acceptable to the Government, and, as no final agreement could be reached between the two Houses, the Bill was laid aside by the House of Representatives on June 23.

Note.—On September 28, 1950, a similar Bill was introduced into the House of Representatives which finally passed the Senate without amendment on October 19, 1950, and duly became law. However, on appeal to the High Court the Act was subsequently declared invalid.

Commonwealth Bank Bill.—The main purpose of this Bill, introduced into the House of Representatives on March 16, was (*a*) to repeal the Banking Act 1947-48, part of which dealing with the nationalization of trading banks was declared invalid by the High Court and the Privy Council, and (*b*) to amend the Commonwealth Bank Act 1945-1948 with a view to the re-establishment of the Commonwealth Bank Board.

By its Opposition majority the Senate made a series of amendments to the Bill, which had the effect of leaving the control of the Bank in the hands of a Governor. These amendments were disagreed to by the House of Representatives, insisted upon by the Senate, and again disagreed to by the House of Representatives. On June 23, a motion moved by the Leader of the Government in the Senate to reconsider the amendments forthwith was defeated by the passing of an amendment thereto to defer reconsideration till "during the next sittings of the Parliament". Accordingly, on October 10, the Senate again insisted on the amendments it had made.

In the meantime a second Bill was introduced into the House of Representatives, duly passed by that House, and sent to the Senate for its concurrence on October 12, the Government taking the view that the Senate had failed to pass the first Bill. Only intermittent

debate took place on the second reading of this Bill prior to the Xmas adjournment, and it was not until March 14, 1951, that the second reading was agreed to. Immediately upon the passing of the second reading a motion by the Senate Opposition to refer the Bill to a Select Committee was carried. On this issue, the Government contending that the Senate had failed to pass the Bill on two occasions, a double dissolution of the Parliament was sought, and this was granted by the Governor-General.[1]

***Australia: Federal: House of Representatives (The Address in Reply to the Speech from the Throne).**—Over recent years, the principle that only formal business shall be entered upon before the adoption of the Address-in-Reply (Revised S.O. 10) has been departed from on several occasions by suspending the Standing Orders to enable the prior introduction and, in some cases, the passing of Resolutions and Bills, particularly those associated with the Budget. Instances are shown in the Votes and Proceedings of 1940-43, p. 33; 1943-44, p. 13; 1948-49, p. 17 and 1950-51, p. 33.[2]

***Australia: The Senate, M.P.s and Government Contracts.**[3]—Upon the Adjournment on November 3, 1938,[4] the Postmaster-General (Senator A. J. McLachlan: South Australia) on moving the Adjournment in the Senate, said that this might be the last occasion on which he, as Leader of the Senate, would move this Motion, and then proceeded to read a letter he had addressed to the Prime Minister (Rt. Hon. J. A. Lyons, C.H.) that day, in which he referred to a Question on the Notice Paper making inquiries as to the companies of which he (Senator McLachlan) was a director and furthermore asking if the Department of which he was in control entered into contracts with some of those companies.

The Minister said that he had made no secret of the fact that he was Chairman of the Hume Pipe Company of Australia Ltd., and that the supply of materials for post office requirements was arranged by inviting public tenders, which, in addition to being advertised in the *Commonwealth Gazette* were brought under the notice of the firms from whom it had been customary to receive tenders. The tenders received were examined by a tender board consisting of 3 of the most highly placed officials of the Department, who submitted recommendations, etc., to the Director-General, who reviewed the basis of the recommendations, etc., and issued instructions to the Chief Inspector of Stores, who executed the contract with the successful tenderer.

It was not the practice to bring such matters to the notice of the Postmaster-General except in unusual circumstances, such as placing substantial orders with foreign firms.

He had never been consulted in regard to the placing of contracts

[1] Contributed by the Clerk of the Senate and the Clerk of the House of Representatives of the Commonwealth.—[ED.] [2] Contributed by the Clerk of the House of Representatives.—[ED.] [3] *See also* JOURNAL, Vol. XVII. 289.
[4] 157 *Parl. Hans.* 1188.

for pipes, etc., with firms with whom he might have been associated nor had he any departmental or personal knowledge of such contracts.

Having regard to the suggestion underlying the Question that he might in some obscure way have been influenced by the Department, he felt that the only course open to him was to tender his resignation as Postmaster-General, which he did with some reluctance at such a time, but the protection of his honour and the honour of the Government against insinuations underlying the Question left no other course open to him and appeared to be the only one open to adopt under the circumstances.

The letter concluded by saying that he would carry on the business of the Senate and of the Department until he heard from the Prime Minister.

Senator McLachlan then resumed his speech by saying that his only regret was that public life had sunk so low that it should for one moment be suspected that a man would abuse the trust reposed in him by the Crown. His personal honour was dearer to him than all the pelf in the world.

On November 3,[1] in the House of Representatives the Prime Minister, on the Adjournment, announced that he had recommended to the Governor-General that the resignation of Senator McLachlan be accepted, of which His Excellency had indicated his acceptance.[2]

***Australia: Federal House of Representatives (Address-in-Reply).**[3]—In the House of Representatives, the debate on the Address-in-Reply to the Governor-General's Opening Speech is always a debate of first importance. The debate on the Address-in-Reply to His Excellency's Opening Speech on February 22, 1950, lasted 12 days and speeches were made by 92 members out of a total of 123.[4]

Australia: Federal (Summoning of Parliament).—The facilities for air travel[5] available to members means that Parliament may be hastily summoned in an emergency. When it was desired to discuss Australia's support of the Resolutions of the Security Council of the United Nations in relation to Korea, the Federal Parliament was called together in 4 days, notwithstanding that members from Western Australia had to fly over 2,000 miles to Canberra.[4]

***Australia: Federal: House of Representatives (Conferences).**[6]—On June 22, 1950, the Senate, by Message insisted on disagreeing to an amendment insisted on by the House to the Social Services Consolidation Bill (a Senate Bill) and requested a Conference on the amendment.[7] The House disagreed to the request and returned the

[1] *Ib.* 1251. [2] Case noted by the Clerk of the Senate.—[ED.]
[3] *See also* JOURNAL, Vols. IV. 43, 59; VIII. 143; XIII. 59; XVI. 64.
[4] Contributed by the Clerk-Assistant of the House of Representatives.—[ED.]
[5] *See also* JOURNAL, Vols. IV. 37, 38; VI. 34; XV. 83, 89; XVIII. 94.
[6] *See also* JOURNAL, Vol. III. 54. [7] 1950-51 S.J. 99; 1950-51 VOTES, 171; *Hans.* 22/6/50, 4695-4704.

Bill to the Senate desiring the reconsideration of the Bill by the Senate in respect of the amendment.[1] The Senate then agreed to the amendment.[2,3]

***Australia: Federal: House of Representatives (Revision of Standing Orders).**[3]

**Appeal against Mr. Speaker's Ruling.*[4]—The revised S.O. 101 is similar to former S.O. 287 with the exception that debate on the Motion of Dissent must now proceed forthwith instead of being forthwith adjourned to the next sitting day.

**Guillotine.*[5]—Revised S.O. 93 is similar to former S.O. 262A with the following exceptions:

(i) The necessity for a declaration of urgency to be carried by an affirmative vote of not less than 24 members, has been omitted as being contrary to S.O. 40 of the Constitution,[6] which provides that questions in the House shall be determined by a majority of votes.

(ii) The time allowed for debate on the Motion to allot time has been reduced from 30 to 20 minutes.

**The Closure* (i)[7] *of Debate.*—Revised S.O. 94 is similar to former S.O. 262BA with the following exceptions:

(A) The particularization of further Motions which could be moved if a Clause should be under consideration when the Closure is carried has been omitted as unnecessary in view of the general provision (which has been retained) for the moving of further Motions requisite to bring to a decision any question already proposed from the Chair.

(B) The necessity for any Motion under the Standing Order to be carried by an affirmative vote of 24 members has been omitted as being contrary to S. 40 of the Constitution.

(ii) *Of Member.*—Revised S.O. 95 is similar to former S.O. 262BC.

**Time Limit of Speeches.*[8]—Revised S.O. 92. The revised Order reduces substantially the time limits of speeches and debates contained in former S.O. 257B and adds 2 new subjects in respect of which speech time limits are imposed, viz, Election of Speaker, and "Grievance Day".

The most important change relates to extension of time for speeches. Extensions are still dependent on the consent of the House or Committees after Motion made, but, whereas previously each extension was of 15 minutes and the number which could be granted was unlimited, the time has now been reduced to 10 minutes or half the original period allotted, whichever is the less, and one extension only can be granted; any further continuation of a speech requires suspension of the Standing Order.

[1] 1950-51 VOTES, 171; 1950-51 S.J. 108; *Hans.* 22/6/50, 4818-4821.
[2] 1950-51 S.J. 108-9; *Hans.* 4766-4770.
[3] Contributed by the Clerk of the House of Representatives.—[ED.]
[4] *See also* JOURNAL, Vols. I. 54; XVIII. 73.
[5] *Ib.* IV. 55; XVIII. 73.
[6] 63 & 64 Vict. c. 22.
[7] *See* JOURNAL, Vol. V. 60.
[8] *See also* JOURNAL, Vol. I. 67.

The new Order is as follows:

TIME LIMITS FOR DEBATES AND SPEECHES.

92. The maximum period for which a member may speak on any subject indicated in this Standing Order, and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified opposite to that subject in the following schedule:

Subject.	*Time.*
In the House—	
Election of Speaker	
Each member	5 minutes
Address-in-Reply—	
Each member	25 ,,
Motion for Adjournment to discuss a definite matter of urgent public importance (under S.O. No. 48)—	
Whole debate	2 hours
Mover	15 minutes
Minister first speaking	15 ,,
Any other member	10 ,,
Motion for Adjournment of House to terminate the sitting—	
Each member	10 ,,
Want of Confidence Motion—	
Mover	45 ,,
Minister first speaking	45 ,,
Any other member	25 ,,
Limitation of debate—Motion for allotment of time (under S.O. No. 93)—	
Whole debate	20 ,,
Each member	5 ,,
Second Reading of a Bill—	
Mover	45 ,,
Leader of Opposition or member deputed by him speaking first to such Motion	45 ,,
Any other member	30 ,,
Question " That the Speaker do now leave the Chair " (under S.O. No. 291)—	
Each member	10 ,,
Debates not otherwise provided for—	
Mover of a Motion	30 ,,
Any other member	20 ,,
In Committee—	
Minister in charge	Periods not specified
Limitation of debate—Motion for allotment of time (under S.O. No. 93)—	
Whole debate	20 minutes
Each member	5 ,,
Financial Statement or Tariff—	
General Debate—	
Minister in charge	Periods not specified
Leader of Opposition or member deputed by him speaking first	45 minutes
Any other member	30 ,,

Subject.	*Time.*
Each Question before the Chair on the Estimates or on a Tariff—	
Minister in charge	Periods not specified
Any other member—2 periods each not exceeding	15 minutes
Debates not otherwise provided for—	
Each member—2 periods each not exceeding	10 ,,
In the House or in Committee—	
Extension of time—with the consent of a majority of the House or of the Committee, to be determined without debate, a member may be allowed to continue his speech for a period not exceeding	10 ,,

Provided that no extension of time shall exceed half of the original period allotted.

**Operation of the "Request" or "Suggestion".*[1]—New S.O. 260 declares the practice which had obtained in regard to House Bills which, under S. 53 of the Constitution, the Senate may not amend but may return with "requests". The Senate message requesting omissions or amendments is considered in Committee of the Whole, which may make the omissions or amendments with or without modifications. The Chairman reports to the House and the report may be adopted forthwith, or the question recommited, or the adoption may be negatived.

If the report is adopted, the omissions or amendments (if any) agreed to by the House are made by the Clerk in the Bill, which is then returned to the Senate for concurrence. If the report is negatived, or if in Committee the Chairman is moved out of the Chair without being ordered to report to the House, the Bill lapses.

**Power of Chair to deal with Disorder.*[2]—(*a*) Revised S.O.s 300-2. Former S.O.s 58 and 59, dealing with the naming and suspension of a member, have been redrafted and the following amendments made:

(i) Previously, when a member was named in Committee, a Motion for his suspension was moved in Committee and, if carried, a similar question was put in the House after the Chairman had reported the circumstances. The necessity for a Motion in Committee has been omitted from the revised Standing Order, which, in so far as it relates to naming in Committee, now provides only that the Chairman shall report the circumstances to the House and that the Speaker shall thereupon put the question for suspension.

(ii) Periods of suspension have been altered—(1) on the first occasion, 24 hours, in lieu of the remainder of the day's sitting, (2) on the second occasion, 7 days excluding the day of suspension, in lieu of one week, (3) on the third or any subsequent occasion, 28 days excluding the day of suspension, in lieu of one month. The periods of suspension now apply in respect of suspensions in the "same

[1] *Ib.*, Vols. I. 31, 81; II. 109.

[2] *Ib.* II. 98; IV. 54; XVII. 29.

year" instead of in the "same Session" with the proviso that any suspension in a previous Session shall be disregarded.

(*b*) New S.O. 303 is based on House of Commons practice (H.C.S.O. 21) and empowers the Speaker or Chairman to order a member whose conduct is grossly disorderly to withdraw immediately from the House during the remainder of that day's sitting; any member so ordered to withdraw shall not return during the sitting except by permission of the Chair.[1]

(*c*) New S.O. 304. This Order, which is also based on Commons practice (H.C.S.O. 24), empowers the Speaker, in the case of grave disorder in the House, to adjourn the House without Question put or suspend any sitting for a time to be named by him.

**Suggestions for more rapid transaction of business in Overseas Parliaments.*[2]—The more rapid transaction of business was the purpose behind some of the amendments of old Orders included in the Revised Standing Orders adopted by the House, March 21, 1950. These may be briefly stated as follows:

(i) S.O. 39.—Former S.O. 29 provided that if there should not be a quorum within 5 minutes after the time fixed for the meeting of the House, the Speaker declared the House adjourned to the next sitting day. It is now provided that if the Speaker is satisfied there is likely to be a quorum within a reasonable time, he shall announce that he will take the Chair at a stated time; but if there is no quorum at that time the Speaker shall then adjourn the House to the next sitting day.

(ii) S.O. 44.—Former S.O. 32 provided that the Speaker should forthwith adjourn the House to the next sitting day whenever the Chairman informed him that a Division in Committee revealed a lack of quorum. It is now provided that, consistent with the practice in other instances of a lack of quorum, the Speaker shall order the bells to be rung for 2 minutes and, if a quorum is not then formed, he shall adjourn the House; if a quorum is formed the Speaker leaves the Chair and the Committee resumes.

(iii) S.O. 92.—Reduction of time limits for speeches and debates. (*See above.*)

(iv) S.O. 301.—Suspension of Member named in Committee. (*See above.*)

**Divisions.*[3]—The proposed revision of Standing Orders submitted to the Standing Orders Committee for consideration early in 1950 included a provision that if, in the opinion of the Speaker or Chairman, a Division is unnecessarily claimed, he may call on the members challenging his decision to rise and may either declare the determination of the House or allow the Division to proceed. This proposal was not approved by the Committee and was omitted from the revision submitted to and adopted by the House.

[1] 1950-51 VOTES, 77, 223, 264.
[2] *Ib.* I. 94.
[3] *See also* JOURNAL, Vol. II. 109.

**Procedure at election of Presiding Officers of Legislative Houses.*[1]—The revised S.O. 11, dealing with the manner of electing a Speaker, is similar to former S.O. 7 with the exception that it is no longer necessary for the Clerk to wait for 2 minutes after asking if there is any further proposal of a member as Speaker before declaring that the time for proposals has expired. The Clerk may now make this declaration immediately he is satisfied there will be no further proposal.

**Supplementary Questions to Ministers.*[2]—New S.O. 150 declares the practice which had obtained that questions may be asked without notice on important matters which call for immediate attention and, in addition, provides that at the discretion of the Speaker one Supplementary Question may be asked to elucidate an answer. Supplementary Questions were previously not allowed.

Australia: Federal: House of Representatives (Standing Orders—1950 Changes).—Proposed revised Standing Orders in place of those existing were presented to the House on March 16, 1950, by report from the Standing Orders Committee[3] and, on the next sitting day, March 21, the House, after a short debate and without division, carried a Motion that the Report of the Committee be adopted and that the proposed Standing Orders be the Standing Orders of the House, to come into operation forthwith.[4] The Previous Orders were those which were adopted temporarily in 1901, on the establishment of the Commonwealth, as amended from time to time in specific instances. On several occasions during the half-century, complete reviews of the Orders were carried out by the Standing Orders Committee and proposed revisions were recommended in reports presented to the House; but each time the proposals lapsed at Dissolution.

The last proposals which so lapsed were presented on October 7, 1949, and contained amendments and new Orders framed to declare existing practice as well as providing a procedure to meet the needs of the enlarged House to be elected later that year.[5] These proposals were reviewed by the Committee of the new House and, after some amendment, were those finally presented and adopted.

The revised Orders, totalling 406, naturally include a large number of the old Orders; either unaltered or redrafted.

Twenty-one unused or unnecessary Orders such as those relating to Returns, Previous Question, Fees, Taking down objectionable words and Division of Bills were omitted. Thirty new Orders have been made and in other cases, such as the Time Limit Order, major amendments took place.

The material alterations are briefly as follows:

New S.O. No.

11. *Election of Speaker.*—The wait of 2 minutes between pro-

[1] *Ib.* II. 115; III. 31. [2] *Ib.* II. 125; XVIII. 73. [3] 1950-51 VOTES, p. 34; *Hans.* 16/3/50, p. 924. [4] 1950-51 VOTES, p. 36; *Hans.* 21/3/50, pp. 942-54. [5] *See also* JOURNAL, Vol. XVII. 246-9.

posals of a member as Speaker has been omitted. (*See* "Procedure at election of Presiding Officers" *above*.)

12. *Procedure for the election of Chairman of Committees* to be similar to that for Speaker instead of by exhaustive ballot.

18. *Temporary Chairmen, New Order*, in accordance with practice, Speaker may call on temporary Chairmen to relieve him in the Chair.

37. *Custody of Records*.—Provision made for an original document laid down on the Table, if not likely to be further required, to be returned to a Department.

38. *New Order*.—The days and hours of sitting previously fixed by Sessional Order have been included.

39. *Lack of Quorum when House meets*.—Provision has been made to avoid an adjournment to the next sitting day.

44. *Lack of Quorum in Division in Committee*.—Provision has been made to avoid any adjournment to the next sitting day; Speaker now counts the House and Committee resumes if Quorum formed.

(*See* "suggestions for more rapid transaction of business" *above*.)

48. *Adjournment Motion for purpose of discussion*.—Order redrafted and provision made for "Urgency" motions to be submitted to the Speaker one hour before meeting of House, for 8 members instead of 5 to rise in support, and, if more than one Motion submitted, for Speaker to determine priority.

66. *Replies closing debate* to be confined to matters raised during debate.

73. *Report of Speech in Parliament* may be read if relevant to matter upon which member is speaking.

76. *Use of King's, etc., names*.—The name of the King's representative in a State has been included as one which may not be used disrespectfully.

77. *Offensive words*.—The prohibition now specifically includes offensive reference to any member of the Judiciary.[1]

79. *New Order*.—Specific provision made for Speaker to intervene when offensive or disorderly words are used.[1]

83. In determining whether a discussion is out of order on grounds of anticipation the Speaker shall have regard to probability of matter being brought up within a reasonable time.

92. *Time Limits* for speeches and debates have been further reduced. (*See* "Time Limit of Speeches" *above*.)

93-4. *Limitation of Debate, and Closure*.—The necessity for an affirmative vote of 24 has been omitted as unconstitutional. (*See* "Closure" *above*.)

98. *New Order—Precedence given to Motion concerning Privilege*; provided that precedence shall not be given if, in the opinion

[1] *Ib*., XVIII. 73.

of the Speaker, a *prima facie* case of breach of privilege has not been made out.

101. *Motion of Dissent from Speaker's Ruling.*—Debate to proceed forthwith instead of being forthwith adjourned to the next sitting day.[1]

105. *New Order—Precedence to Government Business or General Business.*—The provisions previously made by Sessional Order have been included with the amendment that precedence is given to General Business on alternate Thursday mornings (alternate to "Grievance Day"—S.O. 291) instead of every third Thursday.[1]

106. *New Order in accordance with practice.*—Ministers may arrange the order of their Notices of Motion and Orders of Day on Notice Paper as they think fit.

107. *New Order.*—Provision made for House to debate a matter of special interest (not suitable for "Urgency" Motion), on which it is not desired to formulate a Motion in express terms. Minister moves a Motion for allotment of time for the debate and then moves "that . . . be considered by the House". The Minister may withdraw the latter Motion at the expiration of the time allotted.

108. *Government Business and Want of Confidence Motions* have been excluded from the 2 hours limitation on Motions.

109. *New Order in accordance with practice.*—Precedence given to Censure or Want of Confidence Motions accepted as such by a Minister.

110, 111, 123. *New Orders—Petitions* to be lodged with Clerk before House meets, must bear the Clerk's certificate when presented and cannot be made for grants of public money, etc.

134. *New Order in accordance with practice—Notice of Motion* may be divided if containing matters not relevant to each other.

138. *A Notice of Motion* may be withdrawn or its terms altered by the member notifying the House.

142-151. *Notices of Question—Supplementaries.*—The previous Orders concerning Questions seeking information have been redrafted and rearranged to include Rules formerly printed on the back of the Notice of Question form. In addition, it is now provided that, at the discretion of the Speaker, one Supplementary Question may be asked to elucidate an answer to a question without notice. (*See* "Supplementary Questions to Minister" *above.*)

156. *Lapsed Notices of Motion.*—Provision has been made for another member to fix a future time for bringing on a Notice of Motion which would otherwise lapse when called on, owing to the absence of the member who gave Notice.

167. *Rescission of Resolution or Vote.*—The necessity for at least one-half of the members of the House to vote on the rescission of a Resolution or Vote has been omitted as being contrary to S. 40 of the Constitution.

[1] *Ib.*, XVIII. 73.

193. *Member having Pecuniary Interest.*—The vote of a member may not be challenged except on a matter of Privilege raised immediately after the vote is cast.

217. *An amendment to the Second Reading* is not permitted if it anticipates an amendment which may be moved in Committee.

224. *Amendment to Bill in Committee.*—The former provision that an amendment had to be "relevant to the subject matter of the Bill" has been altered to read "within the title or relevant to the subject matter of the Bill".

233-4. *Report Stage.*—In the case of a Bill reported from the Committee with Amendments, it is now provided that "a future time" instead of "a future day" shall be appointed for considering the report and moving its adoption.

260. *New Order.*—This Order declares the practice which had obtained in regard to House Bills which the Senate may not amend. (*See* "Operation of the 'Request' or 'Suggestion'" *above.*)

283. *New Order, in accordance with practice.*—When lack of quorum noticed in Committee, Chairman allows 2 minutes for quorum to form before reporting to Speaker.

291. *Order of Business.*—The question "That the Speaker do now leave the Chair" ("Grievance Day") is to be the first Order of the Day, Government Business, on alternate Thursday mornings (Alternate to General Business Day—S.O. 105) instead of on every third Thursday.

300-2. *Naming and Suspension of Member.*—The former provision for a Motion in Committee for the suspension of a member named in Committee has been omitted. Periods of suspension are now fixed in terms of days and are applied in respect of suspensions in the "same year" instead of "same Session". (*See* "Power of Chair to deal with Disorder" *above.*)

303-4. *New Orders to deal with a grossly disorderly member and grave disorder in the House.*—(*See* "Power of Chair to deal with Disorder" *above.*)

399. *New Order, in accordance with practice.*—A Message from the Governor-General forwarding estimates is referred to the Committee of Supply and a Message recommending the appropriation of Money by Bill is referred to the Committee of the Whole.

As mentioned earlier, the revised Standing Orders adopted March 21, 1950, comprised the proposals submitted to the House in the previous Parliament in 1949 as amended by the Committee of the new House.

The following important omissions from the 1949 proposals were included in those amendments:

(*a*) *Adjournment of House (automatic rising).*—Unless otherwise Ordered, the House would not sit later than 11 p.m. on each sitting day, except Friday when the House would not sit later than 12.45 p.m.

(*b*) *Provision for a further reduction in time limits of Speeches* when time was allotted for debate under the Standing Order relating to limitation of debate ("Guillotine").

(*c*) Provision for the Speaker or Chairman to declare the determination of the House when it was considered that a Division was unnecessarily claimed.

(*d*) The proposal to omit the requirement that a Motion, without Notice, for the suspension of the Standing Orders should be carried by an absolute majority of the whole number of the members of the House.[1]

***Australia: Federal: House of Representatives (The seating of Members).**[2]—The increase from 75 to 123 in the number of members of the House of Representatives in the enlarged Parliament[3] necessitated the provision of additional Chamber seating accommodation. This was done without addition to the existing floor space reserved for members by replacing the existing 2, 3 and 4-seat bench and desk units with 6-seat units and eliminating some subsidiary aisles. Including 2 chairs on each side of the Table and the Speaker's Chair, there are now available 132 seats. Owing to the size of the parties supporting the Government, it was necessary for some of their members to sit in a segment on the Opposition side of the Chamber. The practice in regard to the selection and reservation of seats remained unaltered.[1, 4]

Australia: New South Wales (Referendum for extension of Parliament beyond 3 years).[5]—During the year under review in this Volume the Constitution Amendment (Legislative Assembly) Bill was passed and reserved for His Majesty's assent on November 2, 1950.

The Bill provides, in effect, that, before any Bill extending the life of a Parliament beyond 3 years may be presented to the Governor for His Majesty's assent, it must be approved by a majority of the electors voting at a referendum. Furthermore, this new section may itself be repealed or amended only as the result of referendum.

The new S. 24 reads as follows:

Special provision as to referendum. 24A.—(1) A Bill containing any provision to extend the time during which any such Legislative Assembly shall exist and continue beyond three years from the day of the return of the writs for choosing the same shall not be presented to the Governor for His Majesty's assent until the Bill has been approved by the electors in accordance with this section.

(2) On a day not sooner than two months after the passage of the Bill through both Houses of the Legislature the Bill shall be submitted to the electors qualified to vote for the election of Members of the Legislative Assembly.

Such day shall be appointed by the Governor under and in accordance with the Constitution Further Amendment (Referendum) Act, 1930, and any Act amending or replacing that Act.

[1] Contributed by the Clerk of the House of Representatives.—[ED.]
[2] *See also* JOURNAL, Vol. III. 79. [3] *Ib.* XVII. 246-9. [4] *Ib.* 249.
[5] For former constitutional amendments *see* JOURNAL, Vols. II. 11 and III. 14.

(3) When the Bill is submitted to the electors the vote shall be taken under and in accordance with the Constitution Further Amendment (Referendum) Act, 1930, and any Act amending or replacing that Act.

(4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for His Majesty's assent.

(5) The provisions of this Section shall extend to any Bill for the repeal or amendment of this Section.

(6) Nothing contained in this Section affects the operation of Section 5B of this Act and a Bill to which this Section would otherwise apply which has been submitted to the Electors under and in accordance with Section 5B of this Act and has been approved by a majority of the electors voting may be presented to the Governor for His Majesty's assent as if this Section had not been enacted.[1]

Australia: Victoria (Legislative Council Reform).[2]—The Legislative Council Reform Act 1950[3] removes the property qualification hitherto required of both members and electors for the Council. Thus, when the Act comes into operation (and in this regard see note at the end of the remarks relating to this Act), the qualifications for membership of the Council will be the same as that for membership of the Assembly. The same body of electors will elect the Council as will elect the Assembly, and the only differences between the 2 Houses will then be—The Council will consist of 34 members representing 17 Provinces (2 from each Province) whereas the Assembly will consist of 65 members representing 65 Districts. Council members will be elected for 6 years, with half of the members retiring every 3 years (*i.e.*, one from each Province), whereas Assembly members will be elected for 3 years only.

The Assembly can be dissolved at any time whereas the Council can be dissolved only after a very lengthy and involved procedure provided for the purpose of settling disputes and ending deadlocks between the 2 Houses in relation to Bills.

Under this Act the qualifications for members and electors of the Council are—

For members.—Any natural-born subject of His Majesty, or any alien naturalized by law for the space of 5 years and resident in Victoria for the space of 2 years, who is of the full age of 21 years, shall be qualified to be elected a member of the Council; provided that such person is not a Judge of any Court in Victoria, a Minister of religion, an uncertificated bankrupt, or a person convicted of treason or any felony.

For electors.—Every person of the full age of 21 years who is a natural-born or naturalized subject of His Majesty and has resided in Australia for at least 6 months continuously and in Victoria for at least 3 months and in any subdivision for at least 1 month immediately preceding the date of such person's claim for enrolment as an elector for the Assembly shall, subject to certain disqualifications, be entitled in respect of residence in such subdivision to be enrolled

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

[2] *See also* JOURNAL, Vols. V. 33; VI. 51; XV. 69.

[3] 14 Geo. VI, No. 5465.

as an elector for the Council on the roll for the subdivision in which such person resides and for no other subdivision, and when enrolled and so long as such person continues to reside in the subdivision, to vote at any election for the Council for the Province.

Prior to the passing of this Act a member of the Council had to possess the additional qualification of being the owner of land in Victoria of a *yearly value of £A25* (*i.e.*, land worth £A500) above all charges and encumbrances affecting the same; and an elector had to possess the additional qualification of being the owner of lands or tenements of the rateable value of £A10 p.a. or the lessee or occupying tenant of lands or tenements of the rateable value of £A15 p.a., or the joint owner, joint lesee or joint occupying tenant of sufficient property to qualify 2 or more persons as owners or lessees, etc., or such elector had to have certain educational qualifications or be a Naval or Military officer.

Note.—This Act so far as it applies to the qualification of members and electors and to elections for the Council has not yet come into operation and will not come into operation until a day to be proclaimed by the Governor-in-Council after a scheme of redistribution of boundaries has been approved by Parliament. No such scheme has yet been approved.[1]

***Australia: Victoria (Change in number of Salaried and Non-salaried Ministers; increase in salaries of M.L.C.s and their Chairman of Committees).**[2]—The Ministers of the Crown and Parliamentary Salaries Act 1950[3] increases the number of salaried responsible Ministers from 10 to 12 and provides that not more than 4 of such Ministers shall at any one time be members of the Council (previously it was not more than 2) and decreases the number of non-salaried Ministers (*i.e.*, Ministers without Portfolios) from 3 to 2.

The Act also increases the salaries of the Council members and of the Chairman of Committees of the Council by £A300 thus placing them on the same salaries as the Assembly members and Chairman of Committees respectively. In addition the Act provides that the salaries of both Council and Assembly members be subject to automatic adjustment in accordance with variations in the cost of living upon a basis and method of adjustment applicable to officers in the Public Service as laid down in the Public Service Act of 1946.[1]

Australia: South Australia (Electoral).[4]—The Electoral Act Amendment Act, 1950[5] provides greater convenience for electors in regard to postal votes. Previous to this Act, the law provided that an elector could witness an application for a postal vote, and that when the postal voting certificate had been returned to the elector his signature had to be witnessed by an authorized person. The

[1] Contributed by the Clerk of the Legislative Council.—[ED.]
[2] *See also* JOURNAL, Vols. V. 33; XVI. 55; XVII. 31.
[3] 15 Geo. VI, No. 5516.
[4] *See also* JOURNAL, Vols. V. 33; XI-XII. 49.
[5] No. 43 of 1950.

Act provides for any elector on the Roll being an authorized witness. There are also some qualifications enabling electors making postal votes when outside the State to have their certificates witnessed.

The amendment authorized by this Act is to conform the South Australia legislation with that of the Commonwealth law which was amended just prior to the last Commonwealth elections.[1]

Australia: South Australia (Delegated Legislation Joint Committee).[2]—The Constitution Act Amendment Act, 1950[3] authorizes the making of Standing Orders providing that the members of the Joint Committee on Subordinate Legislation may remain in office during the period between the dissolution or expiration of the House of Assembly and the appointment of their successors on the Committee after the next election.

Under S. 55 of the Constitution Act, 1934-1949, authority was given to constitute the Committee, and Joint S.O.s 19-31 were agreed to by each House and approved by the Governor on August 11, 1938. Standing Orders 23 reads:

> The Committee shall hold office until the next dissolution or expiration of the House of Assembly after its appointment.

The effect of this was that during the interval between the dissolution or expiration of the House of Assembly and the meeting of the next Parliament no Committee was in existence and regulations for consideration accumulated over the period.

The Standing Orders to give effect to the amendment of the Constitution will no doubt be made during the next Session of this year. The alteration will not ordinarily come into operation until 1952, which (February-April) is the date for the next election of the House of Assembly.[4]

Australia: Queensland (Constitutional and Electoral).[5]—During 1949 an Electoral Districts Act[6] was passed, which increased membership of the Legislative Assembly from 62 to 75 (single seats) and divided the State into 4 Zones; Electorates with varying quotas and a 20% margin—

Zone 1.—Metropolitan Area of city of Brisbane—24 seats, Electorate quota 10,716.

Zone 2.—Southern Area outside Brisbane—28 seats, Electorate quota 9,536.

Zone 3.—North Queensland—13 seats, Electorate quota 7,852.

Zone 4.—Western Queensland, taking in grazing lands of Central and Western Queensland—10 seats, Electorate quota 4,783.[7]

Australia: Queensland (Increase of Ministry).[8]—By the Officials

[1] Contributed by the Clerk of the House of Assembly.—[ED.]
[2] *See also* JOURNAL, Vols. VI. 51; VII. 58; XIII. 186. [3] No. 38 of 1950.
[4] Contributed by the Clerk of the Parliaments and Clerk of the House of Assembly.—[ED.]
[5] *See also* JOURNAL, Vol. XV. 75. [6] 13 Geo. VI, No. 22. [7] Contributed by the Clerk of the Parliament.—[ED.] [8] *See also* JOURNAL, Vol. XVII. 33.

in Parliament Acts Amendment Act 1949[1] the number of Ministers was increased from 10 to 11.[2]

Australia: Queensland (Absence of Mr. Speaker).[3]—A Constitution Acts Amendment Act[4] was also passed in the same year, which provided that when, during Session or Recess, the Speaker is absent through illness and unable to perform his duties, all his power and authority is conferred during such absence upon the Chairman of Committees as Acting Speaker.

A Temporary Chairman nominated by the Acting Speaker would also assume the duties of the Chairman of Committees. If the Chairman of Committees acts for the Speaker or the Temporary Chairman acts as Chairman of Committees for 30 days or more, they become entitled to the salary attaching to the office of Speaker or Chairman of Committees respectively.[2]

Australia: Queensland (Standing Orders).—Certain amendments and new Standing Orders were adopted by the Legislative Assembly on November 30, and approved by the Governor on December 1, of which the most important alterations and additions are as follows:

1. A new Standing Order in substitution of the existing S.O. 27 lays down that the House shall meet at the actual time appointed by Sessional Order and allows 5 minutes to form a quorum. Previously, the House met half-an-hour after the actual time appointed by Sessional Order.

2. Standing Order 38 provides that before a Notice of Motion can be placed on the Business Paper, the member giving such notice must obtain the support of at least 3 other members who shall signify their support by rising in their places immediately after the member has read his notice (this is to restrain a member from placing on the Paper, notices which cannot possibly merit any support outside his own).

3. New S.O. 38A restricts members to giving one notice at one time and does not apply to Ministers.

4. New S.O. 123A gives power to the Speaker or Chairman to order, after warning, the withdrawal of a disorderly member from the Assembly Chamber during the remainder of that day's sitting.

5. A new Standing Order replaces the existing S.O. 125 and provides that the consequences of the suspension of a member shall be exclusion from the House, from all rooms in the Parliamentary Buildings, from the building known as the Parliamentary "Lodge" and from the grounds upon which and in which the Parliamentary Buildings and the "Lodge" or either of them stand.

6. Standing Order 137 (Adjournment, Urgency Motion) is amended by providing for an over-all limit of debate to 2½ hours and periods of speaking, of 15 minutes to mover and Minister in reply, and 10 minutes for other members.

[1] 13 Geo. VI, No. 19. [2] Contributed by the Clerk of the Parliament.—[ED.]
[3] *See also* JOURNAL, Vol. XVII. 33. [4] 13 Geo. VI, No. 17.

7. A new Standing Order replaces the existing S.O. 148 and provides that if fewer than 5 members appear on one side, no division proceeds, (the old Standing Order provided that if there were "not two tellers" on one side there was "no division").

8. Standing Order 332 is amended to provide for the Suspension of Standing Orders by majority rule, either with or without notice.

Other amendments were made to remove anomalies and bring hours into conformity with the present practice of day sittings.[1]

***Australia: Queensland (Salaries of Premier, Ministers, Speaker, Chairman of Committees, Leader of the Opposition, Members and Whips).**[2]—By the Constitution Acts Amendment Act, 1950,[3] the following increases of salaries were authorized:[1]

	£A	£A
Premier	from 3,000 to	3,325 *p.a.*
Ministers	,, 2,250 ,,	2,575 ,,
Speaker	,, 1,800 ,,	2,125 ,,
Chairman of Committees ...	,, 1,300 ,,	1,625 ,,
Leader of Opposition	,, 1,550 ,,	1,875 ,,
Members	,, 1,050 ,,	1,375 ,,
Whips (2)	,, 1,150 ,,	1,475 ,,

***Australia: Tasmania (Dissolution of House of Assembly).**[4]—On March 23, 1950, a Parliamentary Paper[5] on this subject was presented to the House of Assembly of this State, the facts of which are as follow:

On March 16, Parliament was further prorogued until the 28th *idem*. In the meantime, however, Ministers, having considered the political situation, advised the Governor to dissolve the House of Assembly.

On March 20, the Premier of the State (Hon. Robert Cosgrove) addressed a letter to His Excellency the Governor (Admiral Sir Hugh Binney, K.C.B., D.S.O.) advising a dissolution of Parliament.

In doing so, the Premier recited certain events since December, 1946, when his Government (Labour) was returned to power, with 16 members in the House of Assembly, the Opposition consisting of 12 Liberals and 2 Independents. On the election of the Speaker, the Government had a majority of one in the House of Assembly over the official Opposition and Independents combined and although the majority was narrow, the Government was able to function, being defeated on only one occasion on a matter of minor importance.

[1] Contributed by the Clerk of the Parliament.—[ED.]
[2] *See also* JOURNAL, Vols. VI. 54; XIII. 66; XIV. 60; XVII. 33.
[3] 14 Geo. VI, No. 23. [4] *See also* JOURNAL, Vol. XI-XII. 50.
[5] From: "*Papers relating to Dissolution of the House of Assembly, 23rd March, 1950,*" presented to the House of Assembly by His Excellency's command and received from the Clerk of the House of Assembly.—[ED.]

Nevertheless, in July, 1948, a Supply Bill and a Second Supply Bill were rejected by the Legislative Council. By the action of such Upper House, the Government was compelled, not by the House of Assembly, but by the Legislative Council to accept Supply for a limited period and to appeal to the Country, which involved the seeking of a dissolution, although the Government had only been in office for 19 months of the 5-year term. The Government therefore enjoyed the confidence of the House of Assembly and did not, so far as that House was concerned, desire a dissolution.

The general election which followed the refusal of Supply was held on August 21, 1948, and resulted in the return of 15 Labour members, 12 Liberals and 3 Independents. Labour being the only Party which could form a Government, it had to select the Speaker from its own ranks which left the Government in a minority in the House, should the other Parties combine and vote against the Government.

The Government at the outset realized that its position was almost untenable. However, despite the difficulties, the Premier carried on. There had been 2 general elections in 20 months. No other Party could carry on and there was every reason to believe that another appeal to the country would provide the same result.

Particulars of the occasions on which the Government suffered defeat and near defeat in the House of Assembly between August, 1948, and September, 1949, are set out in the statement attached to the Premier's letter to the Governor.[1] These occasions numbered 12 and the Governor carried on with the casting vote of the Speaker, or Chairman of Committees, as the case may be.

On September 3, 1949, the then Speaker died while Parliament was in Recess and when Parliament was resumed an Independent member (Hon. W. G. Wedd) was elected Speaker, which gave the Government a majority of one, except in Committee.

On January 31, 1950, the Premier received a letter from the Speaker, who intimated that the position had arisen in which he found it impossible to carry on any further his duties as the Speaker of the House of Assembly owing to a question arising as to the appointment of the Hon. T. G. D'Alton as the new Agent-General in London, to which the Speaker was opposed, as it was very much in the interests of the State that Mr. R. O. Harris, the Lord Mayor of Hobart, should be appointed. The Speaker considered that it was a maxim of good government that appointments, particularly to such a high office, should be made with complete disregard for Party politics. This constrained Mr. Speaker to notify his resignation from the Chair in order to exercise his responsibility as an M.P. on the Floor of the House, as, in the office of Speaker, he would be denied any opportunity of entering his protest on the Floor of the House. Mr. Speaker therefore stated that it was his intention to vacate the

[1] *Ib.* p. 7.

Speaker's Chair when Parliament resumed and that he intended to supply the Press with copies of his letter for publication.

To this the Premier remarked in his letter to the Governor that if the House of Assembly was to meet before an election, his Government would again have to elect a Speaker from their own ranks and thus revert to the position where it would be without a majority. Such was the background to the Premier's request for a dissolution of Parliament, which he now advised the Governor to do.

The Premier submitted that since the Resolution as to Dissolution was passed at the Imperial Conference of 1926, there were conflicting theories as to a Governor's independence of Ministerial advice on the question of the dissolution of Parliament, but all doubts had been resolved and the Governor of an Australian State now held in all essential respects the same position in relation to the administration of public affairs in that State as that held by His Majesty in Great Britain.

The Premier gave the following as his respectful submision that the Governor should accept the advice of his Ministers and dissolve Parliament:

1. Because of the resolution of the Imperial Conference of 1926 there can be little if any doubt that whatever may have been the position before the Conference, the Governors of Australian States now stand in exactly the same relation to a State Parliament as His Majesty the King does to the Imperial Parliament. It follows that whatever discretion was exercised by State Governors before the Conference in relation, *inter alia*, to questions of dissolution, this is now restricted to the same limits as that at present exercised by His Majesty in relation to the Imperial Parliament.

By the resolution to which I have referred it was agreed that it is "an essential consequence of the equality of status existing amongst the members of the British Commonwealth of Nations that the Governor-General of a Dominion is the representative of the Crown, holding in all essential respects the same position in relation to the administration of public affairs in a Dominion as is held by His Majesty the King in Great Britain, and that he is not the representative of His Majesty's Government in Great Britain, or of any Department of that Government".

Since 1926 there have been two occasions on which the Governor-General has exercised his power of dissolution in relation to the Commonwealth Parliament. The first occasion was in 1929 and the second in 1931. Because of the special circumstances no general principles can safely be drawn from the 1929 dissolution. In 1931, however, the Governor-General (Sir Isaac Isaacs) in granting a dissolution said that—

"In view of the present constitutional position of the Governor-General of a Dominion, as determined by the Imperial Conference of 1926, confirmed by that of 1930"

—it was his duty to accept the advice tendered. He also stated that—

"there are considerations in the known circumstances which tend to support the acceptance of the advice tendered to me. They are such as the strength and relation of various parties in the House of Representatives, and the probability in any case of an early election being necessary".

The following authorities were then quoted:

Keith: *Responsible Government in the Dominions*. Vol. 1 (1928), at p. 152.

Evatt: *The King and His Dominion Governors*, at pp. 201, 202 and 216.

Forsey: *The Royal Power of Dissolution of Parliament in the British Commonwealth*, at p. 5.

The Premier's letter continued, as follows:

It is suggested, therefore, that there is no proper basis for distinguishing between the position of the Governor-General and the Governor of one of the States. If that be so, it would appear that the Governor of the State of Tasmania is, like the Governor-General, required to act on the advice of his Ministers in matters of dissolution and dismissal, and would have the right to disregard such advice only in those cases where the King himself would be accorded that right by constitutional usage in the United Kingdom.

2. It has been submitted above that Your Excellency's power to grant or refuse a dissolution of the Parliament of Tasmania differs constitutionally in no respect from that of His Majesty the King in relation to the Imperial Parliament. The practice in this respect in the United Kingdom is clearly and accurately stated by Chalmers and Hood (*Constitutional Law* (1946), pp. 51-2), who say—

> "It has been the uniform practice for more than a century that the Sovereign should not refuse a dissolution when advised by His Ministers to dissolve. Anson, while affirming this to be a settled convention of the Constitution, points out that it is also a convention that dissolution should not be improperly advised, and that the first rule might not have become established if the second had not been uniformly observed. Hence, if a dissolution were requested improperly, the Sovereign might in an extreme case be justified in refusing the request."

3. It is submitted that in no sense is this in any manner or form an "extreme case" which would justify a refusal of my request. On the contrary, it is clear, having regard to the present strength of the parties in the House of Assembly, that the Government of the country cannot be conducted with the authority wich should lie behind it. There is no prospect of any alternative Ministry being formed which when it met the House could remain in office more than a day. The resignation of the Speaker places my Government, potentially at least, in a minority at all times in the House. The varying views to which the House in those circumstances would undoubtedly commit itself makes it highly improbable that a clear manifestation of the national will could flow from the deliberations and decisions of the House.

It is conceded that my Government did in fact carry on under similar conditions from the date of its election until Mr. Wedd accepted the office of Speaker in September, 1949. As I have indicated earlier my Government carried on during this period only because it felt obliged in the national interest to do so. There was little prospect of a further election within a short period producing a different result. There were matters of great importance not only to this State but to the whole Commonwealth which required the passage of legislation and careful administration involving constant Ministerial attention. I refer in particular to Price Control, Land Sales Control and Rent Control, which the State Government was obliged to take over from the Commonwealth Government almost immediately after the election, and many other matters of urgency for example, matters associated with the housing problem and immigration.

It will be seen from the particulars attached that between the date of the last election and the acceptance of the office of Speaker by Mr. Wedd in September, 1949, the Government suffered defeat and near defeat in the House of Assembly on a number of occasions. It will be noted that while some of

the questions on which the Government was defeated were only of minor importance, others were of much greater importance.

On the 13th April, 1949, the day on which the House adjourned, until the following September, the present Leader of the Opposition, who was then an Independent member, gave notice of his intention to move for the establishment of a Housing Commission. The establishment of such a Commission was in direct contravention of Government policy, and had, in fact, been an issue at the 1948 election. It was reasonably certain, therefore, that the members of the official Opposition would support the Motion and consequently possible that on a matter which had been an election issue the Government would be defeated in the House when it met. Circumstances changed in the meantime. A new Speaker was elected and the Government had a majority. The Speaker has now resigned and the Government is again in the position when it might be directed by the House to do something quite contrary to its policy and moreover quite contrary to a specific and unequivocal attitude taken by it before the electors who returned it to power. No Government could reasonably be expected to carry on under such circumstances unless the urgent needs of the State demanded it should. In the judgment of Ministers, the interests of the State did demand that the Government should endeavour to carry on for a time, and in that respect the Government has now discharged its duty. The resignation of the Speaker and the acceptance of the leadership of the Opposition by another member who was formerly an Independent make the position of the Government in the House completely untenable. This difficulty can be resolved in one way and one way only, and that is by a general election. It is demonstrably clear that no test of strength in the House would alter the strength of the parties; would make an alternative Ministry possible; or would add anything in the way of stability to the Present political situation.

4. The Government has Supply until 30th June next and no difficulty in that connection would arise from an immediate dissolution.

The Premier then proceeded to comment on Press assertions that the Government was avoiding a "Censure Motion" and observed that by long custom in Tasmania, the Leader of the Opposition always notified the Premier of an intention to move a Motion of no confidence but no advice of that nature had reached him. The Premier then concluded his letter as follows:

Upon these facts, I submit that the question of whether or not a censure Motion is to be launched if the House meets is one of mere speculation. It may therefore be held to be irrelevant, and should not properely be taken into account when Your Excellency gives consideration to the advice I have formally tendered: namely that Your Excellency should dissolve Parliament forthwith.

I have the honour to be,
Your Excellency,
Your obedient Servant,
ROBERT COSGROVE, *Premier.*

His Excellency,
The Governor of Tasmania,
Hobart.

His Excellency, after having first (by an interview with the Leader of the Opposition) satisfied himself that no alternative Government was possible, addressed the following reply to the Premier:

Government House,
Hobart, Tasmania,
March 22nd, 1950.

THE HONOURABLE THE PREMIER,

After full consideration of your advice to grant a dissolution of the House of Assembly, and your written reasons therefor, dated 20th March, 1950, and in view of the Parliamentary situation, I have decided to accept that advice and grant the dissolution asked for.

(*Sgd.*) HUGH BINNEY, *Governor.*

and issued his Proclamation of March 23, 1950, dissolving the House of Assembly.

Australia: Western Australia (Bill requiring a Governor's Recommendation).—Section 46 (8) of the Constitution Acts Amendment Act, 1899, provides that:

> (8) A vote, resolution, or Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same Session been recommended by Message of the Governor to the Legislative Assembly.

Question was raised during the 1950 Session that a Bill had been passed by both Houses which should have first been recommended by Message from the Governor, and that no such Message had been received. Legal opinion held that the Bill in question, and in fact any other Act that might have been passed in similar circumstances could be declared invalid in the Courts. In order to validate any Act that might have been so passed, without the Governor's recommendation, the Constitution Acts Amendment Act, 1950,[1] was passed covering any Act assented to by the Governor prior to January 31, 1951, and enabling the Governor to assent to any Bill passed during the 1950 Session, notwithstanding the infringement of non-observance of S. 46 of the Constitution Act, 1899.[2]

Australia: Western Australia (Increase of Ministry).[3]—The Acts Amendment (Increase in number of the Ministers of the Crown) Act, 1950, provided for an increase from 8 to 10 in the number of Ministers. For many years it had been the practice to appoint one or more honorary Ministers or Ministers Without Portfolio to assist, but it was felt that the time had arrived to discontinue that practice and in view of the volume of departmental business to increase the number of Ministers to 10. The above-mentioned Act amended the Constitution Acts Amendment Act, 1899-1949, and the Parliamentary Allowances Act, 1911-1947, accordingly.[2]

Australia: Western Australia (Members and Offices of Profit under the Crown).[4]—During World War II, the Commonwealth Government availed itself of the services of some State members, with expert

[1] No. 4. [2] Contributed by the Clerk of the Legislative Assembly.—[ED.]
[3] *See also* JOURNAL, Vols. XIV. 61; XVI. 56.
[4] *See also* Index to this Volume: M.P.s—"contracts with Government."—[ED.]

knowledge in various avenues, in connection with the war effort. Many members performed these services for no remuneration whatever, except travelling expenses. To protect these members from the provisions of the Constitution Act, dealing with the acceptance of an Office of Profit, the Constitution Acts Amendment Act of 1942 was passed. It was found necessary to amend the 1942 Act to protect a member who is engaged as Deputy-Director for Recruiting for the Commonwealth Government. Although the gentleman concerned performed these arduous duties without any remuneration whatever, legal doubts arose as to his constitutional position, and the Constitution Acts Amendment Act 1950[1] was passed to correct the position. It is now necessary for the Commonwealth Minister of State for Defence to certify in writing, under his hand, that such office or place of profit is, in his opinion, connected with the defence of the Crown.[2]

***Australia: Western Australia (Parliamentary Allowances to Premier, Ministers, President, Speaker, Chairman of Committees, Members and Leader of Opposition).**[3]—In 1947 Parliamentary Allowances were fixed at £A960 p.a., for metropolitan members, and £A1,010 for country members, of both Houses. By the Acts Amendment (Allowances and Salaries Adjustment) Act, 1950, the base salary of metropolitan members is fixed at £A1,000 and country members at £A1,050 p.a. Under the new Act members of Parliament are brought into line with senior public servants and will receive all basic wage adjustments. For each 7*s*. 8*d*. per week that the basic wage, as determined by the Court of Arbitration, has been increased since July 23, 1947 members will receive an additional £20 p.a. The immediate effect of this provision is to add, as at November, 1950, an additional £A80 p.a., to the above-mentioned base salary of all members. The President of the Council and the Speaker of the Assembly receive an additional £A400 p.a., the 2 Chairmen of Committees £A200 and the Leader of the Opposition an additional £A500. The Premier receives £A1,500, and the remaining 9 Ministers £A1,250 each over and above their Parliamentary Allowances. The Act also deals with the Auditor-General, the Public Service Commissioner and Stipendiary Magistrates.[2]

Union of South Africa (Constitutional:[4] Increase of Ministry).—Under S. 1 of the South Africa Act Amendment Act 1950,[5] S. 14 of the South Africa Act 1909 is amended by the increase in the number of Ministers from 12 to 14.

Union of South Africa (Constitutional: Suppression of Communism).—The following is a summary of the provisions of the Suppression of Communism Act, 1950,[6] which affect members of Parliament, of Provincial Councils and the Legislative Assembly of South-West Africa:

[1] No. 2. [2] Contributed by the Clerk of the Legislative Assembly.—[ED.]
[3] *See also* JOURNAL, Vol. IV. 61. [4] *Ib.*, Vols. III. 18, 44; V. 35; VI. 58, 210; VIII. 125; IX. 35; X. 56; XI-XII. 56, 57, 218; XIV. 66, 191; XVI. 58.
[5] No. 39 of 1950. [6] No. 44.

A. Provisions relating to the South Africa Act:

Sections 26, 53, 54.—(*a*) The Minister of Justice may by notice in writing require a person whose name appears on a list in the custody of a designated officer or who has been convicted under the Suppression of Communism Act or is a communist *not to become a member of Parliament* or, if he is a member, *to resign* within a period specified and not again to become a member: Provided that the Minister shall not require any person (other than a person who professes or has on or after May 5, 1950, and before the commencement of the Act on July 17, 1950, professed to be a communist) to resign as a member of Parliament except after consideration of a report, in the case of a Senator, of a committee of the Senate and, in the case of a member of the House of Assembly or a Provincial Council or the Legislative Assembly of South-West Africa, of a committee of the House of Assembly.[1]

(*b*) The above notice may at any time be withdrawn or varied.[2]

(*c*) Failure to comply with the requirement of a Notice is a punishable offence under the Act.[3]

(*d*) The Minister shall report to both Houses of Parliament on any action taken under the above provisions.[4]

Section 68: The above provisions, which also apply to the holder of a public office (as defined in S. 1), shall not derogate from the provisions of this section relating to the tenure of office of provincial administrators.[5]

Section 72: The above provisions affecting members of Parliament apply *mutatis mutandis* to members of a Provincial Council.[6]

Section 85: The above provisions also apply to a member of a public body contemplated in paragraph (vi) of this section.[7]

Section 101: The above provisions shall not derogate from the provisions of this section relating to the tenure of office of Judges.[8]

B. Provisions relating to the South-West Africa Affairs Amendment Act.[9]

The provisions summarized under A apply *mutatis mutandis* to members of the Legislative Assembly of South-West Africa.

Union of South Africa (Abolition of Appeals to Privy Council).—On January 23,[10] a Bill was introduced into the House of Assembly and passed 1 *R.*:

to amend S. 106 of the South Africa Act, 1909, and S. 10 of the Status of the Union Act, 1934,[11] so as to abolish appeals to the Privy Council.

On February 8,[12] the Bill passed 2 *R.* without a division, as fewer than 10 members (Mrs. S. Ballinger and Mr. Stuart, 2 of the Native Representatives) voted against the Question.

[1] *See* S. 5 (1). [2] *Ib.* S. 5 (2). [3] *Ib.* S. 11 (f). [4] *Ib.* S. 15. [5] *Ib.* 5 (5). [6] *Ib.* S. 5. [7] *Ib.* S. 5. [8] *Ib.* S. 5 (5). [9] No. 23 of 1949.
[10] 70 *Assem. Hans.* 9. [11] 7 Edw. VII. c. 9 and Union Act, No. 69 of 1934.
[12] 70 *Assem. Hans.* 916.

The Clause of this Bill read:

Amendment of section 106 of South Africa Act, 1909.—Section one hundred and six[1] of the South Africa Act, 1909, is hereby repealed and the following section substituted therefor:

No appeal to King-in-Council. 106. [(1)] There shall be no appeal to the King-in-Council—

(*a*) from any judgment or order of the Appellate Division of the Supreme Court of South Africa given on an appeal from any court in the Union of the Territory of South-West Africa; or

(*b*) from any judgment or order of any court in the Union or the said Territory, other than such Appellate Division.

In *C.W.H.* the Minister of Justice (Hon. C. R. Swart, M.P.), on representation by a member, moved the addition of the following sub-section:—

(2) The said Appellate Division shall not be bound to take cognizance of any decision given by the King-in-Council.

in order to remove any doubt, namely, that any judgment given by the Privy Council in the past shall not be binding on the Appellate Division of the Supreme Court of the Union.

The amendment was put and agreed to, the Bill reported with an amendment, which was adopted, the Bill then passed 3 *R.* and was sent to the Senate, where the amendment moved by the Minister in the House of Assembly was struck out and the Bill returned to the Assembly for concurrence in amendment and which was agreed to.

Submission was then made to the Governor-General by letter dated March 21, from the Prime Minister describing the provision of the Bill and reserving the Bill for the signification of His Majesty's pleasure in terms of S. 106 of the South Africa Act. This was given with the inscription in ink by the King of the words: "*App. G. R.*"[2]

This submission was duly initialled by the King and when the Governor-General's assent had been given on the King's behalf, the Bill was forwarded to the Appellate Division of the Supreme Court of South Africa together with the signed Act, which became Union Act No. 16 of 1950.

Union of South Africa: The Senate (Amendments to Standing

[1] *Provisions as to appeals to the King-in-Council*—106. There shall be no appeal* from the Supreme Court of South Africa, or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: §Provided that nothing in this section shall affect any right of appeal to His Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890.

[2] For the method of Royal Assent when His Majesty visited South Africa in 1947 *see* JOURNAL, Vol. XV. 118.

* See Section ten of Act No. 69 of 1934.

Orders).—During the 1950 Session, among the amendments made to the Public Business Standing Orders are the following:

Standing Order 16 (*a*) (*Meeting of House in certain circumstances on day earlier or later than that to which adjourned*) has been amended to read:

After a Resolution has been passed providing that the House shall, at its rising on that or any future day, be adjourned over any other period of not less than 5 sitting days, the following Motion may be submitted without notice to the decision of the House:

> That whenever during the forthcoming adjournment of the House it appears to the satisfaction of the President that the public interest or public business requires that the House meet either earlier or later, the President may give notice to Honourable Senators that he is so satisfied, and thereupon the House shall meet on the day and at the time stated in such notice and shall transact its business as if it had been duly adjourned to that time and day: Provided that unless the House otherwise orders, the time of meetings shall thereafter be as provided for under S.O. No. 15.

Standing Order 17 (*Quorum*). The quorum of 12 is now to be inclusive of Mr. President.

Standing Order 29 *Routine of Business* has been amended to read:

The ordinary daily routine of business shall be as follows:

(*a*) Petitions.
(*b*) Notices.
—of question,
—of Motion,
(*c*) Reports of Sessional and Select Committees.
(*d*) Other reports and papers.
(*e*) Questions.
(*f*) Motions for the postponement or discharge of any Order of the Day.
(*g*) Motions in the name of a Minister relating to the business of the House.
(*h*) Motions for leave to introduce Bills whether public or private.
(*i*) Motions for the appointment of Select Committees on private bills.
(*j*) Motions for instructions to Committees on bills.
(*k*) Other Motions and Orders of the Day.

A new Standing Order to follow S.O. 30 gives Private Members' Motions and Orders of the Day precedence on Tuesdays and Fridays in the rotation in which they appear on the Order Paper.

In future whenever any proclamation, regulation, etc., is laid under *S.O.* 63 (*Statutory references in Tabled papers*), in accordance with a Statute, the memorandum attached stating the Act and section under which it is laid, is required to be in duplicate.

Consolidation Bills.

New S.O. 75 reads:

When a Bill, which in the opinion of Mr. President is merely of a consolidating nature and does not alter the existing law, has been read a second time, the next question which shall be put in connection with such Bill is—"*Whether this Bill shall be committed*"—and if this question (which shall be put immediately after the second reading has been agreed to and shall

only be moved as an unopposed Motion) pass in the negative, the next stage of such Bills shall be the Third Reading.

Limitation of Debate.

New Standing Order to follow S.O. 133 reads:

(*a*) In any debate in the House no Senator shall speak for more than forty-five minutes: Provided that with the consent of a majority of the House, to be determined without debate, a Senator may be further heard for a period not exceeding thirty minutes; Provided further that this rule shall not apply to Senators in charge of Bills or Motions who shall not be restricted in regard to the length of time they may speak.

(*b*) In Committee of the whole House no Senator, other than a Senator in charge of a Bill or Motion, shall speak more than three times on any question before the Committee nor more than ten minutes on each occasion: Provided that a Senator may, at his option, indicated at the commencement of his speech, speak once for a continuous period of thirty minutes.

Closure.

Under the old S.O. 145, the simple Closure procedure of the House of Commons could only be applied on 1 *R.* or 2 *R.* of a Bill; a clause, schedule or preamble of a Bill in *C.W.H.* or *Rep.*; or on a substantive Motion or an amendment (except an amendment in the passage of a Bill) before the House or Committee.

The new Standing Order reads:

At any time during the proceedings of the House or in committee of the whole House, a Senator may claim to move "*That the Question be now put*" (which shall mean the question then immediately under consideration) and unless it appears to Mr. President or the Chairman that the Motion is an abuse of the Standing Orders of the House or an infringement of the rights of the minority, the said Motion shall be put forthwith without amendment or debate, but it shall only be carried provided that not less than twelve Senators vote in support of it. Should the Motion be agreed to, the Senator in charge of the matter before the House or Committee shall, when a reply would ordinarily have been allowed in terms of S.O. No. 137, be permitted to speak in reply, should he so desire, before such question is put.

***Union of South Africa: House of Assembly (Resignation of Speaker during Recess).**—On November 8, Mr. Speaker, the Hon. J. F. T. Naudé resigned in order to accept office as Minister of Posts and Telegraphs. The last occasion on which a Speaker resigned during a Recess between 2 Sessions of the same Parliament was in the old Cape Colony when, in 1896, Mr. Speaker Tennant resigned on being appointed Agent-General for the Colony in London. There have been no such resignations in the Union during Recess.[1]

Union of South Africa: House of Assembly (Clerk performing Speaker's duties).—During Mr. Speaker Naudé's visit Overseas to attend the meeting of Presiding Officers at Westminster on the occasion of the Opening of the new House of Commons Chamber and after his resignation upon appointment as Minister of Posts and Telegraphs, the Clerk of the House, in terms of S. 180 (2) of the

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

Electoral Consolidation Act,[1] performed the Speaker's duties under the electoral law.[2]

Union of South Africa: House of Assembly (The Guillotine[3]—Committee of Supply).

(*a*) *Consolidated Revenue Fund.*—The proceedings in Committee of Supply on the Estimates of Expenditure from the Consolidated Revenue Fund were limited to 116 hours.[4] The full time allotted was taken up.

(*b*) *Railway and Harbour Fund.*—The proceedings on the Railway Estimates were limited as follows:

(*a*) 12 hours for the Motion to go into Committee of Supply;
(*b*) 12 hours for Committee of Supply;
(*c*) 4 hours for 2 *R.* of the Railways and Harbours Appropriation Bill; and
(*d*) 2 hours for 3 *R.* of the Bill.[5]

The full time allotted was taken up on the Motion to go into Committee of Supply: 9 hours 40 minutes in Committee of Supply; the full time on 2 *R.* and 1 hour 30 minutes on 3 *R.*

BILLS.—Motions were adopted limiting the proceedings on the under-mentioned Bills as follows:

Group Areas Bill:

(*a*) 22 hours for 2 *R.*;
(*b*) 24 hours for Committee Stage;
(*c*) 3 hours for Report Stage; and
(*d*) 3 hours for 3 *R.*[6]

Suppression of Communism Bill:

(*a*) 15 hours for 2 *R.*;
(*b*) 10 hours for Committee Stage;
(*c*) 2 hours for Report Stage; and
(*d*) 3 hours for 3 *R.*[7]

On each stage of both Bills the full time allotted was occupied.

The Resolution on the Group Areas Bill provided that any amendments, other than amendments proposed by a Minister, which were moved but not disposed of, dropped at the conclusion of the time allotted for each stage of the proceedings. The Resolution on the Suppression of Communism Bill, however, made no such provision in respect of the Second and Third Readings of the Bill.

The Guillotine was also applied to 8 other Bills and 13 times on Financial Measures, including Taxation and Estimates of various kinds.[2]

[1] No. 46 of 1946. [2] Contributed by the Clerk of the House of Assembly.—[ED.] [3] *See also* JOURNAL, Vols. IX. 39; X. 56-7; XI-XII. 218; XIII. 77; XV. 84; XVI. 60; XVII. 47. [4] 1950 VOTES, 317. [5] *Ib.* 360. [6] *Ib.* 695. [7] *Ib.* 820.

***Union of South Africa: House of Assembly (Members' Travelling Facilities).**[1]—In response to a resolution adopted by the Committee on Standing Rules and Orders on June 16, the South African Railways and Harbours Administration has extended the use of the free railway passes of members to the road motor services operated by the Administration, but not to tourist transport services (luxury services).[2]

Union of South Africa: Provinces (Administrators' Powers).—On March 13[3] a Bill was introduced in the House of Assembly and passed 1 *R.*:

to validate certain acts performed or purporting to have been performed under the laws relating to natives in urban areas.

In moving 2 *R.* on April 24,[4] the Minister of Native Affairs (Dr. the Hon. E. G. Jansen, M.P.) said that S. 38 of the Urban Areas Act 1945[5] provides that: no regulation issued by a local authority shall have force of law until such time as it has been approved by the Administrator and the Minister of Native Affairs and until it has been proclaimed in manner prescribed. There being no definition of "Administrator" in such Act, the validity of certain regulations proclaimed in the Transvaal Province was challenged because the preamble of the Notice spoke not of "the Administrator" but of "the Administrator-in-Council".

The question was considered by the Supreme Court and the finding of the Judge was that

The word "Administrator" in S. 38 (5) must be given the meaning attached to it by the definition in S. 3 of the Interpretation Act (No. 5 of 1910) and that meaning is the Administrator himself. Obviously the view of the Administrator himself and the view represented by the Resolution of the Executive Committee may be different.

The regulations were therefore declared invalid, which caused a serious position in its effect on Urban Native Administration also in the other Provinces.

The Bill therefore provides that the invalidity of any regulations on this account are now made valid. The Administrators' Powers (Validation) Bill passed through its remaining stages with a versional amendment was agreed to by the Senate and duly became Act No. 20 of 1950.

Union of South Africa: Natal Province (Recommittal on 3.*R*).—The following new Standing Order was adopted by the Natal Provincial Council on June 9:

Recommittal after Third Reading.—179(*a*) After it has passed the Council but before it has been forwarded to the Administrator for transmission to the Governor-General-in-Council for assent, any draft ordinance may be recommitted for consideration by the Committee of the Whole Council; provided

[1] *See also* JOURNAL, Vols. IV. 38; VII. 12; VIII. 127; IX. 41; XV. 80-82; XVII. 47; XVIII. 94. [2] Contributed by the Clerk of the House of Assembly.—[ED.]
[3] 71 *Assem. Hans.* 2770. [4] 72 *ib.* 4852. [5] No. 25.

that two-thirds of the members of the Council be present and that a majority of at least two-thirds of those present shall assent to the recommittal.[1]

Union of South Africa: Transvaal Provincial Council (Revision of Standing Rules on Public Business).—A thorough revision of the Public Business Standing Rules was made during the year under review in this issue by a Special Committee appointed by Resolution of the Provincial Council on February 6:[2]

to conduct during the Recess an investigation with a view to the complete revision of the Standing Rules of the Council and to submit its findings together with a set of draft Standing Rules, at an early hour during the ensuing Session which shall then receive priority over any other business until disposed of

—with power to the Committee to co-opt such persons as it may from time to time deem necessary in an advisory capacity.

The Clerk of the Council was in attendance during the Committee's deliberations.

The Report of the Committee, which is dated May 12 and was presented on June 6, states that it has given the matter referred to it careful consideration and found that the existing Rules required modification and clarification to bring them into line with up-to-date Parliamentary practice.

On September 5[3] the hon. member for Bezuidenhout (Mr. Bielski) asked for Mr. Chairman's Ruling as to whether the Motion No. 1 on to-day's Order Paper in the name of the hon. member for Wonderboom (Dr. Theo Wassenaar (M.E.C.)) was in order, as it appeared to be in conflict with S. 75 of the South Africa Act 1909,[4] considering that the Governor-General had not notified his disallowance of the existing Rules.

Mr. Chairman referred the hon. member to S. 11 (3) of the Interpretation Act of 1910[5] as follows:

(3) Where a law confers a power to make rules, regulations or bye-laws, the power shall, unless the contrary intention appears to be construed as including a power exercisable in like manner and subject to the like consent and conditions (if any) to rescind, revoke, amend or vary the rules, regulations or bye-laws.

Mr. Chairman then referred the hon. member to the following paragraph in the judgment of Roper, J. in de Kock and Others *vs.* Terblanche (1950) (1) S.A.R., p. 98, as follows:

The Provincial Council has full power to make rules or amend its rules subject to the veto of the Governor-General.

Mr. Chairman, continuing, said:

In my opinion, the points raised by the hon. member are dealt with as above and, therefore, I rule that the Motion is in order and the hon. member for Wonderboom (Dr. Wassenaar) can proceed.

[1] Contributed by the Clerk of the Provincial Council.—[ED.]
[2] 1950 MIN. 361. [3] *Ib.* 137-143. [4] 9 Edw. VII. c. 9.
[5] No. 5 of 1910.

Motion No. 1 was then proposed by Dr. Wassenaar and seconded by Mr. Greijbe, as under:

That this Council has in accordance with S. 75 of the South Africa Act 1909 amended the existing Standing Rules, Part I, Public Business (S.R. 1 to and including 168) revoked and substituted therefor the attached S.R.s 1 to 154 as proposed and laid on the Table in the Report from the Special Committee (appointed by the Order of the Council dated February 6, 1950) to review the Standing Rules of the Council, copies of which have been supplied to hon. members of the Council.

After the debate had continued for over 4 hours an amendment was moved by Mr. Epstein and seconded, to omit all words after the first word "That" and substitute the words:

this Council considers the Motion of the Leader of this House as an open attack on the honour of the legislative body of this Province and as an undermining of its responsibility towards its citizens and that the Council considers it to be its duty to reject the whole proposal and in all earnestness to warn the people against this new and astonishing attack on their freedom.

After further debate Mr. Epstein's Motion was negatived.

Several amendments, mostly of a verbal or minor nature were then made in the draft Standing Rules, but other proposed amendments were hotly contested and only adopted after division, of which there were altogether 6 in a debate which continued, with the exception of short intervening suspensions of business, from noon on September 5 to 3.56 a.m. on September 6.[1] The motion as amended was then put and agreed to.

On September 20[2] an unopposed Motion was moved by Mr. van de Walt and duly seconded:

That authority be given the Sessional Committee on Rules and Internal Arrangements to draft an amending Rule in order to make provision for oral as well as written questions to be answered and opportunity given for supplementary questions in connection with such answers, such amendments to be Tabled not later than Wednesday, October 4, 1950.[3]

On September 27[4] a Report from the Sessional Committee on Standing Rules and Internal Arrangements appointed by the Council on May 24 was Tabled, further amending the Rules requiring replies to Questions to be given verbally and handed in writing to the Clerk at the Table; permitting Supplementaries for the elucidation of an answer; and requiring both types of questions and their answers to be included in the Votes and Proceedings.

This Report was adopted on October 4.

The investigations by the Special Committee have been very thorough, dead wood has been cut out of the old Rules which have

[1] 1950 VOTES, 137-143. [2] *Ib.* 147. [3] The official translation was not available on going to press with this Volume.—[ED.] [4] 1950 VOTES, 167.

been in force for many years, and now the Provincial Council has an up-to-date set of Standing Rules relating to Public Business, put up in convenient pocket edition, together with, in Appendices, form of a Public Petition, useful remarks for the guidance of members, the South Africa Act, 1909, as amended to date, and a Powers and Privileges of Provincial Councils Act, 1948.[1]

South African High Commission Territories: Bechuanaland, Basutoland and Swaziland (*Re* Transfer of).[2]—On March 30,[3] Q. was asked in the House of Commons as to the policy of H.M. Government in regard to these 3 Territories, to which the Secretary of State for Commonwealth Relations (Rt. Hon. P. C. Gordon Walker) replied that the general policy of H.M. Government in regard to these Territories is to take all steps practicable to encourage their political development and economic advance. Grants had been given from the Council Development and Welfare Fund and by the Colonial Development Corporation. Every suitable opportunity was taken to develop and improve the system of devolving appropriate functions and responsibilities on the native authorities.

In reply to a Supplementary, as to the transfer of these Territories to the Union of South Africa, the Minister said that the policy of the Government on the question of transfer had been affirmed and reaffirmed on a number of occasions and naturally remained unaltered. It was that there would be no question of transfer until the inhabitants of the Territories, both African and European, had been consulted and until this House and Parliament had been given an opportunity of expressing their views.

On April 20[4] the Secretary of State for Commonwealth Relations (Rt. Hon. P. C. Gordon Walker) was asked in the House of Commons if he would make a statement on the question of the negotiations with H.M. Government proposed by the Premier of South Africa on the subject of the Union's desire to incorporate the British Protectorates of Bechuanaland, Swaziland and Basutoland.

Mr. Gordon Walker replied that he had seen Dr. Malan's statement that he was prepared, with the consent of his Cabinet, to communicate with the British Government and indicate that the Union was prepared to take up the matter of transfer of the High Commission Territories to the Union where it was left by General Hertzog. "I cannot at present make any further statement."

In reply to a Supplementary, Mr. Gordon Walker said that H.M. Government was, of course, prepared to discuss any programme with any Commonwealth Government at any time and that in the course of the various negotiations that had gone on in the past, in this matter the statement by General Hertzog in 1935 (referred to by the Questioner) was a very important one.

Replying to a Q. in the House of Commons on April 27,[5] as to

[1] No. 16 of 1948.
[2] *See also* JOURNAL, Vol. XVIII. 97.
[3] 473 *Com. Hans.* 5, s. 548.
[4] 474 *ib.* 293.
[5] 474 *ib.* 135.

what stage the negotiations had reached between the British and South African Governments at the outbreak of the war as to the handing over of the High Commission Territories, the Secretary of State for Commonwealth Relations said:

In a statement made to the House on March 29, 1938, the Secretary of State for Dominion affairs explained that as a result of General Hertzog's visit to this country it had been agreed that there was room for closer co-operation on the lines envisaged in the *aide memoire* of May 1935.[1] (*Cmd.* 4948.)

It was accordingly agreed to set up a Standing Advisory Conference consisting of the Resident Commissioners of the 3 High Commission Territories and of 3 officers of the Union Government to study openings for co-operation and to consider matters of joint concern to the Union and the Territories. It was also agreed that the Union Government should prepare memoranda setting forth the terms which they might propose for the transfer of the Territories and that these memoranda should be made available for the information of the African and European inhabitants of the Territories.

The Advisory Conference did in fact meet before the War, and the Union Government proceeded with the preparation of a memorandum. On the outbreak of War, the whole question was left in abeyance.

In reply to a Q. on May 11,[2] as to what representations the Secretary of State for Commonwealth Relations had received from the Prime Minister of South Africa as to the government of the 3 Protectorates, Bechuanaland, Basutoland and Swaziland, Mr. Gordon Walker replied: "None".

***Ceylon: House of Representatives (Leader of the Opposition).**—On June 23, the various Parties composing the Opposition in the House of Representatives appointed Dr. N. M. Perera of the Lanka Sama Samaja Party to be the Leader of the Opposition. Several previous attempts which had been made to select a Leader had failed owing to the inability of the various Parties to agree. The newly appointed Leader of the Opposition has been provided with an office in the House of Representatives, as well as a steno-typist and a messenger. No salary over and above the ordinary members' allowance is attached to the post at present.[3]

Ceylon (Electoral).—The Ceylon (Parliamentary Elections) Order in Council, 1946, was amended by the Ceylon (Parliamentary Elections) Amendment Act 48 of 1949, which came into force on November 24, 1949.

The effect of the amendments is to confine the franchise to citizens of Ceylon.

Section 4 of the Principal Act, which is as follows:

No person shall be qualified to have his name entered in any register of electors in any year if such person

(*a*) is not a British subject, or is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State:

is amended by substitution for paragraph (*a*), of the following:

[1] *See* JOURNAL, Vol. XVIII. 97.
[2] 475 *Com. Hans.* 5. s. 84.
[3] Contributed by the Clerk of the House of Representatives.—[ED.]

(*a*) is not a citizen of Ceylon, or if he is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to any foreign Power or State which is not a member of the Commonwealth.

This is the main amendment.

Citizenship is governed by the Citizenship Act 18 of 1948 and the Indian and Pakistani Residents (Citizenship) Act 3 of 1948.[1]

***Ceylon (Election of Speaker of the House of Representatives by Ballot).**—The election of Speaker is governed by S.O. 4, which reads as follows:

(1) Every member who wishes to propose a member for election as Speaker shall ascertain previously that that member is willing to serve if elected.

(2) A member addressing himself to the Clerk, shall propose some other member then present to the House for its Speaker, and move " That . . . (naming the member) do take the Chair of this House as Speaker ". The proposal shall be seconded, but no debate shall be allowed.

(3) If only one member be so proposed and seconded as Speaker, he shall be declared by the Clerk without question put, to have been elected. If more than one member be so proposed and seconded the House shall proceed to elect a Speaker by ballot.

(4) For the purpose of a ballot the Clerk shall give to each member present, a ballot paper on which the member may write the name of the member for whom he wishes to vote. Ballot papers shall be folded so that the name written thereon shall not be seen and shall be signed by the member voting.

(5) Ballot papers shall be collected by the Clerk, or by some officer of the House deputed by him, and shall be counted by the Clerk, at the Table of the House. The result of the ballot shall be declared by the Clerk.

(6) (*a*) Where more than 2 candidates have been proposed and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded until one candidate obtains more votes than the remaining candidate or the aggregate votes of the remaining candidates as the case may be.

(*b*) Where at any ballot among 3 or more candidates 2 or more obtain an equal number of votes and one of them has to be excluded from the election under Clause (*a*) above, the determination, as between the candidates whose votes are equal, of the candidate to be excluded, shall be by lot which shall be drawn in such manner as the Clerk shall decide.

(*c*) Where at any ballot between 2 candidates the votes are equal, another ballot shall be held.

(7) As the ballot papers are counted they shall be placed in a box and, when a member has been declared elected as Speaker, the box shall be sealed in the presence of the House and kept in the custody of the Clerk for one calendar month and then, subject to any direction he may receive from the House, the Clerk shall burn the ballot papers and certify to the House that this has been done.[1]

India: Central Parliament (Provisional).—The present Parliament of India is a single Chamber Parliament constituted under Article 379 of the Constitution of India.[2] Under that Article the body functioning as Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution is func-

[1] *Ib.*

[2] *See* JOURNAL, Vol. XVIII. 224.

tioning as Parliament until the 2 Houses of Parliament are duly constituted and summoned to meet for the first Session as provided in Articles 80, 81 and 85 of the Constitution.[1] Two Houses will be constituted after the General Election which is expected to take place next year.

The present single-Chamber Parliament consists of 325 members elected by the members of the Legislative Assemblies of the States having such Assemblies and nominated by the Rajapramukh of the States having no Legislative Assembly.

A Speaker and Deputy Speaker have been elected. There is only one recognized Party in Parliament, namely, the "All India Congress Party", whose members in the present Parliament number 291. There is no recognized Opposition Party.

A Secretary, Deputy Secretary, Officer on Special Duty and 3 Assistant Secretaries serve the Parliament.

***India: Central Parliament (Address-in-Reply).**[2]—The Constitution of India provides that at the commencement of every Session of Parliament the President of India shall address Parliament and inform it of the causes of its summons.

The President's speech is a Government pronouncement of importance, the responsibility for which rests wholly with the Cabinet. The contents of the President's speech are generally as follows:

(i) A statement of foreign relations and policy;
(ii) A statement of the attitude of the Government towards matters of Home policy;
(iii) A summary of the proposed legislative programme of the Session as envisaged at the time.

In accordance with the practice of the House a Motion for the Address-in-Reply to the President's speech is moved in the form of a short expression of thanks. The debate which follows falls into two parts (1) a general debate upon the policy of the Government as outlined in the speech; (2) a debate on the amendments, moved by members, advocating alternative policies usually expressed in the form of regret for the omission from the Speech of the policies advocated. The Debate upon the reply to the President's Speech is the first real business taken up by Parliament in a Session. Two to 3 days are devoted to the debate on the President's Speech and the reply thereto.[1]

India: Central Parliament (Issue of Stencilled Proceedings).—The Parliament Secretariat in India brings out every morning in foolscap size, neatly stencilled and wire-stitched, a volume of the complete proceedings of Parliament during the previous day. A limited number of copies are produced and they are in the hands of the Ministries and Departments of the Government of India well

[1] Contributed by the Secretary to the Parliament.—[ED.]
[2] *See also* JOURNAL, Vols. VIII. 143; XIII. 59; XVI. 64.

ahead of the folllowing day's Parliamentary proceedings. This procedure has been in vogue for the last 18 months and it had been rendered necessary by the fact that the finally printed debates used to take a considerable time in getting out of the press, as there is no press specially set apart for Parliamentary publications and the Ministries and Departments of Government were at a loss, till the printed debates were out, to know about, or take action, on any assurance given or statement made by the Ministers or whatever else transpired on the Floor of the House. The present procedure, which satisfies the immediate requirements of both Parliament and the Government, has eliminated the difficulties experienced in the past, though of course the Parliamentary debates are printed in a final form in due course, as usual.

The Reporting staff of the Parliament of India is composed of a team of 13 Reporters, 8 of them being English and 4 Hindi Reporters with a Chief Reporter at the Head. Most of the Proceedings in the Parliament are in English at present, though occasionally speeches are delivered in Hindi, which has been recognized by the Constitution as the national language of India.

The Reporters are seated in the Centre of the pit in front of the Speaker. This has been the practice since the inception of Parliamentary institutions in this country and this arrangement has been found quite satisfactory. (The Press has a separate gallery which is situated above the Speaker's Chair.) Reporting is done singly by a Reporter for a spell of 10 minutes at a time and when he returns to his room the Reporter himself types his notes, properly edited, in a final form on stencils. The sheets as and when they are ready are passed on to the Chief Reporter for a final check-up and he arranges them in order of sequence, dove-tailing the Hindi speeches, if any, suitably, page-numbering the sheets and finally passing them on to the duplicating section, which is generally completed within 2 hours after the House rises for the day. Thereafter it is the duty of the latter branch to compile the proceedings with Part I (relating to Questions) and Part II (relating to the Debates) properly indicated, wire-stitch the Volumes and have them issued to the Ministries and Departments of Government and others who are on the mailing list. The Members of Parliament receive the relevant sheets containing their speeches, supplementary questions or other interventions in the debate for correction and return within 24 hours to the Editor of Parliamentary Publications, whose duty it is thereafter to have the debates printed in a final form. The Chief Reporter in his work is helped by an assistant and there is a typist in the room to assist the Reporters generally in typing routine matter which may occur in the body of the proceedings.[1]

India: Central Parliament (Standing Orders).[2]—Article 118(1)

[1] Contributed by the Secretary of Parliament.—[ED.]
[2] *See also* JOURNAL, Vols. IV. 61, 95; XIV. 84.

of the Constitution of India empowers Parliament to make rules for regulating its procedure and conduct of its business.

Clause (2) provides that until rules are made under Clause (1) the Rules of Procedure and Standing Orders in force immediately before the commencement of the Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament, subject to such modifications and adaptations as may be made thereon by the Speaker of Parliament.

In pursuance of the provisions of Clause (2) the "Rules of Procedure and Conduct of Business" applicable to the Legislature of the Dominion of India were modified and adapted with respect to Parliament.

Important changes in the Rules of Procedure and Conduct of Business in Parliament are incorporation of rules relating to President's Address and Messages to Parliament,[1] Vote on Account,[2] Committee on Public Accounts,[3] Committee on Estimates,[4] Questions of Privilege[5] and Resignation and Vacation of seats in Parliament and leave of absence from meetings of Parliament.[6]

A Committee of the House has since been appointed under the Chairmanship of the Honourable the Speaker, Mr. G. V. Mavalankar to advise the Speaker on any amendments which may be made to the Rules.[7]

***India: Central Parliament (Remuneration and Free Facilities granted to M.P.s).**[8]—Members of Parliament receive a consolidated daily allowance of *Rs.* 40 for each day of halt at the place where the Parliament meets. Such members, while performing journeys by rail or steamer to attend a Session of Parliament, draw rail or steamer fares at the rate of $1\frac{1}{8}$ fares of the highest class of accommodation provided by rail or steamer to or from the place where the Parliament meets. An M.P. is entitled to receive road mileage at the rate of annas 8 per mile, for such part of the journey as cannot be performed by rail or steamer. Normally, a member performing journeys by air can draw only the travelling allowance to which he would be entitled if he had travelled by rail, road or steamer.

Members are supplied with free stationery for use in the Chamber and Committee meetings. They have free telephone service in the Lobby and in certain circumstances at their residences also.[7]

***India: Central Parliament (Ceremonial and Regalia).**[9]—Since 1946 the Speaker has not worn a wig or gown while presiding over the proceedings of the House.[10]

***India: Central Parliament (Reading of Speeches).**—On November 15, 1950, a member of the Parliament of India, while moving

[1] Rules 11 to 19 of the Rules of Procedure and Conduct of Business in Parliament of India. [2] *Ib.* 136. [3] *Ib.* 143. [4] *Ib.* 145. [5] *Ib.* 181 to 196. [6] *Ib.* 197 to 199. [7] Contributed by the Secretary of Parliament.—[ED.] [8] *See also* JOURNAL, Vols. IV. 39; XI-XII. 65. [9] *Ib.* Vol. IV. 39. [10] Contributed by the Secretary to the House of the People.—[ED.]

the Motion of thanks in reply to the President's Address, started reading a written speech whereupon the Honourable the Speaker observed as follows:

I know in the predecessor to this House there was a practice which permitted the reading of speeches, but I should like to discourage as much as possible written speeches. He may refer to his points which he may have made out. Of course, the questions of important statements the exact phraseology of which is very important, stand on a different footing, but certainly he is not making a statement.

* * * * *

The Honourable member will see the disadvantage of allowing written speeches. They are written without reference to what is going on in the debate in the House, and more often than not they are unreal and many times repeat the same arguments which others have advanced. In this case, of course, he can plead an exceptional circumstance that he is the first to speak. But really that should not make any difference. I know the Honourable member is a good speaker. He should set an example. He may refer to his notes as often as he possibly likes, even quote some passages if he likes—but then let him not make an effort of reading the speech but of delivering it independently. That is in the best interests of the House and its traditions.[1]

***India: Central Parliament (Library Administration).**[2]—The former Rules[3] have been somewhat altered and are now as follows:

1. The Library is exclusively intended for the use of the members and officers of the Parliament of India.

2. The use of the Library for the purposes of study by Research Scholars requires special permission in writing from the Secretary of the Parliament Secretariat, who may grant permission if he is satisfied that the required documents or books cannot be found elsewhere. Such permission, however, shall not be given during the period of the Session of Parliament and one week before and one week after.

3. Ordinarily the Library shall open on all full working days between 10 a.m. and 5 p.m., but during the Session it shall remain open from 9.45 a.m. to 7 p.m.

4. All applications for the loan of books and other publications shall be made to the Librarian on a form prescribed for the purpose.

5. Ordinarily not more than 4 books at a time can be issued on loan to members.

6. After the termination of a Session a member may use the Library as usual so long as he continues to stay in Delhi or New Dehli.

7. Books taken on loan can be retained for 14 days. This period can be extended at the discretion of the Librarian provided the books are not in demand.

8. In the event of a book issued on loan being required for any important or urgent purpose, the Librarian may recall it at any time.

9. Encyclopædias, Dictionaries, Directories, Year-books, Atlases, Periodicals, books on Art, painting and other illustrated books, rare books, books of special cost and value, books out of print and books of general reference and serials shall not be removed from the Library under any circumstances.

10. From the time books are issued to members until they are received back by the Librarian, members will be responsible for their condition and will be required to replace or pay for any books lost or damaged.

[1] *Ib.* [2] *See also* JOURNAL, Vols. IV. 42; V. 166, 194; VII. 170; VIII. 213.
[3] *Ib.* V. 194.

11. Marking of any kind, underlining and writing on books are absolutely forbidden.

12. Members are requested to observe silence in the Library.

13. No stranger will be admitted into the Library unless accompanied by a member or officer of the House.

14. Suggestions for the purchase of new books and newspapers may be made by members in the "Suggestion Register", which is maintained in the Library.

15. The Research and Reference Section of the Library undertakes the research work for the members pertaining to their Legislative Duties.

16. A Library Committee consisting of 5 members, functions as an advisory body and gives its advice in matters relating to organization, purchase of books and other aspects of the Library.[1]

India: Bombay (Constitutional).[2]—(i) The Bombay Legislature is now functioning under the Constitution of India, which came into force from January 26, 1950.[3] Pending the general elections under the new Constitution the present Legislature continues to function under the transitional provisions contained in the Constitution.

(ii) With a view to providing, in accordance with Article 190 of the Constitution of India, for the vacation by a person, who is chosen a member of both the Bombay Legislative Assembly and the Bombay Legislative Council, of his seat in one House or the other, the Bombay Prohibition of Simultaneous Membership Act (Bom. X of 1950) has been enacted.[4]

India: Bombay (State-merger—Membership of Legislature).—On account of the merger of States in the State of Bombay, 61 additional members from these merged States were nominated to the Bombay Legislative Assembly and 10 additional members to the Council. The total strength of the Assembly has thus increased from 172 to 233 and that of the Council from 29 to 39.[4]

India: Bombay (Standing Orders).[5]—In accordance with Article 209 of the Constitution of India:

(*a*) Rules of the Bombay Legislature were adapted and modified;

(*b*) Rule as to the procedure with respect to communications between the 2 Houses was framed (*vide* Government Notification Legal Department, No. 7648, June 6, 1950);

(*c*) Rules of Procedure in respect of Appropriation Bill in the Assembly and the Council were framed (*vide* Government Notifications, Bombay Legislature Department, Nos. 5716 and 5717, September 29, 1950);

(*d*) Rules regarding Questions of Privilege of the members of Assembly and Council were framed (*vide* Government Notifications, Bombay Legislature Department, Nos. 5357 and 5358, September 19, 1950).[4]

***India: Bombay (Remuneration and Free Facilities to Members).**

[1] Contributed by the Secretary to the Indian Parliament.—[ED.]

[2] For previous references in the JOURNAL to constitutional matters in India prior to 1949, *see* Vol. XVIII. 224 *n*.—[ED.] [3] *Ib.* 224-257. [4] Contributed by the Secretary, Legislative Department.—[ED.]

[5] *See also* JOURNAL, Vol. IV. 61.

—(i) The rate of daily allowance to members of the Bombay Legislature has been raised from *Rs.* 5 *p.d.* to *Rs.* 10 *p.d.* in view of the increased cost of living (*vide* the Bombay Legislature Members' Daily Allowance Act, 1950 (Bom. XXI of 1950), and Bombay Legislature Members' Daily Allowance Rules, 1950, published in Government Notification in the Legal Department, No, 208-L, October 28, 1950.

(ii) As contemplated by Article 195 of the Constitution of India and in view of certain changes in the classification of accommodation provided on the Railways, the Bombay Legislature Members' Travelling Allowance Act, 1950 (Bom. XLV of 1950), was enacted and rules framed thereunder (*vide* Government Notification in the Legal Department, No. 2411, February 8, 1951).[1]

***India: Bombay (Daily allowances to Members).**—The rate of daily allowance to members has been temporarily raised from *Rs.* 5 to *Rs.* 10 per day for the period of their residence at the place of the Session for the purpose of attending the Session of a Chamber or a meeting of a Committee of such Chamber.[1]

India (White Paper: The Indian States).[2]—A most interesting Paper, "White Paper on Indian States," has been issued by the Ministry of the States.[3]

This is a most comprehensive document covering nearly 400 pp., together with a coloured map showing all the Territories of geographic India, both belonging to India and to Pakistan. Paragraph 2 of the Foreword to the revised Edition states that:

> 2. The process of welding over 500 diverse States into viable and sizeable units and converting them into democracies has now been carried to its final objective. This process started with the elimination of the chain of small States that severed the Provinces of Orissa and Bihar from the Central Provinces; next it solved the cross-jurisdictional puzzle of the vast assemblage of the States of Kathiawar; and, as it gathered momentum, its wide sweep covered even a number of major States. As against five hundred and odd units known as States, the new Constitution of India specifies in Part B of the First Schedule only 8[4] such units.

It is also remarked that the merging and acquisition of many of the Indian States has been rendered swift and smooth by the welcome realization on the part of the Princes that in a free India it would be unpatriotic of them to cling to time-worn treaties. The process of integration having been completed, the States now enter the phase of consolidation.

The concluding paragraph of the Foreword reads:

[1] Contributed by the Secretary to the Legislative Department.—[ED.]

[2] *See also* JOURNAL, Vols. VI. 71; VII. 90; VIII. 67; IX. 59, 138; XI-XII. 69, 219; XIII. 91; XIV. 88; XVI. 201-216; XVIII. 253. [3] Published by the Manager, Govt. of Publications, Delhi, 1950 (Revised Ed.). [4] Of the 9 States specified in Part B, Vindhya Pradesh has been removed from this category under the Constitution (Amendment of the First and Fourth Schedules) Order, issued by the Governor-General on January 25, 1950.—[ED.]

8. The matter contained in the Paper has been re-arranged and divided into 12 Parts. Parts I, II and III deal with the background of the problem; Part IV details the events leading up to the accession of States to the Dominion of India; Part V contains a survey of the process of integration of States; Part VI describes the process of democratization of States; Part VII outlines the main features of the overall settlements made with the Rulers as embodied in the Covenants and Agreements of Merger; Part VIII shows the progress made in the direction of the consolidation of the gains from the administrative integration of States in the field both of the establishment of a modern system of Government in the integrated States and of the approximation of their constitutional relationship with the Centre to that of the Provinces; Part IX explains the scheme of the Federal Financial Integration of States; Part X explains the nature of the Centre's responsibility during the transitional phase in respect of the States and the manner in which it is proposed to discharge this responsibility; Part XI describes the position of the States under the new Constitution; and finally Part XII surveys in retrospect the operation of the Government of India's policy of integration and democratization of States.

The 59 Appendices (pp. 149-388) give significant letters in regard to: Missions, Legislative Extracts, Instruments of Accession, Mergers, etc.

Pakistan (Constitutional).[1]—A distinguished English lawyer has been appointed the Chief Draftsman of the new Constitution of Pakistan. The Constituent Assembly has, therefore, passed special Acts to provide for the holding of elections in the Provinces on the basis of adult franchise. Those in the Punjab have already been held and the elections in Sind and North-West Frontier Province will follow.[2]

Pakistan: East Bengal (Constitutional: Distribution of the Legislative Power).[3]—Section 91 of the Government of India Act, 1935,[4] as adapted by the Pakistan (Provisional Constitution) Order, 1947, has been amended by the Constitution Assembly of Pakistan by the Government of India (Sixth Amendment) Act, 1950. Such amendment has curtailed the power of this Provincial Legislature (East Bengal Legislative Assembly) for making laws in respect of such further areas as may be declared by the Governor-General of Pakistan to be excluded and partially excluded areas in addition to the excluded and partially excluded areas which were such areas immediately before the establishment of Federation.

By the Government of India (Fourth Amendment) Act, 1950, the Constituent Assembly of Pakistan has further curtailed the jurisdiction of this Provincial Legislature for making laws in respect of taxes on the sale of goods until March 31, 1952, and this subject has been removed from the Provincial Legislative List in the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947, and included in the Federal Legislative List in the said Act.

Section 102 of the Government of India Act, 1935, as adapted by

[1] *See also* JOURNAL, Vols. XVII. 52-58; XVIII. 99, 103. [2] Contributed by the Secretary of the Constituent Assembly.—[ED.] [3] *See also* JOURNAL, Vols. IV. 95, 96; XVI. 195, 198; XVII. 56; XVIII. 99. [4] 26 Geo. V. c. 2.

the Pakistan (Provisional Constitution) Order, 1947, has also further been amended by the Constituent Assembly of Pakistan by the Government of India (Second Amendment) Act 1950. The Federal Legislature has been vested with power to make laws relating to the custody, management and disposal of property of any person concerned in any mass movement as described therein.[1]

Pakistan: East Bengal (Legislative Assembly Procedure).—The Bengal Legislative Assembly Procedure Rules made under sub-section (1) of S. 84 of the Government of India Act, 1935,[2] have been modified and adapted by the Speaker of the East Bengal Legislative Assembly in exercise of the powers conferred by sub-section (3) of S. 84 of the Government of India Act, 1935, as adapted by the Pakistan (Provisional Constitution) Order, 1947. The salient features of the 1950 amendments of the East Bengal Legislative Assembly Procedure Rules w.e.f. August 10, 1950, deal with: notification of meeting of the Legislative Assembly; Fridays allocated for private members' business; presentation of the Budget and appointment of House Committees.[1]

Southern Rhodesia (Constitutional).[3]—On May 3[4] the following Resolution was passed by the Legislative Assembly:

> That a Select Committee be appointed to consider and report upon the steps to be taken to amend the Constitution with a view to removing all restrictions and to obtaining dominion status for the Colony.

The Select Committee was appointed on May 5,[5] and on June 30[6] the First Report was issued, of which the following is the first paragraph:

> Your Committee begs to submit a First Report on certain matters which, it considers, require immediate action on the part of the Government.
>
> Your Committee is agreed that it is desirable to set up a Second Chamber, irrespective of whether His Majesty the King is to be prayed to remove the reservations in the Constitution or not. Your Committee considers that the necessary machinery should be set up by this Parliament, so that shortly after the next General Election the Second Chamber can be brought into being, in order that during the lifteime of the next Parliament, there should be two Chambers and not one as hitherto. With this end in view, your Committee will later present a further report in which it will deal with the life, composition, powers and method of election or nomination of the Second Chamber. In the meanwhile, however, in order to obviate delays in the future, your Committee recommends that the Government should take steps immediately to plan for the necessary accommodation and financial provision for a Second Chamber consisting of not more than fifteen members.

The Report also recommended that the Government should introduce legislation to implement a Resolution adopted by the House on June 8, 1948,[7] namely: "That . . . the Legislative Assembly should consist of 40 members.

[1] Contributed by the Secretary to the Legislative Department.—[ED.]
[2] 26 Geo. V. c. 2.
[3] *See also* JOURNAL, Vols. IV. 32; V. 49; VI. 63; VII. 79; XI-XII. 61.
[4] 1950 VOTES, 84; 1950 S.R. Debates, 588-612.
[5] 1950 VOTES, 103.
[6] *Ib.* 383.
[7] 1948 *Ib.* 172.

This Report was adopted by the House on June 29.[1] The subsequent proceedings of the Select Committee in 1951 will be reported in the Volume of the JOURNAL reviewing that year.[2]

***Southern Rhodesia (M.P. and Non-M.P. Speakers).**—With reference to the paragraph on this subject under Editorial in our last issue,[3] the Clerk of the Legislative Assembly of Southern Rhodesia has drawn attention to the use of the word "official". The description should have been "Non-M.P. Speakers", as the Southern Rhodesia Speakers are elected by the House, whether M.P. or non-M.P. This draws a distinction between such Speakers and officially appointed Speakers, as in Kenya, Northern Rhodesia and the Legislative Assembly of the East Africa High Commission, who are not elected by the corresponding Chamber of the Legislature but by official authority.[4]

Bahamas (Constitutional).[5]—On April 27,[6] in reply to a Q. in the House of Commons, the Secretary of State for the Colonies (Rt. Hon. J. Griffiths) said that the Legislature consisted of 2 Houses, a Legislative Council constituted by Letters Patent and R.I. and a wholly elected General Assembly constituted by local law.

The franchise was British adult subjecthood, 12 months' residence and £5 land ownership, or, 6 months land rent tenancy of not less than £2 8s. in New Providence or £1 4s. p.a., in an Out Island. The ballot for the General Assembly was secret.

The Governor legislates for the Colony with the advice and consent of the 2 Houses subject to the King's power of disallowance. The Governor may reserve a Bill. He may also prorogue the Legislative Council and prorogue and dissolve the General Assembly. Executive authority is by the Governor after consultation with an Executive Council of 9 members, constituted by Letters Patent and R.I., consisting of 3 *ex officio* members, the remainder being either officials or unofficials appointed directly by the Crown or by the Governor in pursuance of R.I. The present position is that in addition to the 3 *ex officio* members, 3 are unofficials and members of the Assembly, one of whom acts as Government spokesman in the Assembly.

The Gold Coast Colony & Ashanti (The "Coussey" Report).—There have been several references in the JOURNAL[7] to constitutional developments in the Gold Coast of recent years, including the Constitution 1946, of which a full description was given.

In 1949 came the Report of the all-African Committee on Constitutional Reform (the "Coussey" Report)[8]

to examine the proposals for constitutional and political reform in paragraph 122 of the Report of the Commission of Inquiry into Disturbances on the Gold Coast 1948, and due regard being paid to the views expressed on them by His

[1] 1950 *Ib.* 431; 1950 S.R. Debates, 2770-2775. [2] Contributed by the Clerk of the Legislative Assembly.—[ED.] [3] At p. 106. [4] *See* JOURNAL, Vols. XVI. 69; XVII. 63, 280. [5] *Ib.* IV. 33; XIII. 93; XV. 99. [6] 474 *Com. Hans.* 5, s. 140. [7] *See also* JOURNAL, Vols. XI-XII. 79; XIII. 96; XIV. 92; XV. 237. [8] Colonial No. 248.

Majesty's Government, to consider the extent to which they can be accepted and the manner in which they should be implemented.

This Report opens with a letter by the Chairman (His Honour Mr. Justice J. Henley Coussey) who, in submitting the Report to the Governor, refers to the origin and development of the relationship of the Gold Coast with Great Britain and cites the main landmarks in the political and constitutional advance which had grown out of this association.

The Report, a 104 p. document, is divided into IX Parts dealing respectively with: General Survey, Introduction to the Report, Local Government, Regional Administrations, the Legislature, the Executive, Governor's Reserve Powers, Miscellaneous matters and Acknowledgments.

The parts of the Report, however, which will interest our readers most are those provisions dealing with the Legislature.

Senate.—The Committee recommends a bicameral system, consisting of a Senate of 38 Senators, of a minimum age of 35, 9 elected by each of the 4 Regions, not less than ½ being non-chiefs and one each by the Chambers of Commerce and Mines, the Senate to be a continuing body with a normal membership term of 9 years, ⅓ to retire every 3 years, with the exception of the 2 Senators representing respectively the Chamber of Commerce and the Chamber of Mines who are to be elected every 3 years.[1]

The Senate to elect its own President, 2 Senators to be Ministers without Portfolio.

House of Assembly.—The Lower House, the House of Assembly, elected for 4 years, is to consist of not more than 78 members of not less than 25 years of age, apportioned as follows: Colony 29; Ashanti 19; Northern Territory 19; new Transvolta-Southern Togoland Region 8; and not more than 3 *ex officio*. These members are to be elected, in municipalities by direct, and elsewhere by indirect, election, the latter being in 2 stages; the member's £50 deposit to be forfeited if less than ⅛ of the total votes are polled; the residential qualification for delegates to the electoral colleges in the indirect elections to be 6 months.

A Constitutional Delimitation Commission is to be appointed by the Governor.

The usual provisions as to disqualification of members and vacation of seats are recommended.[2]

The life of the House of Assembly is to be 4 years. The Speaker is to be elected either from the members or from outside, but he is to have neither a deliberative nor a casting vote. Provision is made as to Sessions and Dissolutions. The franchise is to be limited to persons over 25 years of age who have either paid or contributed to rates or paid levy or annual tax with disqualification as to treason, lunacy or imprisonment.[3]

[1] *Ib.* p. 56. [2] *Ib.* 57-58. [3] *Ib.* 58.

Legislation.—Laws are to be made by the Governor with the advice and consent of the two Houses.[1] Recommendations are made in regard to the initiation of Bills, Money Bills, conflict between the 2 Houses, Procedure, Royal Assent, Oaths, etc.

The alternative Provisions relating to a Unicameral system are outlined in S. III of Part V and are as follow[2]:

397. *Proportion of Chiefs in a Unicameral Legislature.*—One-third of the seats or as near as may be arithmetically possible shall be filled by members (who may be either chiefs or non-chiefs) to be elected in a manner to be determined by existing Territorial Councils in the case of the Northern Territories and Ashanti and by states in the case of the Colony and the Transvolta.

398. *Number of ex officio Members.*—There shall be not more than three *ex officio* members.

399. *Number of Members representing special interests.*—There shall be two members one of whom shall represent the Chamber of Mines and the other the Chamber of Commerce.

400. *Selection of Ministers without Portfolio.*—Two Ministers without portfolio shall be appointed, from the House at large, by the same procedure as has been recommended in respect of the other Ministers.

Executive Council.—The Executive Council, including the *ex officio* members, is to be responsible to the House of Assembly and will consist of: the Governor (as Chairman); the Leader of the House of Assembly (elected Leader of the Executive); not more than 3 official members to be chosen from among the Chief Secretary, Financial Secretary and the Legal Secretary; not less than 5 members of the House of Assembly to be styled Ministers; 2 Senators as Ministers without Portfolio to be appointed by the Governor in consultation with the Leader. The Ministerial Portfolios to be: Internal Affairs and Justice; Health; Education; Agriculture, etc.; Public Works and Transport; Commerce, Labour and Mines; those of Defence and External Relations to be held by the Chief Secretary.

The Executive Council is to resign collectively on a vote of no confidence; the Governor to have power to remove an *ex officio* member from the Executive Council upon prayer, for good cause, signed by not less than $\frac{2}{3}$ the members of the 2 Houses.[3] Provision is also to be made for the Ministerial and Permanent Under Secretaries, etc.[4]

Governor.—The following is the recommendation in regard to the Governor's Reserve powers under "Power of Certification"[5]:

We recommend that the Governor shall have the power of Certification, but that

(*a*) this power shall be exercised only on the advice and with the prior approval of the Executive Council; or

(*b*) where the Executive Council refuses such approval, the Governor shall exercise the power only with the prior approval of the Secretary of State, except where urgency makes it impracticable for him to obtain such prior approval, in which case, he must immediately report the exercise of the power to the Secretary of State.

(*c*) The appointment of public officers (referred to in Section 38 (i) of the Gold Coast Colony and Ashanti (Legislative Council) Order-in-Council of 19th

[1] *Ib.* 59. [2] *Ib.* 61. [3] *Ib.* 63. [4] *Ib.* 64. [5] *Ib.* 65.

February, 1946), should be excluded from matters over which the Governor may exercise this power.

Part VIII of the Report deals with the Public Services and the Northern Territories. It also recommends that the Constitution be reviewed 5 years after it has come into force.[1]

The Report is signed by His Honour Mr. Justice J. H. Coussey, Chairman, and the 37 other African members of the Committee.

In a rider to the Report signed on the same day, 8 of the members suggest that the Governor should have no power of veto and that the Executive Council should cease to be advisory to the Governor and become, with the Governor as Chairman, a Board of Ministers, composed only of elected members, collectively responsible to the Assembly and initiate policy.[2]

Another rider signed by 2 members deals with Regional Administration and Regional Councils and a third rider signed by one member is an assertion that the "Ashantis are unconquered".

There are 14 Appendices to the Report.

(*Our next issue will contain an Article on the form of Constitution which was adopted* vide *the Gold Coast* (*Constitution*) *Order-in-Council which came into operation on January* 1, 1951, *the Legislature under which opened its First Session later that year.*)

Malta (Governor's return of Bill to the Assembly).[3]—With reference to the return by the Governor to the Legislative Assembly of Bills dealing with reserved matters for reconsideration, the procedure in such Assembly thereupon is laid down in S.O. 194 as follows:

194. If the Governor shall return any Bill which has been presented for assent upon the ground that it contains a provision relating to, or affecting, any reserved matter, a Motion may be made for its consideration by a Committee of the Whole House and upon such consideration amendments may be made of any such provision. Thereafter the Bill may be reported to the House and, if passed as amended, may again be presented for assent.[4]

North Borneo (Constitutional).[5]

The North Borneo (*Amendment*) *Letters Patent, August* 9, 1950. —By this Instrument, which came into force on October 17, 1950, Executive and Legislative Councils are substituted for the Advisory Council.[6]

The North Borneo (*Legislative Council*) *Order-in-Council,* 1950. This Order is issued in the exercise of the powers vested in His Majesty by the British Settlements Acts 1887[8] and 1945.[9] It is not proposed to give account of general provisions common to such Instruments but to confine ourselves to those of having special application to North Borneo.

[1] *Ib.* 68. [2] *Ib.* 72. [3] *See also* JOURNAL, Vol. XVI. 221.
[4] Contributed by the Clerk of the Legislative Assembly.—[ED.]
[5] *See also* JOURNAL, Vol. XVIII. 113. [6] *Second Supplement to the Government Gazette,* October 17, 1950. [7] 1950 No. 1643 British Settlements.
[8] 50'51 Vict. c. 54. [9] 9. Geo. VI. c. 7.

"Native of region" is defined as a person who is a member of any race which is indigenous to any territory within the Colony, the State of Brunei, the colony of Sarawak, the colony of Singapore, the Federation of Malaya, or the Sulu group of the Philippine Islands, or the descendant of any such person.

"The appointed day" was fixed by Governor's Proclamation No. S. 160 of October 16, 1950, for October 17 of that year.[1]

It is also provided in S. 1 (3) that:

References in this Order to His Majesty's Dominions shall have effect as if they included references to all British Protectorates and British protected States and to all Territories administered by the Government of any part of His Majesty's Dominions under the trusteeship system of the United Nations.

Office of Emolument.—"Office in the public service" is defined as "office of emolument in the service of the Crown in respect of the Government of the Colony". By S. 1 (4) pension or other like allowance does not constitute an office in the public service. The Governor in Executive Council by regulation published in the *Gazette* may also declare an office shall not be an office in the public service.

Nationality.—S. 1 (5) of the Order provides that:[2]

(5) This Order shall be construed—

(*a*) as if subsection (1) of Section 1 of the India (Consequential Provision) Act, 1949(c), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection; and

(*b*) as if subsection (2) of Section 3 of the British Nationality Act, 1948 (as interpreted by subsection (1) of Section 3 of the Ireland Act, 1949, and subsection (2) of S. 3 of the Ireland Act, 1949), applied to it as those subsections apply to laws in force at the dates of the commencement of those Acts respectively.[3]

Legislative Council.—This consists of the Governor as President, 3 *ex officio* members (namely: The Chief Secretary, the Attorney-General and the Financial Secretary); 9 official and 10 Nominated M.L.C.s.[4]

Qualifications for M.L.C.—Subject to disqualifications under the Order, the qualifications for an official M.L.C. are: British subjecthood or a British protested person holding office in the public service, and for a Nominated M.L.C.; British subjecthood or a British protected adult who, unless "a native of the region", does not hold any office in the public service.[5]

Disqualifications for M.L.C.—These consist of: allegiance to a foreign State; insanity; imprisonment exceeding 6 months without pardon; undischarged bankrupt or is a party to any Government contract (*see below*).[6] The penalty for an M.L.C. sitting or voting when disqualified is 200 dollars, recoverable by action in the Supreme Court at the suit of the Attorney-General.[7]

Vacation of seat.—The seat of an M.L.C. becomes vacant: on

[1] *Second Supplement to the Government Gazette*, October 17, 1950. [2] *See* JOURNAL, Vol. XVIII. 226. [3] *Ib.* 257. [4] Order Ss. 3 and 4. [5] S. 6. [6] S. 8. [7] S. 25.

death; resignation (in case of an Official M.L.C.), acceptance thereof by the Governor; absence from 2 consecutive meetings of the Legislative Council unless excused by the Governor within 28 days from the end of the meeting; if an Official M.L.C. (ceasing to hold office in the public service); if a Nominated M.L.C., other than "a native of the region"; appointment to the public service; ceasing to be a British subject or a British protected person without becoming a British subject; allegiance to a foreign power; insanity; imprisonment exceeding 6 months; bankruptcy; party to a Government contract (*see below*).

Should a Nominated M.L.C., other than "a native of the region" be temporarily appointed to, or act in, any office in the public service, he may neither sit nor vote in the Council.[1]

Should either type of M.L.C. be incapable of discharging his functions as such, he may be discharged by the Governor. The Governor may also suspend an M.L.C.[2]

Decision of questions of membership of the Legislative Council are decided by the Governor in Council "whose decision shall be final and may not be called in question by any Court".[3]

The Governor may appoint temporary M.L.C.s, or summon to any meeting of the Legislative Council any person, should his presence therein be, in the opinion of the Governor, desirable.[4]

Government Contracts.—Unless he holds, or is acting in any office in the public service, it is a disqualification for an M.L.C. if he:[5]

> 8. (*e*) is a party to, or a member of a firm, or a director or manager of a company, which is a party to, any contract with the Government of the Colony for or on account of the public service and has not disclosed to the Governor the nature of such contract and his interest, or the interest of any such firm or company, therein:
>
> Provided that a person shall not be considered to be a party to a contract with the Government of the Colony for the purposes of paragraph (*e*) of this section by reason of his holding, or acting in, any office in the public service.

The seat of an M.L.C. also becomes vacant:

> 9. (*k*) if, without the approval of the Governor, he shall become a party to, or any firm in which he is a partner or any company of which he is a director or manager shall become a party to, any contract with the Government of the Colony for, or on account of, the public service; or if, without such approval as aforesaid, he shall become a partner in a firm, or a manager or director of a company, which is a party to any such contract:
>
> Provided that a person shall not be considered to become a party to a contract with the Government of the Colony for the purposes of paragraph (*k*) of this subsection by reason of his being appointed to, or to act in, an office in the public service.

Legislation.—Subject to the provisions of the Order power is vested in the Governor, with the advice and consent of the Legislative Council "to make laws for the peace, order and good govern-

[1] S. 9 (1)-(3). [2] S. 9 (4), (5). [3] S. 10. [4] S. 13. [5] S. 8 (*e*).

ment of the Colony".[1] Laws require Assent by the Governor in the King's name and the Governor may reserve Bills for His Majesty's pleasure.[2] The King may also signify his disallowance of laws.[3]

It is also provided that any law or provision thereunder may be made to operate retrospectively to any date.[4]

Oath of Allegiance.—The Oath or Affirmation of Allegiance must be taken by every M.L.C. before he sits or votes therein.[5]

Precedure.—Provision is made for the precedance of M.L.C.s.[6]

Procedure.—Subject to the approval of the Governor, power is given the Legislative Council to make Standing Orders governing its procedure but the first draft is made by the Governor (*see below*). Members of the Legislative Council may introduce Bills, or may present petitions, and the same may be deleted or disposed of according to the Standing Orders. The Governor's Recommendation is required for matters involving public money or the suspension of any Standing Order.[7] The official language of the Council is English.[8]

All questions in the Legislative Council are decided by a majority of the votes of the M.L.C.s "present and voting". The Governor has no original vote, but only a casting vote in case of an equality of votes. The M.L.C. presiding in the absence of the Governor, however, has both an original and a casting vote.[9] The quorum is 7.[10]

President.—The Governor, if present, presides at meetings of the Legislative Council or, in his absence, such M.L.C. as the Governor may appoint; failing that, the M.L.C. who stands first in order of precedence.[11]

Royal Instructions of October 9, 1950.[12]

Executive Council.—This Council is appointed by the Governor for 3 years and consists of the 3 *ex officio* members (*see above*), 2 official and 4 Nominated M.L.C.s. All official M.L.C.s must be holders of office in the public service and every Nominated Member, unless a "native of the region" must be a person not holding such office.[13]

Both types of members of the Executive Council vacate their seats: on death; resignation addressed to the Governor and in case of an official member, if his resignation is accepted by the Governor; absence from the Colony without the Governor's permission; if an Official Member, he ceases to hold office in the public service; or, if Nominated (other than a "native of the region") is appointed permanently to office in the public service.

If a Nominated M.E.C. other than a "native of the region" is appointed temporarily or to act in any such office, he may neither sit as a member nor take part in the proceedings thereof so long as

[1] S. 16. [2] S. 20. [3] S. 21. [4] S. 17. [5] S. 25. [6] S. 15.
[7] S. 23 (1), (2). [8] S. 24. [9] S. 18. [10] S. 19. [11] S. 14. [12] *Second Supplement to the Government Gazette*, Oct. 17, 1950. [13] Clauses 4 and 5.

he continues to hold or act in such office.[1] The Governor may suspend an M.E.C. and report the matter to the Secretary of State or discharge an M.E.C. on grounds of incapability.[2]

The Governor may also make temporary appointments to such Council.[3]

Clause 8 lays down the precedence of M.E.C.s.

Governor.—The Governor, who presides thereat, alone has power to summon the Executive Council and no business, except that of adjournment, may be transacted therein should objection thereto be taken by him or if less than 3 members are present besides the Governor or Presiding Member.[4]

The Governor shall consult with the Executive Council unless, in his judgment, "Our Service" would sustain material prejudice thereby, or should the matter be too unimportant to require advice or too urgent to admit of delay, in which last-mentioned case, he must report to the Council as soon as practicable, giving reasons therefor.[5]

The Governor alone may submit questions to the Council, but should he decline to submit any question when requested in writing by a member to do so, such member may require record thereof to be entered on the Minutes, together with the Governor's answer thereto.[6]

Should the Governor act in opposition to the advice of the majority of the members present, he must report the matter to the Secretary of State with the reasons for his action and any M.E.C. may require to have recorded on the Minutes any advice or opinion given on the question and the reasons therefor.[7]

Clause 16 lays down the usual Rules for the enactment of Ordinances and Clause 17 the usual types of Bills not to be assented to without R.I.

"*Private Bill*".—The definition in Clause 18 is the same as that under "Gibraltar" (*see below*) except that only 2 publications in the *Gazette* are required.

Clause 23 provides that:

> *Governor to promote welfare of inhabitants.* 23. The Governor is, to the utmost of his power, to ensure that the fullest regard is paid to the religions and existing rights and customs of the inhabitants of the Colony, to promote education among them, and by all lawful means to protect them in their persons and in the free enjoyment of their possessions and to prevent all violence and injustice against them.

Other Clauses deal with the power of pardon, Governor's absence, etc.

The *Second Supplement to the Government Gazette of October* 17, 1950, also includes the Standing Orders of the Legislative Council of the Colony, made by the Governor (*see above*).

[1] *Ib.* 5 (4). [2] *Ib.* 5 (5) and (6). [3] *Ib.* 6. [4] *Ib.* 9 and 10.
[5] *Ib.* 11. [6] *Ib.* 12. [7] *Ib.* 13.

St. Helena: (Tristan da Cunha).[1]—Q. was asked in the House of Commons on May 3,[2] in regard to the appointment and salary of the Administrator of Tristan da Cunha, to which the Secretary of State for the Colonies (Rt. Hon. J. Griffiths) replied that in view of the establishment of a Fishing and Canning Industry, it was necessary to post an experienced officer to the Island to deal with any administrative problems that may arise and to assist the Islanders under the changed conditions. The Administrator's salary and other expenses would be payable from the revenue of the Island.

Trinidad & Tobago (Constitutional).[3]—Considerable constitutional changes in this Colony were effected in 1945 under the Trinidad and Tobago (Legislative Council) Amendment Order in Council of August 3 of that year, account of which was given in Volume XIV, p. 99 of the JOURNAL.

The Trinidad and Tobago (Constitution) Order in Council 1950,[4] which came into force on October 20, 1950, revokes the Legislative Council Orders of 1924 to 1945 inclusive and provides for a further advance on the constitutional path by constituting both an Executive and a Legislative Council with greater powers than under the Constitution of 1945.

As is customary in the JOURNAL in giving an outline of a Constitution, we confine ourselves to those provisions having particular reference to the Legislature, its members, etc., we shall not therefore here deal with those general to such constitutions. Neither shall those provisions in the 1950 Order taken over from that of 1945 be repeated here, but only the cross references given.

In the interpretation section[5] " clear income ", " Minister of Religion " and " office of emolument " bear the same interpretation they had under the 1945 Order (*see* JOURNAL, Vol. XIV, 101, *n.*), except that in the last-mentioned class, the constitution now exempts therefrom the Speaker, Deputy Speaker, Minister, Acting Minister, M.L.C. or Member of the Executive Council (M.E.C.).[6]

Nationality.—The provision in regard to Nationality is the same as that in North Borneo (*see above*).

British Commonwealth & Empire.—S. 1 (3) provides that:

1. (3) References in this Order to his Majesty's dominions shall have effect as if they included references to all British protectorates and British protected states and to all territories administered by the Government of any part of His Majesty's dominions under the trusteeship system of the United Nations.

Executive Council.

Composition of.—This Council consists of the Governor, as Chairman, 3 *ex officio* members, namely, the Colonial Secretary, Attorney-General and Financial Secretary, one Nominated M.L.C. appointed

[1] *See also* JOURNAL, Vol. VII. 107. [2] 474 *Com. Hans.* 5, s. 1679.
[3] *See also* JOURNAL, Vols. X. 82; XIII. 97; XIV. 99; XV. 109; XVIII. 116.
[4] S.I., 1950, No. 510. [5] *Ib.* S. 1. [6] *Ib.* S. 1 (4) (*b*).

by the Governor and 5 M.L.C.s elected to the Executive Council by the Legislative Council not later than its third sitting after the commencement of this Order and thereafter following every dissolution of the Legislative Council.[1]

The Nominated M.E.C. holds his seat during the King's pleasure and the Elected M.E.C. until a dissolution of the Legislative Council.

The Legislative Council may, by Resolution supported by not less than ⅔ the members of the Legislative Council, revoke the election to the Executive Council of any elected M.L.C., and upon the passing of a Resolution, the seat of such elected M.E.C. becomes vacant.[2]

In the election of an M.E.C. or his removal therefrom, as above, the voting by the M.L.C.s is by secret ballot.[3]

The seat of the Nominated or an Elected M.E.C. becomes vacant if he ceases to be an M.L.C. or is absent from the Colony without the permission of the Governor.

The Nominated or an Elected M.E.C. may resign his seat by writing under his hand to the Governor.

The Governor may suspend the Nominated M.E.C. reporting thereon to the Secretary of State, or declare vacant the seat of the Nominated or an Elected M.E.C. by reason of illness, if temporarily incapable of discharging his duties as an M.E.C.[4]

All questions of rights of membership of the Executive Council are determined by the Governor[5] and provision is made for casual vacancies.[6]

The Governor may also appoint temporary M.E.C.s in case of vacancy or absence from the Colony.

Powers of.—The powers and functions of the Executive Council are laid down in S. 5 as follows:

5. (1) The Executive Council shall be the principal instrument of policy and shall perform such functions and duties, and exercise such powers, as may from time to time be prescribed by or under this Order, any other Orders of His Majesty in Council, any Instructions under His Majesty's Sign Manual and Signet or, subject to the provisions of this Order and of such other Orders and Instructions as aforesaid, by or under any other law in force in the Colony.

(2) The Governor shall, save as otherwise provided by any Instructions under his Majesty's Sign Manual and Signet—

(*a*) consult with the Executive Council in the exercise of all powers conferred upon him by this Order other than powers which he is by this Order directed or empowered to exercise in his discretion; and

(*b*) act in accordance with the advice of the Executive Council in any matter on which he is by this subsection obliged to consult with the Executive Council.

(3) Nothing in subsection (2) of this section shall be construed as applying to matters for which provision is made by subsection (1) of section 17, or by section 56, of this Order.

Under Clause 4 of the R.I., the Governor is required to consult

[1] *Ib.* Ss. 4, 6-8, 15. [2] *Ib.* S. 9. [3] *Ib.* S. 13. [4] *Ib.* S. 9.
[5] *Ib.* S. 10. [6] *Ib.* S. 12.

with the Executive Council in the formulation of policy and in the exercise of all other powers conferred upon him, except in regard to the appointment of his Deputy, disposal of land, appointment of officers, suspension or dismissal of officers and the grant of pardon.

Otherwie, the Governor is, by Clause 5, not obliged to consult the Executive Council when the matter is of such a nature that, in his judgment " Our " service would sustain material prejudice thereby; or which are, in his judgment, too unimportant or too urgent to admit of delay.

The Governor, however, need not consult the Executive Council:

5. (3) If in any case in which he shall consult with the Executive Council (whether in pursuance of Section 5 of the Order in Council or of clause 4 of these instructions or otherwise) the Governor shall consider it expedient in the interest of public faith, public order or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Colony as a territory within the British Commonwealth of Nations, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer or officers) that he should not act in accordance with the advice of the Executive Council, then—

(*a*) he may, with the prior approval of a Secretary of State, act against that advice, or (*b*) if in his judgment urgent necessity so requires, but in all cases any M.E.C. may require record thereof in the Minutes.

Section 17 (1) deals with the Governor's power to summon the Executive Council and S. 56 with the Governor's emergency powers (*see below*).

Procedure.—The Executive Council is summoned by the Governor but it may also be summoned on the written request of 5 M.E.C.s. The quorum is 4. Questions are decided by a majority of the M.E.C.s present and voting, the Governor only having a casting vote in case of an equality of votes, but the member acting for him during his absence has both an original and the casting vote. The Executive Council may appoint a Committee thereof to exercise such powers as may be prescribed by R.I.[1]

Portfolios.—Section 20 reads:

(1) The Governor, acting in his discretion, may by directions in writing—

(*a*) charge any *ex officio* Member of the Executive Council with the administration of any department or subject;

(*b*) declare which departments or subjects may be assigned to Members of the Executive Council other than *ex officio* Members; and

(*c*) revoke or vary any directions given under this subsection.

(2) The Governor may by directions in writing—

(*a*) charge any member of the Executive Council, other than an *ex officio* Member, with the administration of any department or subject during such time as it shall be declared under paragraph (*b*) of subsection (1) of this section, to be a department or subject which may be assigned to Members other than *ex officio* Members; and

(*b*) revoke or vary any directions given under this subsection.

[1] *Ib.* Ss. 17-19.

Members of the Executive Council, other than *ex-officio* members charged with the administration of any department aforesaid are styled "Ministers".[1] The salaries of the members of the Executive Council are:

	dollars p.a.
Ministers	6,720
M.E.C.s other than *ex officio* M.E.C.s or Ministers	4,800

These salaries, which are charged upon the revenues of the Colony, are in lieu of any salary as M.L.C.[2]

The Governor has power to make temporary assignments of Departments to "Acting Ministers".[3]

The Governor may grant leave of absence to any Minister or Acting Minister.[4]

The Clerk.—The Clerk of the Executive Council, who is appointed by the Governor, holds the joint office of Governor's Secretary and Clerk of the Executive Council, whose powers are:

The said officer—

(*a*) in his capacity as Governor's Secretary, shall have such functions as the Governor, acting in his discretion, may from time to time direct; and

(*b*) in his capacity as Clerk to the Executive Council shall be responsible for arranging the business for, and keeping the minutes of, meetings of the Executive Council and for conveying the decisions of the Governor in Executive Council to the approprite person or authority, and shall have such other functions as the Governor may from time to time direct (*also see below*).

Disagreement between Minister and Head of Department.—Section 25 provides that:

25. (1) If the public officer who is for the time being head of any department shall, on any question relating to the administration of the department, disagree with the Minister who is charged with the administration of the department, then—

(*a*) the said officer may submit to the Minister, in writing, a statement of his reasons for disagreeing with the Minister and of his own recommendations on the question at issue;

(*b*) the Minister shall send to the Governor's Secretary and Clerk to the Executive Council a copy of such statement together with any written statement which he himself may wish to make on the question at issue; and

(*c*) the question shall be considered at a meeting of the Executive Council and shall be disposed of as the Governor may direct.

(2) In this section the expression "Minister" includes an Acting Minister.

Legislative Council.

The Legislative Council consists of a Speaker, 3 *ex officio* (Colonial Secretary, Attorney General and Financial Secretary)

[1] *Ib.* S. 21. [2] *Ib.* S. 22. [3] *Ib.* S. 23. [4] *Ib.* S. 26.

members, 5 Nominated and 18 Elected M.L.C.s,[1] and continues for 5 years from the date of the return of the first writ unless sooner dissolved.

Speaker, Deputy Speaker.—The holder of this office is neither an *ex officio*, Nominated nor Elected M.L.C., nor does he occupy any office of emolument under the Crown.

He is appointed at the discretion of the Governor by Instrument under the Public Seal and holds office during the King's pleasure; a dissolution does not affect his appointment.[2]

Provision is made for a Deputy Speaker elected by the Legislative Council, also by secret ballot, from among their number at the beginning of every Session; he may not be an M.E.C. The Deputy Speaker vacates his seat upon ceasing to be an M.L.C. or on becoming an M.E.C.; he addresses his resignation to the Speaker or, in his absence, to the Clerk of the Legislative Council.[3]

The Speaker presides over the Legislative Council, or in his absence the Deputy Speaker, or in the latter's absence, an elected M.L.C.; provided he is not an M.E.C.[4]

The salary of the Speaker is at the rate 5,760 dollars p.a., and that of his Deputy 960 dollars p.a., in addition to his emoluments as an M.L.C. Both salaries and allowances are charged on the revenues of the Colony and paid by the Accountant-General upon warrant directed to him under the hand of the Governor.

Both officers may also receive any emoluments provided for by law in addition to their salaries.[5]

Members of the Legislative Council.—The qualification for Nominated M.L.C.s is adult-British subjecthood and the Governor must inform the Secretary of State of all such appointments.

The qualifications and disqualifications for Elected M.L.C.s are the same as under the 1945 Constitution (*See* JOURNAL, Vol. XIV, 101), but with the addition of electoral offences and Government contracts.[6]

Government Contracts.—The provisions in regard to this disqualification are similar to those under the Gibraltar Constitution (*see above*), with the proviso that the Governor may, in his discretion, exempt any Nominated M.L.C., and the Legislative Council may exempt any Elected M.L.C. if he, before becoming a party to such a contract, or as soon as practicable thereafter becomes interested therein, discloses to the Governor or the Legislative Council, as the case may be, the nature of such contract and his interest therein.

Vacation of Seats.—The seat of a Nominated or Elected M.L.C. becomes vacant: on death; if in the case of a Nominated M.L.C. absence from sittings of the Legislative Council for such period and in such circumstances as the Governor, acting in his discretion, may prescribe; or, if a Nominated M.L.C., he becomes a candidate for

[1] *Ib.* Ss. 29, 33, 61, 62. [2] *Ib.* Ss. 30, 31. [3] *Ib.* S. 31. [4] *Ib.* S. 51.
[5] *Ib.* S. 32. [6] *Ib.* Ss. 34-36, 37 (*h*).

election as an Elected M.L.C. or being an Elected M.L.C., is appointed a Nominated M.L.C.; or owes allegiance to a foreign Power; or is a party to a Government Contract (*as above*); or is declared a bankrupt under any law in force in H.M. Dominions; or is sentenced to imprisonment for longer than 12 months; or is electorally disqualified; or insane.

Nominated M.L.C.s resign to the Governor and elected M.L.C.s to the Speaker or Deputy Speaker.[1]

The Governor may discharge a Nominated M.L.C. temporarily incapable on account of illness of discharging his duties.[2] The Governor may, in certain circumstances, appoint temporary members.[3]

All decisions as to Nominated membership rest with the Governor, but the right of any person to be or to remain an Elected member must be referred to and determined by the Supreme Court in accordance with the provisions of any law in force in the Colony.[4]

The Governor shall, under his hand, notify the Speaker (or should occasion so require, the Deputy Speaker) of every appointment to Nominated Membership.

Whenever the seat of any M.L.C. becomes vacant under S. 38 (3) of the Order, the Speaker reports such vacancy, by writing under his hand, to the Governor.[5]

Franchise and Disqualification of Electors.—These are the same as under the 1945 Constitution (*see* JOURNAL, Vol. XIV, 101). Provision is also made for electoral laws to be framed under the Order.[6]

Legislation.—The Governor, with the advice and consent of the Legislative Council, is empowered to make laws for the peace, order and good government of the Colony.[7]

Governor's Emergency Powers.—These are laid down in S. 56 and in respect to subsection (1) thereof, are the same as under S. 21 (1) of the Gibraltar Constitution (*see above*). The remaining subsections of the Trinidad Constitution are as follows:

(2) The Governor shall not make any declaration under this section except in accordance with the following conditions, that is to say:

(*a*) The question whether the declaration should be made shall first be submitted in writing by the Governor to the Executive Council and if, upon the question being so submitted to it, the Executive Council shall resolve that the declaration be made, the Governor may make the declaration.

(*b*) If, when the question whether the declaration should be made is submitted to it as aforesaid, the Executive Council shall not, within such time as the Governor shall think reasonable and expedient, resolve that the declaration be made, then—

(i) the Governor may submit the said question to a Secretary of State and may make the declaration if, upon the question being so submitted to him, a Secretary of State authorizes the Governor to make the declaration; and

(ii) the Governor may make the declaration without submitting

[1] *Ib.* S. 38. [2] *Ib.* S. 39. [3] *Ib.* S. [illegible] [4] *Ib.* S. 40.
[5] *Ib.* Ss. 42, 46. [6] *Ib.* S. 47. [7] *Ib.* S. 48.

the said question to a Secretary of State, if in the Governor's opinion urgent necessity requires that the declaration be made without obtaining the authority of a Secretary of State; in which case he shall, at the time of making the declaration, certify in writing that urgent necessity requires that the declaration be made without obtaining such authority.

(3) (*a*) Whenever the Governor, in accordance with the provisions of paragraph (*b*) of subsection (2) of this section, shall submit to a Secretary of State the question whether a declaration should be made, or shall make a declaration without submitting the said question to a Secretary of State, he shall inform the Executive Council in writing of his reasons for so doing.

(*b*) Whenever the Governor shall make a declaration under this section, other than a declaration made with the authority of a Secretary of State, he shall forthwith report to a Secretary of State the making of, and the reasons for, the declaration and, in the case of a declaration made in accordance with the provision of sub-paragraph (ii) of paragraph (*b*) of subsection (2), the grounds of urgency.

(4) If any Member of the Legislative Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting and a copy of such statement shall, if furnished by such Member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(5) Any declaration made under this section, other than a declaration relating to a Bill, may be revoked by a Secretary of State, and the Governor shall cause notice of such revocation to be published in the *Gazette*; and from the date of such publication any motion which shall have had effect by virtue of the declaration shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act, 1899,[1] shall apply to such revocation as they apply to the repeal of an Act of Parliament.[2]

Bills are assented to by the Governor but he must under S. 57 reserve for the signification of His Majesty's pleasure the following:

(a) any Bill by which any provision of this Order is revoked or amended or which is in any way repugnant to, or inconsistent with, the provisions of this Order; and

(*b*) any Bill which determines or regulates the privileges, immunities or powers of the Legislative Council or of its Members;

—unless he shall have been authorized by a Secretary of State to assent thereto.

Section 58 deals with the Disallowance of Laws.

Private Bills.—Clause 10 of the R.I. makes the same provision as Clause 17 of the R.I. (Gibraltar) (*see above*).

Procedure.—Provision is made for the framing of Standing Orders by the Legislative Council but in the first instance, by the Governor.[3]

A Quorum is 9, not including the Presiding Member.[4]

Questions are decided by a majority of the votes of the M.L.C.s present and in case of an equality of votes the Motion is lost, the Speaker having neither a deliberative nor a casting vote. Any other person presiding has only an original vote.[5]

Provision is made for the introduction of Bills by M.L.C.s but the Council may not proceed upon any Bill, amendment, Motion or

[1] 52 & 53 Vict. c. 63. [2] S.I. 1950, No. 510, S. 56 (2)-(5). [3] *Ib.* S. 50.
[4] *Ib.* S. 53. [5] *Ib.* S. 54.

petition which, in the opinion of the Speaker, or other Presiding Member, would dispose of, or charge any public revenue or public funds of the Colony or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty.[1]

The penalty for an elected M.L.C. sitting or voting when unqualified is not to exceed 96 dollars for every day upon which he so sits or votes, and is recoverable by action in the Supreme Court at the suit of the Attorney-General.[2]

Oath.—Section 59 deals with the Oath or Affirmation of Allegiance to be taken by M.L.C.s, but the proviso to subsection (1) reads:

> Provided that if, between the time when a person becomes a Member of the Legislative Council and the time when the Legislative Council next meets thereafter, a meeting takes place of any committee of the Legislative Council of which such person is a member, such person may, in order to enable him to attend the meeting, and take part in the proceedings, of the committee, take and subscribe the said oath before a judge of the Supreme Court of the Colony; and the taking and subscribing of the oath in such manner shall suffice for all purposes of this section. In any such case the judge shall forthwith report to the Legislative Council through the Speaker or, as occasion may require, through the Deputy Speaker that the person in question has taken and subscribed the said oath before him.

Privilege.—Section 60 reads:

> 60. It shall be lawful, by laws enacted under this Order, to determine and regulate the privileges, immunities and powers of the Legislative Council and its Members, but no such privileges, immunities or powers shall exceed those of the Common's House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the Members thereof.

Sessions.—These must be held yearly, so that a period of 12 months does not intervene between the last sitting of the Legislative Council in one Session and the first sitting thereof in the next. Sessions may only be summoned by the Governor, who may, at any time, prorogue or dissolve such Council. Otherwise, the duration of a Legislative Council is 5 years from the return of the first writ at the last preceding election. In future, a general election must take place within 4 months after a Dissolution.[3]

Part VI of the Order deals with the Public Service Commission and Part VII with Miscellaneous matters.

Governor's Powers and R.I.—The Governor's Letters Patent are dated March 16, 1950.

In regard to the powers vested in the Governor in respect of the Prerogative of Mercy (*see also above*) and Clause 15 of the Royal Instructions reads:

> 15. (1) (*a*) Whenever any offender shall have been condemned by the sentence of any civil court in the Colony to suffer death, the Governor shall call upon the judge who presided at the trial to make to him a written report of the case of such offender, and shall cause such report to be taken into consideration at a meeting of the Executive Council, and he may cause the said judge to be specially summoned to attend at such meeting and to produce his notes thereat.

[1] *Ib.* S. 55. [2] *Ib.* S. 67. [3] *Ib.* Ss. 61-63.

(*b*) The Governor shall not pardon or reprieve any such offender unless it shall appear expedient to him so to do upon receiving the advice of the Executive Council thereon; but he is to decide either to extend or to withhold a pardon or reprieve according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering, nevertheless, in the minutes of the Executive Council his reasons at length, in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

(2) (*a*) The Governor may, by directions in writing, establish a committee of the Executive Council to exercise the functions of the Executive Council under this clause; and at any time when there is a committee so established paragraph (1) of this clause shall be construed and have effect as if the references therein to the Executive Council were references to such committee.

(*b*) The Governor may, by directions in writing, revoke any directions given under this paragraph.

> (*b*) if, in his judgment, urgent necessity so requires, he may act against that advice without such prior approval, but shall, without delay, report the matter to Us through a Secretary of State with the reasons for his action.

Whenever the Governor shall so act against the advice of the Executive Council, any Member of the Executive Council may require that there be recorded in the minutes of the Executive Council the grounds of any advice or opinion which he may give upon the question.

Clause 9 of the R.I. sets out the usual clauses of Bills which are not to be assented to by the Governor without instructions.

Memorandum.—Under a Government Notice (No. 94 of 1950) an explanatory Memorandum is published upon the association of members of the Executive Council with the work of administration of Government Departments. In regard to the office of Governor's Secretary and Clerk to the Executive Council, paragraph 14 reads:

14. GOVERNOR'S SECRETARY AND CLERK TO EXECUTIVE COUNCIL.

The ministers will be the channel for the submission of all papers concerning their subjects and departments to Executive Council and to the Governor. In order to ensure co-ordination of the work of the separate ministers, and the proper presentation of work to Executive Council and to the Governor, a senior officer will be appointed to a new post of " Governor's Secretary and Clerk to Executive Council ". He will require a small staff of his own, including probably an Assistant Clerk of Executive Council of Assistant Secretary rank; the existing Cypher and Despatch staff at Government House will come under his direction. He will examine all official papers for Executive Council or for the Governor and will ensure that in matters which concern more than one member of Executive Council or department all the necessary authorities have been consulted. He will, when necessary and on behalf of the Governor, send papers back for further consideration or clarification. He will be responsible for distributing incoming telegrams and despatches and petitions. He will arrange the agenda of Executive Council and will convey the decisions of Executive Council to the appropriate person or authority. It should be clearly understood that this officer will have no powers in his own right. In all that he does as Governor's Secretary, he will act as the mouthpiece and channel of authority of the Governor. In all that he does as Clerk to the Executive Council, he will act as the mouthpiece and channel of authority of the Governor in Executive Council.

December 24, 1951. O. C.

II. VISIT OF COMMONWEALTH SPEAKERS TO WESTMINSTER FOR THE OPENING OF THE NEW HOUSE OF COMMONS

By C. A. S. S. Gordon

Senior Clerk in the House of Commons.

The rebuilding of the House of Commons, after its destruction by enemy action on May 10, 1941, aroused the liveliest interest throughout the Commonwealth. This interest was tangibly expressed in the gifts which were offered to the new Chamber by no less than 48 Commonwealth Countries and Colonies. These gifts, which varied in size between the Speaker's Chair and an ashtray, were presented in 4 instances by the branches of the Commonwealth Parliamentary Association in the countries concerned, but for the rest, by the Governments or Legislatures themselves. A list of the countries and their gifts is shown at the end of this Article (Annex A).

The question of the formal recognition by the House of these gifts was raised during the summer of 1949 in correspondence between Mr. Speaker and the Prime Minister, and 2 meetings were held in Mr. Speaker's Library (on November 21, 1949, and May 18, 1950) in order to determine the form which such recognition should take. There were present at the first meeting representativs of all parties in the Commons and, at the second, of all parties in both Houses. The minutes of the meetings were not published, but the decisions which were made may be briefly summarized as follows:

(i) Although it was not possible, for reasons of space, to invite to the opening of the new Chamber representatives of all the countries which had given gifts, it was decided to issue such an invitation to the Speaker of the Lower House of each Commonwealth country, the Speaker or Presiding Officer of the Lower House of each Colonial Legislature with an unofficial majority, the Speakers of the House of Commons of Northern Ireland and the House of Keys and the Bailiffs of Guernsey and Jersey. It was agreed that all invitations to Speakers and Presiding Officers should be extended to their wives as well. The list of countries from which representatives were to be invited was therefore as follows: Canada, Australian Commonwealth, New Zealand, Union of South Africa, India, Pakistan, Ceylon, Southern Rhodesia, Northern Ireland, Bahamas, Barbados, Bermuda, Gambia, Gold Coast, British Guiana, British Honduras, Jamaica, Kenya, Federation of Malaya, Malta, Mauritius, Nigeria, Northern Rhodesia, Singapore, Trinidad and Tobago, Windward Islands, Isle of Man, Guernsey and Jersey.

(ii) It was further decided that the invited representatives should not only be present at the first sitting in the new Chamber, but should also thereafter accompany the Commons to Westminster Hall in order to present a loyal Address to His Majesty. An Address would also be presented on that occasion by the Lords.

(iii) Finally, it was decided that an illuminated message of thanks should be sent to every country which had given a gift to the new Chamber, whether represented by its Speaker at the proposed ceremony or not.

By virtue of these decisions, the issuing of invitations to representatives of Commonwealth countries, which had originally been conceived as an act of gratitude for gifts received, acquired a larger and more general significance. During the subsequent proceedings in the House, only one reference was made to the formal expression of gratitude by the House; this was on October 24, 1950, when Mr. Speaker, in an announcement before Questions, said:

> This morning I have signed . . . letters to those who have given gifts to our new House of Commons. These letters are illuminated and, I think, are beautiful works of art. I am having a copy put in the Library for honourable Members to see, but I am afraid it can only be there this afternoon and evening, because, of course, we want to despatch them.[1]

The House was informed for the first time in general terms of the decisions made by the Speaker's Committee in a reply by the Lord President of the Council (Mr. Herbert Morrison) to a private notice question asked by Earl Winterton on May 25.[2] He answered that the new Chamber would be first occupied on October 26, and that the full details of the ceremony would be made known in good time. He added:

> I may, however, say now that the Speaker will be sending invitations to the Speakers or other presiding officers of the lower Houses of the Legislatures of Commonwealth Countries, Northern Ireland, the Isle of Man and the Channel Islands, and of Colonial Legislatures with unofficial majorities.

A statement by Mr. Speaker on October 19,[3] which gave the promised details of the ceremony, need not be quoted here, since its provisions were carried out exactly in the course of the cermony which will be described.

The visiting Speakers and Presiding Officers, with their wives, arrived in England towards the middle of October. A list of these visitors is shown in Annex B to this Article, and does not include the Speaker of the Legislative Assembly of Malta, who, in consequence of a General Election, was only elected to his office a few days before the opening of the new Chamber. Four of the visitors were not Presiding Officers, but Unofficial Members appointed by the Presiding Officers of their Assemblies[4] to represent them.

On October 17, a dinner in their honour was given in the Speaker's Library by the Commonwealth Parliamentary Association, and on October 18, receptions were held by the Secretary of State for the Colonies and the Secretary of State for Commonwealth Relations. On October 19, the Speakers and Presiding Officers, at the invitation of the Board of Admiralty, attended Trafalgar Day guest night

[1] 478 *Com. Hans.* 5, s. 2667. [2] 475 *ib.* 2240-41. [3] 478 *ib.* 238.
[4] British Guiana, British Honduras, Trinidad and Tobago and Windward Islands.

in the Painted Hall of the Royal Naval College, Greenwich, while their wives were entertained to dinner at No. 10, Downing Street, by Mrs. Attlee. On Sunday, October 22, the visitors accompanied Mr. Speaker to a special Service of Thanksgiving held in St. Margaret's, Westminster, and afterwards returned to Mr. Speaker's residence to meet the Archbishop of York. On October 23, after a visit during the day to the London Docks, the visitors attended the Lord Mayor's Banquet in the Guildhall, and on October 24, a reception was given for them by the Councils of the Royal Empire Society, the Victoria League, and the Overseas League.

On October 24, Mr. Speaker read to the House a Message from His Majesty, in the following terms: [1]

Your former place of sitting has now been rebuilt. Adorned and equipped with the generous gifts received from other countries of the British Commonwealth of Nations it is ready for your use as a new House of Commons. It is my pleasure that you do occupy the new Chamber on Thursday, the 26th day of October.

GEORGE, R.

An Address in reply to the Message was moved forthwith by the Prime Minister. After expressing thanks for the rebuilding of the Chamber, and for the accommodation which had been provided for the Commons during the war and the period of rebuilding, the Address continued: [2]

In that dark time, when almost all Europe lay beneath the heel of the conqueror, Your Majesty's peoples stood firmly together and freely shed their blood in the cause of democratic freedom. In this same generous spirit those Peoples have given lavishly of the natural products of their soil and of their own skill and industry to brighten and adorn the new Chamber which You here set apart for our use.

We thank Your Majesty for the gracious message directing us to occupy the new Chamber on Thursday the 26th day of October and for the arrangements which have enabled the Speakers, Presiding Officers or their deputies of so many countries of the Commonwealth and Empire to be present on this occasion.

In all humility we trust that with God's help our deliberations in our new Chamber may result in securing the peace, well being and happiness not only of our own people and the peoples of the Commonwealth but of all the peoples of the world.

The debate which [3] followed contained several references to the visiting Speakers. The Prime Minister, during the cause of his opening speech, said:

The new Chamber will be adorned by gifts from Overseas. From 45 [4] countries of the Commonwealth and Empire, from small peoples as well as great, from every continent have come these generous gifts from our fellow members. In the Chamber and outside we shall have a constant reminder that we belong to what General Smuts used to call " The British family of

[1] 478 *Com. Hans.* 5, s. 2703. [2] *Ib.* 2703. [3] *Ib.* 2704-10. [4] This was the number of gifts which had been received at the commencement of the discussions concerning the proposed ceremony.—C. A. S. S. G.

nations". And so we are grateful to the Legislatures of so many Commonwealth States for sending their Speakers or Presiding Officers to take part in our House warming.

The Motion was seconded by Mr. Churchill, who associated himself with the sentiments expressed by the Prime Minister and added:[1]

Also we support him in expressing our thanks to the Governments of the British Empire and Commonwealth of Nations, whose representatives we welcome and whose gifts we cherish.

Mr. Clement Davies, the next speaker, said:[2]

The rise of the new Chamber on the site of the old, the generous contributions towards its adornment and equipment made by the Commonwealth, and the warm and loving interest in its creation and opening, signified by the presence of the Speakers of their Legislative Assemblies, mark the position of a fresh milestone on the road which we of the Commonwealth have mapped out for ourselves as the way towards universal peace, goodwill and happiness.

The Motion for the Address was carried *nemine contradicente*. It was then resolved, without debate:

That such Members of this House as are of His Majesty's Most Honourable Privy Council do humbly know His Majesty's pleasure when He will be attended by this House with the said Address and whether His Majesty will be Graciously pleased to permit the invited representatives of overseas Parliaments of the British Commonwealth and Empire to accompany this House in attending His Majesty.

After questions on October 25, Mr. Speaker, in response to a request from Captain Duncan, stated that he would arrange that a full report of the names of the visiting Speakers and Presiding Officers would appear in *Hansard* the next day, and said:

The names of everybody in the procession and the names of the countries from which they come will be recorded.

A statement was then made by the Lord President of the Council, in the following terms:[3]

I have to inform the House that His Majesty the King has appointed 12 noon tomorrow, in Westminster Hall, to be the time and place at which His Majesty will be attended by this House to receive their Address on the occasion of the opening of the new Chamber, and has given his permission for the Commons to be accompanied by representatives of Overseas Parliaments.

At 6 o'clock the same evening the visiting Speakers and Presiding Officers and their wives had the honour to be received by Their Majesties at Buckingham Palace.

On October 26, the House met in the new Chamber at a quarter past ten o'clock. Contrary to the usual custom of the House, strangers were admitted to the Galleries during Prayers. The Speakers of the 7 Commonwealth Countries and Southern Rhodesia were seated under the Gallery and the remaining Speakers and Presiding Officers were divided between the Official Gallery on the Floor of the House and the front row of the Special Gallery (east).

[1] 478 *Com. Hans.* 5, s. 2706. [2] *Ib.* 2708. [3] *Ib.* 2793-4.

Immediately after Prayers, Mr. Speaker took the Chair, and said: [1]

Before I call on the Prime Minister to move a Motion, I should like, with the permission of the House, and as Speaker of the House of Commons, to welcome formally my fellow Speakers, Presiding Officers and representatives from Overseas, as well as our guests from home, including members of the War-time Parliament, the Architect and some of the workmen who have rebuilt this Chamber.

I should explain that normally no one is admitted to the Galleries until we have finished our daily Prayers. They may well be called our family Prayers. But it is fitting on this unique occasion, seeing that we all belong to one great family of nations, that our Prayers this morning should be witnessed and shared by representatives from every part of our great Commonwealth family.

He then welcomed his fellow members back to their old home, and invoked God's blessing upon it.

The Prime Minister then rose to move:

That this House welcomes the Speakers, Presiding Officers and other representatives of the countries of the British Commonwealth and Empire who have come from Overseas to join in the ceremonies on the occasion of the opening of the new Chamber; expresses its thanks to their Legislatures and peoples for the generous gifts with which the Chamber is adorned; and assures them that their presence on this day will be a source of inspiration in the years to come.

His speech ran: [2]

It is a great honour to make the first speech in the new chamber, and I am sure I am voicing the opinions of all of us in thanking you, Sir, for that welcome which you gave to your fellow members. It is, I think, fitting that the Motion which I am moving should be wholly uncontroversial, for I am quite sure that every member of this House is delighted that on this auspicious occasion we should have with us the representatives of so many countries of the British Commonwealth. I am sure also that, in approving this Motion, as I am sure right hon. and hon. members will do, they will feel certain that they are representing the views of their constituents of all parties.

The 28 Legislatures whose Presiding officers we welcome here today are scattered throughout the world in every continent. Some of the countries from which they come are small islands; others are great continents. They comprise men and women of many races, but they all belong to one great democratic family. Some of these Legislatures have long histories. The Tynwald of the Isle of Man goes back into the mists of time, and the Legislatures of some of the West Indian Islands and Gambia came into being in those stormy days of the Stuarts, when this Parliament was asserting the rights of the people. Others, such as that of Pakistan, have had but a few years of existence.

Whether young or old, whether situated in the tropics or the temperate zone, they all have a close family resemblance. In every one of them there is freedom of debate and the clash of opinions, and they all draw their inspiration from our history. They are all examples of the most successful method ever devised of combining effective government by the majority with full respect for the views of the minority. A member of a Legislature of the British Commonwealth visiting a sister State and attending the Legislature at once feels at home. The procedure is familiar and he knows the rules of the game, whatever local variations there may be. We are glad that the Speakers and Presiding Officers from Overseas will accompany you, Sir, and

[1] *Ib.* 2929-30. [2] *Ib.* 2793-4.

the members of the House to Westminster Hall to attend His Majesty the King, the symbol of the unity of the Commonwealth and Empire.

In this House we are surrounded by the tokens of affection which have been sent from all over the Commonwealth to adorn our Chamber from no fewer than 45[1] different countries. You, Sir, are sitting in the Chair presented by Australia. The Serjeant-at-Arms sits in the chair which is the gift of Ceylon. The Table comes from Canada, the boxes from New Zealand, the chairs at the Table from South Africa, the Bar of the House from Jamaica. We pass through doors given by India and Pakistan. Chairs and tables, lamps and clocks, and many other articles of use and beauty, are reminders of the generosity of our fellow citizens in other lands.

The Motion assures our friends that their presence on this day will be an inspiration in years to come. This is, indeed, a memorable occasion, and all of us who are privileged to be here this morning may count ourselves fortunate that, in the changes and chances of our Parliamentary life, this great event has found us representing here our respective constituencies. Today will indeed dwell in all our memories.

The Motion was seconded by Mr. Churchill, who said during the course of his speech:[2]

The Prime Minister spoke of the Parliamentary systems shared in common by so many of us represented here, and how they combine the effective Government of the majority with full respect for the views of the minority. That certainly is a high ideal towards which we should all perseveringly strive. . . .

It gives me great pleasure to support the Motion which the Prime Minister has commended to us in his admirable and eloquent speech. We are proud today to have with us the Speakers and representatives of so many famous States and Governments of the British Empire and Commonwealth of Nations. We rejoice that they are with us to see our phœnix rising again from its ashes, and we wish them all the same good luck should they at any time be exposed to similar vicissitudes.

There is no doubt that the assembly of the Speakers of so many free and fairly elected Parliaments on this historic occasion shows a new link of unity and mutual comprehension which has sprung into being in our world-wide society and family. It is our hope, Sir, which perhaps we may be pardoned for expressing upon an occasion for rejoicing such as this, that the tolerant, flexible, yet enduring relationship which binds us all together by ties which none could put on paper but are dear to all, may some day be expanded to cover all the peoples and races of the world in a sensible, friendly and unbreakable association, and so give mankind, for the first time, their chance of enjoying the personal freedom which is their right and the material well-being which science and peace can so easily place at their disposal.

Mr. Clement Davies then spoke as follows:[3]

This is a moment, Sir, of deep emotion to every one of us here assembled this morning, and it is significant that the first matter which comes before us in this new Chamber is a Motion relating to the countries who form the British Commonwealth of Nations. It marks, as the Prime Minister and the right hon. Gentleman the member for Woodford (Mr. Churchill) have already observed, the close ties of relationship, of friendship and affection which bind us together as one people. Differences of race, creed or colour do not divide us, but rather they serve to emphasize the nature and the strength of our unity. The intangible family ties, almost indefinable, which unite us, grow stronger as the member nations grow outwardly more independent. It is

[1] *See* Annex A below.—[C. A. S. S. G.] [2] 478 *Com. Hans.* 5, ss. 2932, 2933.
[3] *Ib.* 2933-34.

almost a paradox, for it seems that the greater the individual independence, the greater is the mutual dependence.

We are deeply grateful to all these Governments, Legislatures and peoples for their timely and generous gifts, now part of our Chamber, which will remind future generations of the unity of all these peoples dwelling in the five continents of the world, and will recall that we stood together as one in time of peril when the freedom of man was threatened.

We are also grateful, Sir, to the Speakers, the Presiding officers and other representatives of those countries for coming here to join with us in celebrating the opening of this our Chamber. We, the members of this House, extend to each and all of them that warmth of welcome that the best of mothers extends to her splendid and affectionate children.

The debate was concluded by a speech by Earl Winterton, in the course of which he said: [1]

I am honoured to speak on this historic and unique occasion in the dual capacity of Father of the House and Chairman of the Select Committee on the Rebuilding of the House, and as one who has visited often, and has many friends in, 4 Dominions and who has been to a number of Colonies, I warmly join in the welcome to our Overseas friends. One thing which we could not and did not foresee in our deliberations in the Select Committee is the extraordinary profusion and value of gifts from Commonwealth and Empire Legislatures for the new Chamber.

It is, as has already been said, a value of great magnitude, not only physical but in sentiment, for these 45 countries of the Commonwealth have an immense variety of population, constitution and point of view, and these gifts symbolize the uniqueness of the Commonwealth principle of unity in diversity; uniqueness, at any rate, today, because I for one cannot contemplate at this moment the nations of U.N.O. presenting as a joint gift a President's Chair to Premier Stalin or a set of books on Magna Carta and the Bill of Rights to the Congressional Library in Washington.

Sir, as you will observe, this is a great and unique family occasion, and I should like to conclude my observations by saying, in my capacity as the Father of the House, **Long may the Commonwealth family flourish.**

The Question was then put, and agreed to *nemine contradicente* whereupon the sitting was suspended.

Mr. Speaker resumed his seat 40 minutes later, and forthwith left the Chamber followed by the visiting Speakers and Presiding Officers (in their robes) in procession to Westminster Hall. The procession entered the Hall by the East Door, and its members proceeded to seats prepared for them on the raised part of the Hall at the south end. At a quarter to twelve the Lord Chancellor, accompanied in procession by Officers of the House of Lords, entered the Hall by the same door.

At 12 o'clock Their Majesties entered by the North Door, preceded by the Minister of Works and the Lord Great Chamberlain and followed by Her Majesty Queen Mary, Their Royal Highnesses Princess Elizabeth, Princess Margaret, the Duke and Duchess of Gloucester, the Princess Royal and Princess Alice, the Earl of Athlone, and members of the Royal Household. Their Majesties proceeded to their seats in the centre of the dais below the South

[1] *Ib.* 2934-35.

Arch, which was hung for the occasion with a dark blue velvet curtain, in front of which was suspended a large gilt replica of the Royal Arms. The National Anthem was played, after which Addresses were presented, first by the Lord Chancellor, and then by Mr. Speaker. To both of these Addresses His Majesty made the following reply:[1]

My Lords and Members of the House of Commons:

I thank you for the loyal and dutiful Addresses which on your behalf the Lord Chancellor and Mr. Speaker have presented to me.

I am glad to be here today and to congratulate the members of the House of Commons on the rebuilding of their Chamber. I look back with pride and gratitude to the part that Parliament played when this country was in danger. True to its function of expressing the will and spirit of my people, the House of Commons continued with unshakable courage and high purpose to fulfil its duties despite the bombing of its home. The destruction of the Chamber in which it had met for so many years was not allowed to interrupt our Parliamentary Government. When the peoples of our Commonwealth of Nations stood alone, the spirit of a free people ensured the maintenance of our system of Government. May it always continue to stand for those great and permanent realities expressed in our way of life, whatever the strains and stresses we have to endure.

The new Chamber has been built as far as possible in the form of the old. There is a traditional intimacy about our legislative Chambers which is very characteristic of Parliamentary life in our land. It suggests a close and almost homely place of discussion and taking counsel, as if it derived some of its virtue from the family circle. I am glad to know that this feature has been preserved in the new building. I congratulate the architect who designed the Chamber and all the men and women who have taken part in its building and furnishing; its decoration and fittings are outstanding examples of our skill and craftsmanship in wood and metal and stone.

This Chamber, in a sense, belongs to our great family of nations, for it is adorned and enriched by generous gifts from all over the Commonwealth.

I am happy to welcome here today the Speakers of the Legislatures throughout the British Commonwealth. Their presence makes this a symbolic occasion of untold value. Of all the bonds which unite my peoples none is stronger than our common devotion to the ideals of freedom, justice and toleration which, in the political sphere, find their supreme expression in our Parliamentary system. These ideals have been involved, tried, and enriched through the long process of our history. They were born, and have grown to maturity, here in Westminster. It is a proud day when we welcome here in the very cradle of our Parliamentary institutions, representa-

[1] *Ib.* 2937-39.

tives of the Legislatures of the other territories, great and small, united in the Commonwealth, to rejoice with us at the opening of the new Chamber of the House of Commons. Here they can see another of the links which unite us. For the symbols and procedure of our various Legislatures are to all intents and purposes identical. Although my peoples vary in race, language and tradition, the spirit of our Parliamentary system permeates every legislative assembly in the Commonwealth.

This new Chamber will stand as a sign to the world of our faith in freedom, of our confidence in the permanence of our common ideals, and of the ties flexible yet firm which hold together the peoples of our Commonwealth, and unite in brotherhood the freedom-loving peoples of all nations. For freedom finds expression in this Palace of Westminster, where free men and women can speak in accordance with the dictates of their consciences, yet with that saving grace of humour and readiness to understand the point of view of others which has ever been typical of our race. Not for us the silence of suppression. In other places liberty has perished, but the voice of true democracy is still heard among all our peoples and is a comfort to all those who love, and beieve in, the unfettered expression of honest opinions, noble aspirations and sincere human feelings.

This is our heritage. May all those who shall serve their Country in the new Commons Chamber strive to maintain and uphold those great and enduring principles on which our political ideals are based. May they, in their work, be an inspiration and example to all throughout the world to whom our way of life stands as a guiding light at a time when it is opposed by the dark counsels of materialism and tyranny. May this Chamber long stand to shape the destinies of my people at home, and may the blessing of Almighty God for all time rest upon it and all who labour in it.

The National Anthem was played a second time, after which Their Majesties and the other members of the Royal Family and the Royal Household left the Hall by the North Door. The Lord Chancellor's procession then departed by the East Door, followed after an interval by Mr. Speaker's procession.

Mr. Speaker, with the visiting Speakers and Presiding Officers, then proceeded to the Terrace, where the group photograph which accompanies this article was taken; the visitors and their wives were afterwards the guests of the Chairman of Ways and Means (the Rt. Hon. James Milner, M.P.) at a buffet luncheon. The same evening a reception was given for them by Mr. Speaker in the Speaker's House.

On October 27 the visitors and their wives attended a luncheon given at the County Hall by the London County Council; and a dinner given that evening at the House of Commons by the General Council of the Commonwealth Parliamentary Association was the last of their official engagements.

ANNEX A

Commonwealth Gifts to the New House of Commons

Donor.	*Gift.*	*Material.*
1. Australia	The Speaker's Chair	Black Bean
2. Basutoland ...	2 silver gilt ashtrays	—
3. Bechuanaland Protectorate ...	1 silver gilt ashtray	—
4. Canada	Table of the House	Canadian Oak
5. Ceylon	Serjeant-at-Arm's Chair	Oak
6. States of Guernsey	1 table, 3 chairs for Minister's Room	Oak
7. India	1 Entrance Door to Chamber	Oak
8. States of Jersey ...	Minister's writing desk and chair, 1 silver gilt inkstand	—
9. Isle of Man ...	1 single silver inkstand and 2 silver ashtrays for Prime Minister's Conference Room	—
10. Newfoundland ...	6 single chairs for Prime Minister's Conference Room	Birch
11. New Zealand ...	2 Despatch Boxes	Purui
12. Northern Ireland ...	3 Chamber Clocks	—
13. Pakistan	1 Entrance Door to Chamber	Oak
14. South Africa ...	3 Chairs for Clerk's Table	Stinkwood
15. Southern Rhodesia	2 silver gilt inkstands for Chamber	—
16. Swaziland	1 silver gilt ashtray	—

Colonial Gifts to the New House of Commons

Donor.	*Gift.*	*Material.*
1. Aden	Member's Writing Room Table	Oak
2. Bahamas	Minister's Writing Desk and Chair	Oak
3. Barbadoes	Minister's Writing Desk and Chair	Oak
4. Bermuda	2 triple silver gilt inkstands	—
5. British Guiana ...	Set of 4 silver gilt inkstands	—
6. British Honduras ...	Minister's Writing Desk and Chair	Mayflower
7. Cyprus	Member's Writing Room Table	Oak
8. Falkland Islands ...	1 silver gilt ashtray	—
9. Fiji	1 silver gilt inkstand	—
10. Gambia	2 silver gilt ashtrays	—
11. Gibraltar	2 Table Lamps	Oak
12. Gold Coast	Minister's Writing Desk and Chair	Mansonia
13. Hong Kong ...	1 triple silver gilt inkstand	—
14. Jamaica	Bar of the House	Bronze
15. Kenya	Minister's Writing Desk and Chair	Olive
16. Leeward Islands ...	6 Table Lamps	Oak
17. Malaya	Minister's Desk and Chair	Oak
18. Malta	3 silver gilt ashtrays	—
19. Mauritius	Minister's Writing Desk and Chair	Oak

ANNEX C

Legend to Photograph

Commonwealth Speakers and Presiding Officers who attended the opening of the New Chamber of the House of Commons on 26th October, 1950. *Back row:* Mr. P. Wyn-Harris (Gambia), Sir John Macpherson (Nigeria), Col. Sir Charles MacAndrew (Deputy Chairman of Ways and Means, United Kingdom), Major J. Milner (Chairman of Ways and Means, United Kingdom), Sir Ambrose Sherwill (Guernsey), Mr. T. S. Page (Northern Rhodesia), Mr. A. R. W. Robertson (Trinidad), Sir Hilary Blood (Mauritius), Sir Alexander Coutanche (Jersey), Mr. E. C. Quist (Gold Coast). *Second row:* Mr. K. N. R. Husbands (Barbados), Mr. W. K. Horne, (Kenya), Sir Henry Gurney (Malaya), Mr. C. C. Campbell (Jamaica), Mr. J. D. Qualtrough (Isle of Man), Mr. C. V. Wight (British Guiana), Dr. W. A. George (British Honduras), Sir Franklin Gimson (Singapore), Sir Norman Stronge (Northern Ireland), Mr. A. H. Pritchard (Bahamas), Mr. J. W. Cox (Bermuda), Mr. T. A. Marryshow (Windward Islands). *Front row:* Sir A. F. Milamure (Ceylon), Mr. G. V. Mavalankar (India). Mr. M. H. Oram (New Zealand), Mr. W. Ross Macdonald (Canada), Colonel D. Clifton-Brown (United Kingdom), Mr. A. G. Cameron (Australia), Mr. J. F. T. Naude (South Africa), Mr. Tamizuddin Khan (Pakistan), Sir Allan Welsh (Southern Rhodesia).

20. Nigeria	Furniture for one Division Lobby	Iroko
21. North Borneo ...	Interview Room Furniture	White Seraya
22. Northern Rhodesia	2 pairs Mace Brackets	Bronze
23. Nyasaland ...	1 triple silver gilt inkstand and 1 silver gilt ashtray	—
24. St. Helena	Chairman's Chair for Minister's Conference Room	Iroko
25. Seychelles	Minister's Writing Desk and Chair	Oak
26. Sierra Leone ...	Minister's Writing Desk and Chair	African Gold Walnut
27. Singapore	Interview Room Furniture	Oak
28. Tanganyika ...	Interview Room Furniture	Iroko
29. Trinidad	Minister's Writing Desk and Chair	Oak
30. Uganda	Furniture for one Division Lobby	Mvule
31. Windward Islands:		
Dominica ...	1 silver gilt inkstand	—
Grenada ...	1 silver gilt inkstand	—
St. Lucia ...	1 silver gilt inkstand	—
St. Vincent ...	1 silver gilt ashtray	—
32. Zanzibar	1 silver gilt ashtray	—

ANNEX B

List of Speakers and Presiding Officers Present on October 26, 1950

Canada.—Hon. W. Ross Macdonald, K.C., M.P.

Australian Commonwealth.—Hon. A. G. Cameron, M.P.

New Zealand.—Hon. M. H. Oram, M.P.

Union of South Africa.—Hon. J. F. T. Naude, M.P.

India.—Hon. G. V. Mavalankar, M.P.

Pakistan.—Hon. Mr. Tamizuddin Khan, M.C.A.

Ceylon.—Hon. Sir A. F. Molamure, K.B.E., M.P.

Southern Rhodesia.—Hon. Sir Allan Welsh.

Northern Ireland.—Rt. Hon. Sir Norman Stronge, Bt., M.C., M.P.

Bahamas.—Hon. Asa H. Pritchard, M.H.A.

Barbados.—Hon. K. N. R. Husbands, M.H.A.

Bermuda.—Hon. J. W. Cox, C.B.E., M.H.A.

Gambia.—Hon. P. Wyn Harris, C.M.G., M.B.E., M.L.C.

Gold Coast.—Hon. E. C. Quist, O.B.E., M.L.C.

British Guiana.—Hon. C. V. Wight, C.B.E., M.L.C.

British Honduras.—Dr. the Hon. W. A. George, M.L.C.

Jamaica.—Hon. C. C. Campbell, M.H.R.

Kenya.—Hon. W. K. Horne, M.L.C.

Federation of Malaya.—Sir Henry Gurney, K.C.M.G.

Mauritius.—Hon. Sir Hilary Blood, K.C.M.G., M.L.C.

NIGERIA.—Hon. Sir John Macpherson, K.C.M.G., M.L.C.
NORTHERN RHODESIA. — Hon. T. S. Page, C.B.E., M.L.C.
SINGAPORE.—Hon. Sir Franklin Gimsom, K.C.M.G., M.L.C.
TRINIDAD & TOBAGO. — Hon. A. R. W. Robertson, C.B.E., M.L.C.
WINDWARD ISLANDS. — Hon. T. A. Marryshow, C.B.E., M.L.C.
ISLE OF MAN. — Hon. J. D. Qualtrough, C.B.E., M.H.K.
GUERNSEY.—Sir Ambrose Sherwill, C.B.E., M.C.
JERSEY.—Sir Alexander Coutanche.

III. HOUSE OF LORDS: CLAIM OF BISHOP OF SODOR AND MAN TO RIGHT TO WRIT OF SUMMONS

BY R. P. CAVE
of the Parliament Office, House of Lords.

IN 1951 the Bishop of Sodor and Man who had been consecrated in January, 1943, raised the question of his right to a Writ of Summons to the House of Lords in the place of the former Bishop of Chelmsford, who had resigned his see.

Prior to the Ecclesiastical Commissioners Act, 1847, the holder of every see in England or Wales received a Writ of Summons, but the Bishop of Sodor and Man never received such a Writ. If this right were derived from episcopal dignity within the realm, the Bishop of Sodor and Man had no such right because the Isle of Man was held not to be within the realm, and his episcopal dignity is therefore outside the realm.

Since the passing of the above Act the two Primates, the Bishops of London, Durham and Winchester, and the 21 senior English bishops have been entitled to seats in the House of Lords. The Bishop of Sodor and Man is a Baron of the Isle of Man, but not of England or the United Kingdom, and therefore his claim, based on the ground of a barony, fails. The temporalities of the see have always been Manx, and although the patronage and the temporalities during a vacancy were transferred to the Crown in 1827 as a result of a contract with the Duke of Atholl, this contract did not give the Bishop the right to receive a Writ of Summons.

There is no evidence of a Bishop of Sodor and Man ever having sat in the House of Lords (except the case of Lord Auckland who sat in 1877 by virtue of his own barony), and indeed Coke says (4 Inst. at fol. 285) the Bishop of Sodor and Man "hath neither place nor voice in the Parliament of England". Similarly, Erskine May states that "he has no seat in Parliament", and Halsbury's Laws of England that he "has no right to speak or vote in the House of Lords".

The Ecclesiastical Commissioners Act, 1847, which legislates for a situation in which a bishop has to wait his turn for a Writ of Sum-

mons, limits its own operation to sees on the mainland and cannot be held to include the see of Sodor and Man; later Acts passed as a result of the creation of new dioceses in the Church of England conferred no new right on any bishop to a seat in the House of Lords other than a right for the bishop of the diocese created by the Act or Measure in question to have a seat in due turn.

In 1858, Lord Campbell, C.J., in the course of a judgment said: "The prerogative is stated likewise to extend to the Bishopric of Sodor and Man, *not within the realm of England,* although held under the Crown of England, that see having been immemorially a see of the Church of England . . ."

Further evidence that the see of Sodor and Man is regarded as outside England is afforded by the practice begun in 1926 of providing in a Measure that the Measure should apply to the whole of the Provinces of Canterbury and York, and then expressly including, or excluding, according to requirements, the Channel Islands and the Diocese of Sodor and Man.

The Lord Chancellor was therefore advised that the Bishop of Sodor and Man was not entitled to a Writ of Summons, and having afforded the Bishop the opportunity of requesting that the matter be referred to the Committee of Privileges, he issued a Writ of Summons to the Bishop of Coventry who had been consecrated in February, 1943.

IV. GENTLEMAN USHER OF THE BACK ROD

By Lieutenant-General Sir Brian Horrocks, K.C.B., K.B.E., D.S.O., M.C.
Gentleman Usher of the Black Rod, Palace of Westminster.

Black Rod is an official of the House of Lords, the personal attendant of the Sovereign in the Upper house and an Usher of the Order of the Garter. His office can be traced back to 1361, but in those days his duties were merely those of an officer of the Order of the Garter; it was not until sometime later in the reign of Henry VIII that his duties in the Houses of Parliament were introduced.

The following historical notes may be of interest.

The earliest known holder of the office is Walter Whitehorse. On April 23, 1361 (St. George's Day) Letters Patent were issued stating that

Whereas the King had charged his Yeoman Walter Whithors (Whitehorse) Usher of the free Chapel in Windsor Castle to bear the Rod in his presence before the College Chapel in procession on feast days when the King was present. In order that he might support that Charter more readily he was granted 12 pence per day by the Exchequer for life.

These qualifications were put upon Black Rod—

that he be a gentleman of blood and arms born within the Sovereign's Dominions and if he be not a knight at his entrance upon the office he ought then to be knighted.

In the Constitution relating to the officers of the Order of the Garter in the 1522/23 (Henry VIII) it is laid down that

there ought to be one Usher who shall be chief of all the Ushers of this Kingdom.

It was ordained that he should carry a Black Rod before the Sovereign at the Feast of St. George within the Castle of Windsor and at any solemnities and Chapters of the Order.

This Rod serves instead of a mace and has the same authority to arrest such persons as shall be found delinquents and have offended against the statutes and ordinances of the Most Noble Order and if at the command of the Sovereign and Knights Companions he should apprehend anyone of the Order as guilty of some crime for which he is to be expelled from the Order it is to be done by touching them with this Black Rod in consideration whereof his fee is £5.

The Rod is of ebony 3½′ long mounted with gold, having at the top a lion sejant holding before him in his forepaws a gold shield charged with the Royal Cypher in gold surrounded with the Garter.

The Rod is carried on all ceremonial occasions both in the House of Lords and during Garter Ceremonies.

The Oath which is the same as that given in the reign of Henry VIII is:

Truly and faithfully to observe and keep all the points of the Statutes of the Order as to him belonged and appertained.

The Mantle.—By a decree in Chapter held at St. James House 1st June an. 4 and 5 of Philip and Mary

these officers (Register, Garter and Black Rod) were assigned mantles of *crimson* satin lined with Taffety and a scutcheon of St. George's arms embroidered on the left shoulder but not encompassed with a Garter having like buttons and tassels as were appointed to Prelate and Chancellor. These mantles continued unalterable until Charles II's return into England when on 20th February an.13 Charles II then issued a warrant to the Master of the Great Wardrobe to prepare for these officers liveries mantles of *scarlet* satin with white Taffety lining.

(Why the colour was altered the warrant does not express.)

This mantle is only worn during Garter ceremonies.

The Badge.

There is also assigned to him a Red Rose and white and gold badge to be openly worn on a gold chain or ribbon before his breast composed of one of the knots in the collar of the Garter which tye the roses together. Encompassed with the ennobled garter being alike on both sides which honour is conferred on him and his successors by decree in Chapter held 24 APRIL An.8 Elizabeth.

It has for some time been ensigned with the Royal Crown though the alteration is not authorized by any Statute. The Badge is worn whenever the rod is carried.

As stated above, in Henry VIII's reign Black Rod undertook cer-

tain duties in the Palace of Westminster and was permitted in consequence to give up his manifold duties at Court. The following extracts from

(*a*) The Laws of Honour, a compendious account of the ancient elevation of all titles, dignities of office, etc.

and

(*b*) The True State of England, both published in London in 1726, read as follows:

(1) The first Gentleman Usher has the considerable office of Usher of the Black Rod. He has also his attendance in the House of Lords and is Usher of the Garter.
(2) When the King has occasion to command the House of Commons to attend him in the House of Lords, he only sends this officer.
(3) His employment also is to introduce Lords into that House after the House is set. He hath employments concerning the commitment of delinquents, etc. He hath a seat allowed him, but without the Bar.
(4) To ease him more in these and many other employments, he hath an Usher to assist him called the Yeoman Usher.

The Gentleman Usher of the Black Rod is appointed by the Sovereign by Letters Patent under the Great Seal of the Order of the Garter and takes his title from the rod.

The duty which brings Black Rod most into prominence is that of summoning the Commons and their Speaker to the Upper House to hear a speech from the Throne or the Royal Assent given to Bills. Black Rod is, on such occasions, the central figure of a curious ceremony of much historic significance.

For this he wears his normal dress consisting of a black coat, knee breeches, silk stockings, stars, chain and badge, black gloves; and carries his Black Rod.

The Royal Commission consists of the Lord Chancellor and 2 other Peers who must be Privy Councillors. They robe, then enter the Chamber and sit on the Woolsack. Black Rod advances to the Woolsack and is told by the Lord Chancellor to summon the Commons to attend the Lords immediately. Black Rod then leaves the House preceded by the Principal Doorkeeper and Inspector of Police, and goes right through the Palace of Westminster to the door of the House of Commons. At intervals throughout this passage the Principal Doorkeeper calls out "Hats off, strangers, Black Rod". On arrival at the entrance the Serjeant-at-Arms of the House of Commons slams the door in Black Rod's face.

This originated in the famous attempt of Charles I to arrest the 5 members, Hampden, Pym, Holles, Hasilrig and Strode in 1642. The House of Commons has ever since maintained its right of freedom of speech and uninterrupted debate by the closing of the doors on the arrival of the King's representative.

Black Rod then raps on the door 3 times with the end of the Black Rod; the door is flung open and he enters the House of Commons.

He bows at the Bar and then advances up to the Bar side of the Table where he bows again and summons the Commons to attend the Lords. The most normal summons is as follows:

Mr. Speaker, the Lords who are authorized by virtue of His Majesty's Commission to declare His Royal Assent to acts passed by both Houses, desire the presence of this Honourable House (Black Rod here bows to the Government Benches, who bow back, and then to the Opposition Benches, who also return his bow) in the House of Peers to hear the Commission read.

The wording of the summons is altered to suit varying circumstances. Black Rod then bows to the Speaker and withdraws backwards into the gangway between the Front Benches on the Government side of the House. The Speaker comes down from his seat and the Serjeant-at-Arms of the House of Commons goes into the House and takes up the mace. The Serjeant-at-Arms then leads the procession out through the door at the Bar end of the House of Commons up to the House of Lords. Following immediately behind are, on the right Black Rod, on the left Speaker, and then such members of the House of Commons who wish to attend in the Lords to hear the Commission read. On arrival at the House of Lords, the Serjeant-at-Arms hands over his mace outside the House and the procession enters the Bar end of the House of Lords.

When the Commission has been read and the Bills have received the Royal Assent and have therefore become law, Black Rod accompanies the Speaker back to the House of Commons; the procession being in the same order as on the way up, but on arrival at the door of the House of Commons, he bows and the Speaker leads the members of the House of Commons back into their own Chamber.

The Palace of Westminster is normally in the care of the Lord Great Chamberlain when the House is not sitting, but as soon as the mace is caried into the House of Lords Black Rod is then responsible for the Chamber until the mace is taken out again. It follows therefore that Black Rod is responsible for all visitors who wish to attend debates, and has under his orders the Messengers and Doorkeeper whom he appoints and for whom he is responsible. He also assists in Debates by keeping lists of speakers, etc., and in the unlikely event of a Peer misbehaving Black Rod would be responsible for his removal; in fact, when he is offered the appointment, the first duty on the list is "to maintain order among the Peers". It will be appreciated that Black Rod is responsible only to the King, through the Lord Chamberlain, though he is also the servant of the House and carries out the instructions of the House of Lords' Offices Committee.

Black Rod plays an important part on all ceremonial occasions in the House of Lords; as, for instance, when H.M. The King comes to open Parliament, or when a reception is held for a distinguished Foreign Visitor, such as the President of the French Republic.

V. THE LYNSKEY TRIBUNAL OF INQUIRY
(including "THE BELCHER CASE")

By the Editor

Owing to the pressure of matter for publication in the last 2 Volumes of the JOURNAL a report on the above-mentioned inquiry had, unfortunately, to be postponed, but, having regard to the importance of the subject as well as the maintenance of the high moral standard which the House of Commons expects, both of its Ministers and its members, it is in the interests of Parliamentary tradition generally that an embracive account should be given of this important investigation.

Other factors also arise, such as the relation between the Deputy Minister, in this case the Parliamentary Secretary and his Minister, in how far a Deputy Minister can act upon his own responsibility and his position *vis-à-vis* the civil servant. In all these respects this inquiry presents many interesting features in precedent and procedure.

The investigation has been wide in its scope and therefore demands somewhat lengthy treatment. There have been many such inquiries in recent years (*see below*).

It was only in 1921 that the necessity arose of setting up Tribunals of this nature clothed with statutory authority, in order that matters neither appropriate to select committees nor to the courts of law, but having an authority and a particular procedure of their own; could adequately be dealt with, in other words, a Parliamentary fact-finding inquiry of a judicial nature, but in which the ordinary rules of evidence do not apply.

The subject of the present inquiry arose in the debate on the Address-in-Reply to the King's Speech at the Opening of Parliament on October 26, 1948,[1] when the Prime Minister (Rt. Hon. C. R. Attlee) said that the House was aware that, owing to certain allegations made against Ministers and Officials, the Government proposed to set up a Tribunal under The Tribunals of Inquiry (Evidence) Act 1921,[2] and that he was putting down a Motion that day, in order that the House might discuss it tomorrow at the beginning of business.

Mr. Attlee added that the House would agree that there should be no delay in the matter.

The Tribunals of Inquiry (Evidence) Act, 1921.[3]—For more ready reference the text of this Act is given below.

An act to make provision with respect to the taking of evidence before and the procedure and powers of certain Tribunals of Inquiry.

(24th March 1921.)

BE it enacted by the King's most Excellent Majesty, by and and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in

[1] 457 *Com. Hans.* 5, s. 24. [2] *See below.* [3] 11 Geo. V. c. 27.

this present Parliament assembled, and by the authority of the same, as follows:

1.—*Powers with respect to the taking of evidence, &c., before certain tribunals of inquiry.* (1) Where it has been resolved (whether before or after the commencement of this Act) by both Houses of Parliament that it is expedient that a tribunal be established for inquiring into a definite matter described in the Resolution as of urgent public importance, and in pursuance of the Resolution a tribunal is appointed for the purpose either by His Majesty or a Secretary of State, the instrument by which the tribunal is appointed or any instrument supplemental thereto may provide that this Act shall apply, and in such case the tribunal shall have all such powers, rights and privileges as are vested in the High Court, or in Scotland the Court of Session, or a judge of either such court, on the occasion of an action in respect of the following matters:

(*a*) The enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;

(*b*) The compelling the production of documents;

(*c*) Subject to rules of court, the issuing of a commission or request to examine witnesses abroad;

and a summons signed by one or more of the members of the tribunal may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.

(2) If any person—

(*a*) on being duly summoned as a witness before a tribunal makes default in attending; or

(*b*) being in attendance as a witness refuses to take an oath legally required by the tribunal to be taken, or to produce any document in his power or control legally required by the tribunal to be produced by him, or to answer any question to which the tribunal may legally require an answer; or

(*c*) does any other thing which would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court;

the chairman of the tribunal may certify the offence of that person under his hand to the High Court, or in Scotland the Court of Session, and the Court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

(3) A witness before any such tribunal shall be entitled to the same immunities and privileges as if he were a witness before the High Court or the Court of Session.

2.—*Powers of tribunals as to exclusion of public and granting right of audience.*—A tribunal to which this Act is so applied as aforesaid—

(*a*) shall not refuse to allow the public or any portion of the public to be present at any of the proceedings of the tribunal unless in the opinion of the tribunal it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given; and

(*b*) shall have power to authorize the representation before them of any person appearing to them to be interested to be by counsel or solicitor or otherwise, or to refuse to allow such representation.

3.—*Short title.* This Act may be cited as the Tribunals of Inquiry (Evidence) Act, 1921.

Resolutions of both Houses.—On October 27, 1948,[1] in the Commons, and on October 28[2] in the Lords, the following Motion was moved by the Lord Chancellor in the Lords and by the Prime Minister in the Commons:

> That it is expedient that a Tribunal be established for inquiring into a definite matter of urgent public importance, that is to say—Whether there is any justification for allegations that payments, rewards or other considerations have been sought, offered, promised, made or received by, or to, Ministers of the Crown or other public servants in connection with licences or permission required under any enactment, regulation or order or in connection with the withdrawal of any prosecution and, if so, in what circumstances the transactions took place and what persons were involved therein.

In the Lords the statement by the Lord Chancellor was followed by a short debate.

In the Commons Mr. Attlee said that, in moving this Motion standing on the Order Paper in the names of his rt. hon. Friends, the Chancellor of the Exchequer, the Home Secretary and himself, he regretted having to ask the House to interrupt the Debate on the Address to consider the Motion. In the latter part of last August, his rt. hon. Friend, the President of the Board of Trade, was informed by officials of the Board that allegations had been made that the Parliamentary Secretary and other Ministers and officials had been offered or had received bribes in respect of the withdrawal of a prosecution against a certain firm of football pool promoters and of the allocation of paper to the same firm.[3]

It was then agreed by the Ministers who were acting for him during his absence that the Lord Chancellor should be asked to inquire into the allegations.

The Police were then instructed to make inquiries but they had already been making inquiries relating to suggestions that a licence to import amusements machinery could be obtained by bribing Ministers or Government officials.

In the course of the inquiries, it transpired that there were two other matters involving similar allegations, one relating to the formation of a public company and the other to a proposed application for a building licence. All these allegations could be traced to a certain alien. On these Police statements being placed before the Lord Chancellor, he reported the matter to the Prime Minister, when it was decided to set up a Tribunal of Inquiry.

The House would remember, continued Mr. Attlee, that a statement was issued by the Government on October 8, stating that they proposed to move the necesary Motions in both Houses of Parliament, at the earliest possible moment, the Tribunal to have full discretion as to their interpretation of the terms of reference.[4]

The allegations concern proposals relating to:

[1] 457 *Com. Hans.* 5, ss. 87-94.
[2] 159 *Lords Hans.* 5, ss. 45-91.
[3] 457 *Com. Hans.* 5, s. 87.
[4] *Ib.* 88.

(1) an application for a licence to import a quantity of amusements machinery;

(2) an application for a building licence;

(3) permision to issue capital on the formation of a public company operating football pools; and

(4) the withdrawal of a prosecution for contravention of the Paper Control Order by a firm of football pool promoters and representations made by that firm for an increased allocation of paper.[1]

The Government decided against limitating the inquiry in the terms of reference to these four matters, so that the Tribunal would not be prevented from inquiring into relevant matters. It would be for the Tribunal themselves to decide whether any matters appropriate to the scope of the inquiry and it would always be open to the Tribunal to recommend that any matter which they thought not appropriate for their consideration should be dealt with by other means. It would be inconsistent with the provisions of the Act to have a general roving inquiry.

In regard to the bearing of the Inquiry on any criminal proceedings, H.M. Government were and always had been, most anxious that the fullest investigation be made. It might be that, as a result of the Police inquiries conducted under the Director of Public Prosecutions, criminal proceedings would be instituted, but that was a matter within the exclusive province of the Attorney-General.[2] If proceedings were instituted when the Tribunal was set up, it would be for them to consider the appropriate action and ensure that the interests of justice were safeguarded and that neither the prosecution nor the defence of any person prosecuted, would be prejudiced by the inquiry. The fact of the Inquiry being held would not, however, prevent the institution of criminal proceedings in the future, should sufficient evidence subsequently come to light, whether as a result of the Inquiry or otherwise. It was for that reason that the Act provided that any witness before the Tribunal was entitled to the same immunities and privileges as a witness before the Supreme Court; that was to say, that he need not answer a question if the answer was likely to incriminate him. The Tribunal would be presided over by one of H.M. Judges, associated with 2 eminent lawyers, and have all the powers of a High Court to enforce the attendance of witnesses and the production of documents.

In accordance with the practice in previous Inquiries, the Treasury Solicitor had been instructed to place his services at the disposal of the Tribunal. He would act upon the instructions of the Tribunal and take such steps as they might direct in regard to evidence.

The Act also provides that the Tribunal shall not refuse to allow the public to be present at the proceedings unless, in the opinion of the Tribunal, it is in the public interest so to do, for reasons connected with the subject matter of the Inquiry,[3] or the nature of the

[1] *Ib.* 89. [2] *Ib.* 89-90. [3] *Ib.* 90.

evidence given. This Act also gives the Tribunal power to allow representation by Counsel, etc., of any interested person, to appear before them.

In the brief debate which followed, the Leader of the Opposition (Rt. Hon. Winston Churchill) said that the Motion had their entire accord and that the House of Commons had shown itself most vigilant in matters affecting the honour of members or Ministers in questions of breach of confidence or privilege or in questions of character now brought to notice.[1]

The Leader of the Liberal Party (Rt. Hon. Clement Davies) also supported the Motion. The hon. member for Birmingham: King's Norton (Mr. A. R. Blackburn), however, considered that the papers should have been sent to the Director of Public Prosecutions as an individual entirely devoid of any political bias. The hon. member thought that there was grave danger in instituting an inquiry of this kind, of it being unfair to the people accused and even more unfair to those whose names were incidentally mentioned. Under this procedure people could be brought before the Tribunal and evidence given which would be inadmissible before any ordinary Tribunal.[2]

Mr. Blackburn referred to what the then Attorney-General said when he gave 2 reasons for deciding that there would be no prosecution in the case of Mr. J. H. Thomas.[3] The first was technical and the other was that it would be wrong to bring a prosecution in view of the fact that the evidence had been obtained by this means. It seemed to the speaker that it was dangerous to an M.P. or anyone associated with him, that he should be put into a different situation from that of any other individual in the country who was entitled to protection. In regard to Mr. Thomas, it resulted in a decision not to prosecute someone who might otherwise have been prosecuted. The present Chancellor of the Exchequer on that occasion suggested that Mr. Thomas should have been prosecuted. He (Mr. Blackburn) thought it was the general opinion of the legal profession at that time that that kind of procedure was unfair to the accused, compared with the normal procedure. Before the House decided to have an Inquiry, the Director of Public Prosecutions ought to state whether he wanted to prosecute anyone or not.

Question was then put and agreed to.[4]

Appointment of Tribunal.—On October 29, 1948,[5] the Home Secretary (Rt. Hon. J. C. Ede) announced that Sir George Justin Lynskey, one of H.M. Judges of the High Court of Justice, had consented to act as Chairman of the Tribunal and that Mr. Godfrey Russell Vick, K.C., and Mr. Gerald Ritchie Upjohn, K.C., had agreed to serve as members. Also, that the Tribunal would hold its first sitting at the Royal Courts of Justice on November 1, and any communications on the subject of the Inquiry should be addressed to

[1] *Ib.* 91. [2] *Ib.* 92. [3] *See* JOURNAL, Vol. V. 21.
[4] 457 *Com. Hans.* 5, ss. 93-4. [5] *Ib.* 389.

the Secretary of the Tribunal at the Royal Courts of Justice. In reply to a question, Mr. Ede said that the appointment of the Tribunal did not interfere with any of the ordinary functions of the law.

Replying to another question, Mr. Ede said that he had no intention of being involved in the Campbell[1] case. It was not for the Government to give any directions to the Law Officers of the Crown as to the way in which they handled the case.

In reply to a further question, Mr. Ede said that the proceedings of the Tribunal had to be in public unless the Tribunal, for reasons sufficient to them, thought it in the public interest that some part of them should be conducted in private.

Questions.—In reply to a written Q. on December 6, 1948,[2] the Attorney-General said that it was not yet possible to estimate the cost of the Inquiry, since it had not yet completed its duties, but that Mr. Justice Lynskey received no remuneration beyond his official salary and the other 2 members were giving their services free of charge. The office and secretarial expenses were not expected to be heavy. Certain accommodation had been hired furnished on the day-to-day basis.

On January 18, 1949,[3] the Chancellor of the Exchequer, in answer to an oral Q., said that, so far as could be ascertained, the costs of the Tribunal amounted to about £9,000. On January 20[4] of the same year an hon. member, by oral Q., asked when the Tribunal's Report would be issued and whether it would not be to the convenience of the House if the Minister could give them some guidance as to the length of time which the Government proposed to allot to the discussion of these findings, in view of the number of hon. members who desired to speak, to which the Minister suggested that the hon. member might ask the Q., when the Report was available.

On January 27[5] the Home Secretary, in reply to a Q. by the Leader of the Opposition (Rt. Hon. Winston Churchill), said that the Motion the Government proposed to move was:[6]

That the Report of the Tribunal appointed under the Tribunals of Inquiry (Evidence) Act, 1921, to inquire into allegations reflecting on the official con-

[1] On October 8, 1924 (177 *Com. Hans.* 5, s. 581-703), a Vote of Censure was proposed in the House of Commons in regard to the conduct of the Government in relation to the institution and subsequent withdrawal of criminal proceedings against the Editor of the *Daily Worker*. Upon this an amendment was moved to omit all words after "That" and to substitute, "a Select Committee be appointed to investigate and report upon the circumstances leading up to the withdrawal of the proceedings recently instituted by the Director of Public Prosecutions against Mr. Campbell.

The Closure was put and agreed to and the voting on the Question: "That the words proposed to be left out stand part of the Question" was Ayes, 198; Noes, 359. On the Question, "That these words be there added," the voting was: Ayes, 364; Noes, 198.

However, on the new Government coming into power, the Prime Minister (Rt. Hon. Stanley Baldwin) announced in the House on December 11, 1924 (179 *Com. Hans.* 5, s. 354) that it was not proposed to hold an inquiry into the Campbell case.

[2] 459 *Com. Hans.* 5, s. 8, 9. [3] 460 *ib.* 21. [4] *Ib.* 338. [5] *Ib.* 1109.
[6] *Cmd.* 7616, iv.

duct of Ministers of the Crown and other Public Servants presented on 21st January, be accepted.

Report of Tribunal.—The Tribunal was appointed under the following authority, signed by the Home Secretary:

WHEREAS it has been resolved by both Houses of Parliament that it is expedient that, a Tribunal be established for inquiring into a definite matter of urgent public importance, that is to say, whether there is any justification for allegations that payments, rewards or other considerations have been sought, offered, promised, made or received by or to Ministers of the Crown or other public servants in connection with licences or permissions required under any enactment, regulation or order or in connection with the withdrawal of any prosecution and, if so, in what circumstances the transactions took place and what persons were involved therein.

Now I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, do hereby appoint Sir George Justin Lynskey, one of His Majesty's Judges of the High Court of Justice, Godfrey Russell Vick, Esquire, and Gerald Ritchie Upjohn, Esquire, two of His Majesty's Counsel, to be a Tribunal for the purposes of the said Inquiry.

And I further appont Sir George Justin Lynskey to be Chairman of the said Tribunal.

In virtue of Section 1 of the Tribunals of Inquiry (Evidence) Act, 1921, I hereby declare that that Act shall apply to the Tribunal and that the said Tribunal is constituted as a Tribunal within the meaning of the said Section of the said Act.

WHITEHALL.
29th October, 1948.

J. CHUTER EDE,
One of His Majesty's Principal Secretaries of State.

The Report,[1] which was signed by all its members, was "laid" in the Lords on January 25, 1949,[2] and in the Commons on the 21st *idem*,[3] and consists of 338 numbered paragraphs.

The Proceedings of the Tribunal, with Minutes of Evidence taken before the Tribunal is a separate publication[4] and covers 696 foolscap pages.

The Tribunal first met at the Royal Courts of Justice on November 1, 1948, and at Church House, Westminster, on November 15, for subsequent meetings, to hear evidence and arguments, until its last meeting on December 21, 1948. which meetings numbered 26 in all. Fifty-eight witnesses gave oral evidence and 2 gave evidence by affidavits, owing to ill-health.

At the meeting of the Tribunal on November 1, the authority for Appointment was read by the Chairman, who quoted S. 1 of the Act under which they operated (*see above*).

The Chairman then stated that their powers under the Act were restricted to inquiring into a matter described in the Resolution as, "of urgent public importance".

In his opening remarks the Chairman said the Resolution of Parliament raised 3 main questions:

1. What allegations have been made of the character set out in the Resolution?

[1] *Cmd.* 7617 (H.M.S.O., 1*s.* 6*d.*). [2] 181 L.J. 76. [3] 204 C.J. 82.
[4] H.M.S.O., £2.

2. Is there any justification for any one or more of these allegations? and

3. If there is any justification for any of these allegations, in what circumstances the transactions took place and what persons were involved therein?[1]

Continuing, the Chairman quoted the 4 specific matters (*see above*) stated by the Prime Minister, which had been brought to the attention of the Government.

The Chairman remarked that the terms of reference were not, however, limited to these 4 matters, and that if the Tribunal were satisfied that other allegations of corruption had been made against Ministers of the Crown, or other public servants, such allegations, where the Tribunal thought it appropriate, would also be investigated by them. In further reference to the Tribunals of Inquiry (Evidence) Act 1921, he quoted S. 2(*a*) of the Act (*for which terms see above*).

The Inquiry would be held in public, and the public would not be excluded from any part of the Inquiry, unless they were compelled in the public interest to sit in private to take some part of the evidence.

The Chairman then quoted the second part of S. 2 of the Act, which provides that a Tribunal to which this Act is so applied:

> shall have power to authorize the representation before them of any person appearing to them to be interested, to be by Counsel or Solicitor or otherwise, or to refuse to allow such representation.

Such applications may be made either by Counsel or Solicitor, or by the individual concerned, either when the Tribunal was sitting in public, or preferably by letter addressed to the Secretary of the Tribunal at the Law Courts.

The Solicitor-General had received a large number of voluminous statements which had to be examined to ascertain the witnesses who could give evidence relevant to the Inquiry. This would take some time.

As this was an Inquiry and not a trial, the witnesses would be the witnesses of the Tribunal and not of any interest or persons. Continuing, the Chairman said that, in their view, the Inquiry could not be satisfactorily conducted without the assistance of Counsel to place the facts before the Tribunal and call the witnesses.

Referring to the invitation by the Chairman, to give his views on the matter, the Attorney-General[2] said that although he was a member of the Government, he had certain duties which he could not abdicate in connection with the administration of the law, especially of the Criminal Law and more particularly that branch of it which was concerned with the prevention of corruption. These duties were

[1] *Tribunal Proceedings*, p. 1.

[2] Who is an M.P. and a member of the Ministry.—[ED.]

sometimes said to be of a quasi-judicial nature. The Attorney-General had to discharge them with complete independence of the Government and with complete indifference as to their political or personal results. He had to concern himself only with the representation and protection of the public interest.[1]

The Attorney-General then suggested that the work could be put in order in a fortnight and the Chairman asked that every effort be made to present the case on November 15, the Tribunal to sit on that day at 10.30 o'clock.

Certain Counsel then made application to appear before the Tribunal and the Chairman thereupon adjourned the Tribunal until 10.30 on November 15.[2]

The services of the Treasury Solicitor and his staff were placed at the disposal of the Tribunal, which was also assisted by the Police authorities, and the statements taken from the persons concerned were placed before the Tribunal, who directed that further inquiries should be made and eventually decided which witnesses should be called to give evidence.

The Treasury Solicitor, on behalf of the Tribunal, instructed the Attorney-General and Counsel to assist the Tribunal in the presentation of the evidence and the ascertainment of the facts. Any witness called or to be called, who appeared to have such an interest in the matters into which the Tribunal was inquiring as to justify such representation would be allowed to be represented by Counsel and Solicitors. Nineteen witnesses were so represented.

The Report goes on to say that on November 15, 1948, the Attorney-General opened the facts. Thereafter, he or one of the Counsel appearing with him called the witnesses and examined them in chief on the statements they had made. Each witness was then cross-examined by the Counsel who had examined him in chief. Counsel appearing for witnesses were then given the opportunity of cross-examining each witness. After this cross-examination if the witness giving evidence was represented by Counsel, his Counsel was then given the opportunity of examining him. In any event there was a final examination by one of the Counsel representing the Tribunal.[3]

As paragraphs 7 to 17 deal with the procedure followed by the Tribunal they are given below in full:

7. We devised this procedure as being the most appropriate in the circumstances and it was outlined by the Attorney-General at our first meeting at Church House. We invited Counsel who had at that time been instructed for witnesses and who were appearing before us to express thier views upon this form of procedure, and it met with their approval. Our object in adopting this procedure was to obviate the difficulty which had arisen in the case of the Tribunal appointed to inquire into the Budget disclosure in 1936, when the Tribunal found they had to undertake the task of testing the witnesses' evidence by cross-examination or otherwise, and so give to the witnesses an appearance of hostility.[4] We did, of course, where we thought it necessary,

[1] *Tribunal Proceedings*, viii. [2] *Ib.* ix. [3] Rep. § (this sign = paragraph.—ED.) 6.
[4] *Cmd.* 5184.

question the witnesses to clear up any matter which we thought required further elucidation.

8. Under the terms of our Appointment the questions we had to consider were:

(1) Whether there were allegations of the nature set out in our Appointment;
(2) Whether there was any justification in any particular transaction for such allegation;
(3) If we found there was some justification for such allegation, in what circumstances the transaction took place and what persons were involved therein.

9. In dealing with the first and second questions in order to ascertain what allegations were in fact made and whether there was any justification for the same, it was necessary for us to investigate a number of transactions and incidents. We will deal with such transactions and incidents in this report and will give our findings thereon.

10. With regard to the third question, in the case of any transaction in which we may come to the conclusion that there is no justification for any such allegation, we will restrict our findings to the facts which are necessary to make clear the reasons for our answers to the first two questions. Beyond this we do not think we are entitled to go under the terms of our Appointment in dealing with such transactions,

11. In an inquiry of this nature there is no issue between parties for the Tribunal to decide, and no defendant to be tried. The Tribunal is appointed to find the facts and give the answers to the questions submitted to it. As the first question asks what allegations have been made, all evidence relating to the making of such allegations is relevant. The statements and evidence of all persons who have knowledge of the transactions concerned are equally relevant to the second question. As the Tribunal is not in a position to give an answer to the first two questions until it has heard the whole of the evidence and, therefore, may have to deal with the third question in relation to any transaction, evidence given by any person taking part in such transaction and statements made to or by him are also admissible as potentially such a person may be involved in the findings of the Tribunal in answering the third question.

12. Much of this evidence would not be admissible in the case of an individual witness in proceedings against him or in litigation in which he was concerned. In coming to a conclusion as to the conduct of any individual witness and in particular whether any allegation made in reference to him has been justified, we have had regard only to such evidence as would properly be admitted in a case in which he was a party and his conduct was in question.

13. Our inquiry primarily concerned allegations against Ministers of the Crown or other public servants, and unless we were satisfied that there was some justification for an allegation of the nature set out in our Appointment being made against one of such Ministers or public servants, we were not concerned to find the circumstances of any particular transaction or what other persons might be involved therein.

14. Some of the witnesses in the course of their evidence referred to other alleged transactions in which other persons were involved, and their names were mentioned. It was quite outside the terms of our Appointment to deal with such alleged transactions, and we make no findings thereon. No inference, therefore, ought to be drawn that such transactions took place as alleged, or that the persons named in the reference thereto had any part therein. Such persons should not be the subject of adverse comment.

15. In addition to the transactions in respect to which there was a suggestion that some allegations had been made at the time of our Appointment, we

received a large number of letters, some of which were anonymous, in regard to a variety of other transactions. Many of these contained allegations which were not of the nature set out in our Appointment, and into which, therefore, we could not inquire. Letters which did contain allegations of a nature which came within the terms of our Appointment, by our direction were investigated by the Treasury Solicitor with the assistance of the police. The results of these investigations, together with any files relating to the particular matter were put before us for our consideration.

16. Where we found that there was clearly no ground for the allegation, the writer of the letter, unless anonymous, was informed by the Treasury Solicitor of the result of the inquiry, with the details of the transaction as discovered in the investigation. Where, as a result of the investigation we thought there was any suspicion that there might be some grounds for the allegation, we directed that the evidence should be called before us and the matter further investigated in public.

17. In three cases, as the result of investigations, we came to the conclusion that it was not in the interests of justice and might prejudice the persons concerned in their defence if there were at this stage a public investigation of the matter. We came to the conclusion that these three cases were matters for police action rather than for investigation by us, and we have left it to the police to take such action as they may be advised. None of these three cases concerned any Minister, but one did concern certain officials in a Government department. We understand that the case in which these officials are concerned is being submitted to the Director of Public Prosecutions.

The Report then deals with each Minister or public servant concerned in any of the transactions investigated by the Tribunal, giving their findings of fact, in relation to that transaction and what part, if any, each played therein. The Tribunal also, in each case, stated their conclusions as to whether any payments, rewards or other considerations had been sought, offered, promised, made or received by or to him in connection with licences or permission required under any enactment, regulation or order or in connection with the withdrawal of any prosecution.[1]

The Report also sets out in detail their findings of fact and the conclusions of the members of the Tribunal, upon which they were all agreed. A brief summary of these will now be given.

Mr. John Belcher, M.P., Parliamentary Secretary to the Board of Trade.—Allegations are state to have been made against Mr. Belcher, arising out of his relationships with the following 4 persons:[2]

(i) *The case of Mr. L. J. Matchan.*—The suggestion here is that Mr. Belcher was offered and received gifts and hospitality from Mr. Matchan for showing favour to him in respect of applications for licences to the Board of Trade on behalf of his company and representations he might have had to make for the trade federation which he represented.[3] Mr. Belcher, with his wife and family, was offered by Mr. Matchan the opportunity of staying at Bournemouth over the Easter holidays in a suite of rooms permanently reserved by Mr. Matchan's firm at the Burlington Hotel, at Mr. Matchan's expense.[4] Mr. Belcher received from Mr. Matchan a 5-guinea subscription to a Book Society and a turkey. Mr. Matchan presented bottles of sherry

[1] Rep. § 8. [2] §§ 20, 21. [3] § 22. [4] § 24.

and whisky to Mrs. Belcher and a bottle of liqueur as a birthday present.[1]

In May, 1948, Mr. Matchan gave Mr. Belcher some cosmetics for handing to the nurses when he came out of hospital, as also for a staff dance at the House of Commons.[2]

In July, 1948, when Mr. Matchan asked Mr. Belcher if he was going to take a holiday that year, Mr. Belcher replied: "Well, what about the Bideford House which you mentioned before?" In reply Mr. Matchan offered to lend Mr. Belcher the house. Mr. Belcher accepted the invitation and stayed there with his wife and family, paying the household bills incurred.[3]

Both Mr. Belcher and Mr. Matchan said that these gifts were made and received without any intention on the part of either that they would affect Mr. Belcher's decisions in his ministerial capacity.[4]

Mr. Matchan, as President of his Federation, urged the Board of Trade to remove control from the cosmetic industry, and although others in Mr. Belcher's Department took the view that the control should not be removed Mr. Belcher strongly advocated its removal, but he was over-ruled by the President of the Board of Trade.

Paragraph 31 of the Report reads:

> In the result it is clear that Mr. Belcher was not influenced favourably towards the applications or representations made by Mr. Matchan. It is natural, however, where one who has dealings with the Board of Trade offers open hospitality and makes gifts to the Parliamentary Secretary that suspicion is excited. Mr. Matchan agreed that it would be fair to suggest that it was of some importance to him and to the Federation to keep on friendly terms with Mr. Belcher, but denied that his gifts and hospitality were given for that purpose. In our view Mr. Matchan did make the gifts and offer the hospitality out of genuine friendship for Mr. Belcher. Mr. Matchan was interested in the Labour Movement and also in the development of the export trade and these had formed a strong link between them and resulted in their becoming good friends. We are satisfied in this case that the suggestions are groundless.

(ii) *The case of Mr. R. W. Liversidge.*—The Tribunal was satisfied that there was no justification whatever for the vague suggestions made by Mr. Liversidge in regard to certain cement bags.[5]

(iii) *The case of Sir Maurice Bloch.*—The next allegations against Mr. Belcher arose out of the association between him and Sir Maurice Bloch, the Managing Director of a firm of distillers and importers of sherry butts from the U.S.A.

As a result of a conversation between them at a public dinner in 1947, Sir Maurice sent 6 bottles of sherry to Mr. Belcher at the Board of Trade and on the offer of further bottles, Mr. Belcher said that if Sir Maurice would allow him to defray the cost, he would then be delighted to accept. On October 2, 1947, another case of sherry was sent to Mr. Belcher by Sir Maurice and again on February 12 another case was delivered.[6]

[1] § 25. [2] § 26. [3] § 27. [4] § 28. [5] §§ 32-40. [6] § 44.

Paragraph 45 of the Report reads as follows:

45. The position at that time was that Sir Maurice Bloch had been warned in the letter enclosing the licence dated the 2nd December 1947 for five casks which had been imported without licence, in the following terms: "I am to point out, however, that the department are unable to grant this concession in the future and that before any arrangements are made to ship any of these casks, you are requested to make an application for the same on the enclosed form ILD/A."

On September 30, 1947, Sir Maurice applied for a licence to import 20 empty port-pipes, which was granted on January 23, 1948. On January 29, 1948, notwithstanding the warning he had received, Sir Maurice applied for an import licence for 80 empty sherry-butts and 26 empty sherry hogsheads, which had already been shipped, if they had not already arrived in the country. This was refused on account of lack of currency.[1]

At an interview between them in Glasgow on February 25, 1948, Sir Maurice raised the question of the importation of sherry casks for maturing whisky in, he said, the interests of the distillery trade, but the Tribunal were satisfied that the matter was raised by Sir Maurice, not in the interests of such trade but in his own personal interest. Sir Maurice said that the casks and butts had already arrived, although without an import licence; that if the licence was not granted, the casks, etc., would be seized and be liable to forfeiture by the Customs. He also said that he was prepared to surrender the licence he had for the port-pipes, if he got the licence for which he was now seeking.[2]

In spite of previous warnings Sir Maurice had received, and although the letter of March 18 may not have reached him, a further application was made by him for a licence to import 4 empty sherry butts and 115 hogsheads, which had also arrived without a licence. On March 23, Sir Maurice's Company was granted an import licence to cover butts and hogsheads already in the country, totalling 350, the letter from the Board of Trade stating that the licence was again issued "exceptionally" in view of the Department's letter of January 28, and again warning the Company that if further shipments were made without licence, the goods would be liable to seizure. The licence enclosed in their letter granted all the outstanding applications of Sir Maurice Bloch for import licences for sherry casks and butts, including that of March 19, 1948, and did not call for the surrender of the licence for the port-pipes, which was retained by Sir Maurice's Company with the consent of Miss Elliott, of the Board of Trade Department.[3]

About April 29, another case of wines and whisky was sent by Sir Maurice to Mr. Belcher. On June 8, 1948, Sir Maurice made a further application for a permit to import a considerable quantity of barrels, hogsheads and butts, which again, in spite of repeated warnings, had been consigned before an application for an import licence was made.

[1] § 46. [2] § 47. [3] § 49.

These casks were to be paid for in dollars. Sir Maurice asked for the matter to be dealt with expeditiously.[1]

At an interview between Sir Maurice and Mr. Belcher at the former's office in Glasgow, Sir Maurice wrapped up 2 bottles of liqueur whisky to give to Mr. Belcher and Mr. Cross (his private secretary) as he said: "To keep the cold out on their journey home", and when Mr. Belcher told him that he and Mr. Cross were travelling by different trains, the bottles of whisky were wrapped up separately, one being given to each. "This was done in Mr. Belcher's presence and apparently with his approval."[2]

After this interview, Sir Maurice discovered that he had no supplies of the older whisky available and shortly before July 27, he sent 6 bottles of another liqueur whisky in order, so he said: "to keep faith". On July 28, 1948, Sir Maurice again spoke to Mr. Cross on the 'phone, explaining that the older whisky was not yet available and that he was sending 6 bottles of less maturity. The same day, Sir Maurice wrote to Mr. Belcher, confirming his conversation with Mr. Cross. On July 28, the licence applied for on June 8, was granted, authorizing the importation of casks to the value of $8.290. Out of the 6 bottles of whisky which had by that time arrived, Mr. Belcher, at the suggestion of Sir Maurice, gave Mr. Cross one, and on August 20, Mr. Cross wrote to Sir Maurice, thanking him for the bottle of whisky he had received from Mr. Belcher.[3]

Another application for 1,000 American barrels in shooks was put forward on September 14, 1948, for which dollars were to be paid, which was granted on September 28. A further application on September 18, for 30 empty hogsheads was, however, refused on October 6.[4]

A parcel of the more mature whisky arrived in the week before September 30, as well as a further parcel on that date. These parcels consisted of 6 and 2 bottles of whisky respectively, and were acknowledged by Mr. Belcher on September 30, in a letter addressed to "My dear Maurice", the letter also containing an invitation to the latter to join him (Mr. Belcher) for a meal at the House of Commons.[5]

The concluding 6 paragraphs dealing with the case of Sir Maurice Bloch are given verbatim below:

55. The allegations are that these gifts of wine and spirits were made by Sir Maurice with the intention of securing Mr. Belcher's favour and assistance in obtaining grants of licences for the import of sherry casks, butts and hogsheads, and were accepted by Mr. Belcher well knowing that that was the purpose of the gifts. Sir Maurice agrees that he did make these gifts with the idea of securing an "easy approach" to Mr. Belcher, but he says that the reason that he desired to secure that easy approach was not to assist his applications for licences, but in order to be able to persuade Mr. Belcher when the time came to speak at a meeting to be organized by a Refugee Appeal Committee of Glasgow. Sir Maurice stated that he had not disclosed this intention to Mr. Belcher or, indeed, to anyone else, and, in fact, no such meeting has taken place since June 1947.

[1] § 50. [2] § 51. [3] § 52. [4] § 53. [5] § 54.

56. We are unable to accept this reason given by Sir Maurice Bloch for his desire to secure this " easy approach ". Having seen him in the witness box, we are quite satisfied that Sir Maurice Bloch made these gifts with the object of obtaining favourable consideration for his application for licences. It was alleged that Mr. Belcher was induced by these gifts to give such favourable consideration.

57. Mr. Belcher immediately before going into the witness box, through his counsel, announced that he felt he had been indiscreet in accepting these gifts of wines and spirits from Sir Maurice Bloch, but he denied that his conduct could be described as anything more than indiscreet.

58. It may be, so far as the first present of sherry is concerned, that Mr. Belcher did not realize Sir Maurice Bloch's designs, but when he was offered further supplies he must have realized that these were not the result merely of friendship. We have only heard evidence of five meetings between Sir Maurice Bloch and Mr. Belcher; the first at the public dinner at which they met in June 1947; the next was on 22nd September 1947; the third was the meeting on the 20th January 1948; the fourth was the meeting at Glasgow on the 25th February 1948; and the last was also in Glasgow on the 7th July 1948. In making the suggestion that he should pay for further supplies in his letter of the 10th July 1947 it seems clear that Mr. Belcher realized at that time that he could not expect the supplies to be continued as gifts. The fact that he continued to receive them as gifts and without again raising the question of payment in our view makes it clear that Mr. Belcher appreciated that the gifts were made for some motive other than that of friendship.

59. On 25th February 1948 the position was that Sir Maurice had been warned in December 1947 that he should not ship further casks for import unless a licence had previously been applied for. In the face of this warning, he made the fresh application of the 19th January 1948 which had been minuted for refusal, and made a further application on the 11th March 1948. The result of Mr. Belcher's intervention through Mr. Cross was not only the granting of the two applications which had already been made in respect of goods shipped in defiance of the warning he had received, but also the granting of a further application made on the 19th March in respect of goods also shipped in defiance of the same warning.

60. We are compelled in this case to come to the conclusion that Sir Maurice Bloch made these gifts of wines and spirits to Mr. Belcher with a view to influencing Mr. Belcher to assist him in obtaining licences for the import of sherry casks and that Mr. Belcher accepted these gifts knowing the object with which they were made. It was because of these gifts that Mr. Belcher intervened to secure the granting of the licences, and did, in fact by his intervention secure the grant of the licence of the 23rd March 1948 and also of the later licences.

(iv) *The case of Mr. Sydney Stanley.*—The next series of allegations arose out of the relationship of Mr. Belcher, with Mr. Sydney Stanley. According to his Alien Registration Identity Card Mr. Stanley's name was Solomon Kohsvzcky, alias Rechtand; he was a Pole by birth, his father's name being Wulkan. He came to Britain in 1901 and was made bankrupt under the name of Wulkan. He was still an undischarged bankrupt.

On June 1, 1933, a deportation order was made against Mr. Stanley under the name of Sid Wulkan but the Police lost track of him until after the outbreak of war.

In 1940 he was employed by H. Lass, Ltd., mantle, etc., manufacturers, of London. Mr. Stanley said he was Production Manager

and had to obtain Government orders for clothing for the Forces, etc. Little was known of him between 1942 and 1945.

Some time between 1946-1947 Mr. Stanley became acquainted with Mr. George Gibson and on April 23, 1947, he (Mr. Stanley) and his brother Mr. Marcus Wulkan, attended a public dinner given by Mr. Gibson, at which Mr. Belcher was present as the guest of honour. After this dinner, arrangements were made for Mr. Marcus Wulkan and Mr. Stanley to see Mr. Belcher and further meetings took place between Mr. Stanley and Mr. Belcher on April 26 and 29, 1947.[1] Mr. Stanley then invited Mr. Belcher to stay with him for the week of the Labour Party Conference at Margate, Mrs. Belcher and her family also being his guests; in fact, Mr. Belcher also brought his mother.[2]

Thereafter Mr. Belcher received constant hospitality from Mr. Stanley at his flat at Aldford House. Further, Mr. Stanley took him, as his guest, about once a month to the dog races, Mr. Stanley paying for Mr. Belcher's admission and entertainment. On most occasions Mrs. Belcher accompanied her husband. Mr. Stanley also took Mr. Belcher to boxing contests in London.[3]

About Christmas, 1947, Mr. Belcher accepted the present of a gold cigarette caste from Mr. Stanley, in addition to which Mr. Belcher, from time to time, received bottles of wines and spirits from Mr. Stanley.[4] The Tribunal expressed themselves as satisfied on evidence that one of the causes of Mr. Belcher having to go into hospital was indulgence in alcohol.[5] Whilst there, Mr. Stanley often brought Mr. Belcher gifts of books, etc. Mr. Belcher agreed in his evidence that he was not in a position to make a suitable return to Mr. Stanley and in the view of the Tribunal, the only return he (Mr. Belcher) could make was to show Mr. Stanley consideration in his approach to the Board of Trade.[6] Although Mr. Belcher's late Private Secretary (Mr. Pearson) warned Mr. Cross, the new Private Secretary, of Mr. Stanley's attentions, Mr. Belcher instructed that all Mr. Cross had to do was to be polite to Mr. Stanley and that he (Mr. Belcher) would deal with him. The consequence was that from that time onwards Mr. Stanley had complete access to Mr. Belcher at all times and was free to bring any associate into the private office. When this happened Mr. Belcher would see them alone.[7]

Mr. Belcher accepted a new suit from Mr. Stanley. He also attended Mr. Stanley at his flat and there met people to whom Mr. Stanley desired to introduce him. The effect of this relationship was to secure that any applications in which Mr. Stanley and his friends were interested were brought before Mr. Belcher instead of going through the normal course, and with greater expedition. There were a number of cases where Mr. Stanley used his relationship with Mr. Belcher to introduce applicants to him with a view to securing his

[1] § 65. [2] §§ 66, 67. [3] § 68. [4] § 69. [5] §§ 70, 71. [6] § 72. [7] § 73.

assistance and that of other officials of the Board of Trade in matters concerning such applicants.[1]

The particular cases considered by the Tribunal were:[2]

(*a*) The case of Craven Productions Ltd., Margate premises;
(*b*) The case of Royal Norfolk Hotel, Bognor Regis;
(*c*) The Sherman case;
(*d*) The Berkeley Square case;
(*e*) The case in relation to amusement machinery.

In respect of (*a*) *above*

(*a*) the renewal of the lease of a factory or obtaining other premises after the termination of hostilities;[3]

In respect of (*b*) *above*

the granting of a licence for the expenditure of money in connection with the future erection of an annexe to a hotel;[4] In regard to this case the Tribunal remarked that they felt bound to come to the conclusion that Mr. Belcher, in doing what he did in reference to this hotel application, was endeavouring to make some return to Mr. Stanley for his gifts and hospitality.[5]

In respect of (*c*) *above*

licences for the allocation of paper in connection with fooball pools, a firm exceeding its paper allocation, in connection with which legal proceedings were taken and the withdrawal of a prosecution, which, in the opinion of the Tribunal, was a desire on the part of Mr. Belcher to make some return for the many benefactions he had received and to assist Mr. Stanley in his business negotiations with the Shermans.[6] Under this case, the Tribunal drew attention to the giving, by Mr. Stanley, of a lavish Birthday Party to Mr. Belcher,[7] which the latter attended, notwithstanding the allegations alleged by Mr. Sherman to have been made by Mr. "X". The Tribunal remarked that Mr. Belcher may have felt that he could not refuse to attend unless he was prepared to give his reasons, which would involve a disclosure of the accusations alleged to have been made against him.[8]

Then there was the Lass cheque for £27,000 in connection with a transaction between the Shermans and Mr. Stanley, which cheque was subsequently declared to be a forgery.[9]

On August 16, Mr. Sherman paid into the bank Mr. Stanley's 2 cheques of £5,000 and £7,000, both of which were returned "Account closed", but Mr. Sherman did not communicate with the Police.[10]

The day after his interview with the Shermans, August 12, Mr. Belcher started on his holidays at Bideford, but before leaving he took no steps in relation to the accusations against him nor did he communicate in any way about the matter with either Sir Frank Soskice or Mr. Gray.[11] Neither on August 13 or 16, when Mr. Belcher came back to London did he take any steps in the matter. Mr. Harry Sherman stated that a further visit had been sought by him merely to inform Mr. Belcher that the cheques had not been met

[1] §§ 74, 75. [2] § 77. [3] §§ 78-82. [4] §§ 83-90. [5] § 90. [6] §§ 91-166.
[7] § 131. [8] § 132. [9] 136. [10] § 137. [11] § 138.

and that the Lass Cheque had been stolen or forged. The Tribunal here remarked: "Why Mr. Belcher should be interested to know of this, Mr. Sherman could not explain."[1]

On August 18, the brothers Sherman had an appointment with Mr. Belcher at Barnstaple, when Mr. Harry Sherman, in the presence of Mrs. Belcher, repeated the statements he had made on August 11, at the Savoy Hotel, including the statement that he (Mr. Sherman) had paid 2 sums of £5,000 to Mr. Stanley. Mrs. Belcher became so angry at this suggestion that she stated she had little recollection of the remainder of the interview.[2]

Mr. Belcher's impressions of all this was that the Shermans' reluctance to hand the cheque over to the Police was due to his wanting to suggest that if the paper allocation was granted, the cheque would be withheld.[3] The Tribunal observed that the Shermans, after leaving Barnstaple, did not communicate with the Police or take any steps against Mr. Stanley.[4]

On August 17, in view of Mr. Belcher appearing somewhat worried, Mr. Haworth suggested he should give the Prime Minister all the facts, but Mr. Belcher took no action while he remained on holiday, in spite of the fact that the good names of others, as well as himself, were involved.[5]

On Thursday, August 26, Mr. Rufus Williams (of the Empire Parliamentary Association) went to tell Mr. Cross that Mr. Stanley had approached the Shermans and told them that for £5,000, he could bribe Belcher, Gray and Cross, and get the prosecution dropped. He further said that the Shermans had paid over the money and the prosecution had been dropped, whereupon Mr. Stanley had returned to the charge and said that "these people had proved more expensive that he anticipated, and that he would need another £5,000 to pay them off, and that this sum was given to him by Mr. Sherman".

Mr. Stanley told Mr. Sherman that he paid John Belcher £50 a week and frequently when Mrs. Belcher wanted money she would ring him up and he would give her £100. The Tribunal were satisfied that at this interview Mr. Rufus Williams was acting as agent for, and at the instigation of, the Shermans.[6] The Tribunal, however, preferred Mr. Cross's account of the interview.[7]

Mrs. Belcher told Mr. Stanley that she was disgusted with what he appeared to have done to their name.[8]

Up to September 3 Mr. Belcher did nothing in relation to the accusations made against him,[9] but on September 10 he saw the President of the Board of Trade.[10]

A meeting took place on September 16, at the Garrick Hotel, between Mr. Gibson, Mr. Sherman and Mr. Belcher, when Mr. Sherman again raised the question of his paper trouble, but Mr. Belcher

[1] § 139. [2] § 140. [3] § 141. [4] § 142. [5] § 143. [6] § 144.
[7] § 145. [8] § 147. [9] § 148. [10] § 149.

said that he would have to put in his application at the end of the licensing period in the proper manner. Mr. Sherman also raised the question of Mr. Stanley's failure to repay the money due to him and of his allegation of bribes to Mr. Belcher, who said that the matter was now in the hands of the Lord Chancellor. On receiving this information, according to Mr. Gibson, Mr. Sherman was greatly dismayed.[1]

On September 24 the Lord Chancellor wrote to Mr. Belcher asking for a written statement about his (Mr. Belcher's) dealings with the Shermans in connection with the paper allocation and also to deal with any associations he may have had with Stanley.

On October 4 Mr. Belcher replied to the Lord Chancellor's letter, but in the witness box Mr. Belcher agreed that his letter was "inadequate", as it omitted any reference to the gift of the gold cigarette case, the present of the suit of clothes and the continuous hospitality he had been receiving at Mr. Stanley's flat.[2]

Although Mr. Belcher, in dealing in his letter, with the withdrawal of the prosecution, said that it was decided "in my absence" not to proceed with the prosecution, he afterwards admitted that the decision not to prosecute was not made during his absence but was in fact made by him.[3]

Paragraph 155 of the Report of the Tribunal reads:

155. If Mr. Belcher had a clear conscience about the withdrawal of that prosecution and had acted solely in what he describes as the interests of justice, his conduct after the accusation was made against him is inexplicable. The accusation was an extremely serious one, involving others, and one would think immediate steps would have been taken by him if not to refute the allegation, at least to prevent its repetition, but Mr. Belcher did nothing from the 11th August, and, indeed, as we think, from the 5th August, until the President had made an appointment for him to see him on the 10th September. It does not follow from this attitude of Mr. Belcher that he received any payment in money for the withdrawal of the prosecution, but it does, in our view, suggest that he realized that what he had done on that occasion was wrong, and that he did not desire to have the matter immediately investigated. His letter to the Lord Chancellor also failed to disclose his intimate relationship with Mr. Stanley, and the gifts and hospitality that he had been receiving from him since May 1947 and showed a marked lack of candour. In our view, even at that time Mr. Belcher was hoping that his statement would be accepted by the Lord Chancellor, and that no further inquiry would ensue. His conduct after the withdrawal of the prosecution confirms our view that the decision made by Mr. Belcher to withdraw the prosecution was made at the suggestion and under the influence of Mr. Stanley, and because of the obligations Mr. Belcher felt he owed to Mr. Stanley for the many benefactions he had received.

The Tribunal had examined the banking accounts of Mr. Belcher and his wife and the savings accounts of the children and they found no trace of any unexplained sum passing through the hands of either Mr. or Mrs. Belcher. The Tribunal further remarked:

It is true this does not exclude the possibility of money being received and

[1] § 150. [2] § 151. [3] §§ 152-4.

hidden in a safe deposit or placed in an account under some other name, but there is no reflection in Mr. or Mrs. Belcher's accounts of personal or household expenditure in excess of what was available to him from his salary.'

The Tribunal observed that the statement made by Mr. Rufus Williams to Mr. Cross on August 30, that he had induced the Shermans to take no action before Mr. Belcher's return, was made in the hope that Mr. Belcher, and possibly Mr. Cross and Mr. Gray, would be prepared to agree to an increase in the paper allocation to prevent further action by the Shermans. It was only when it was disclosed to him that the matter was being investigated by the Lord Chancellor that he desisted from further effort.[2]

The concluding paragraph on the Sherman case reads:

166. We may summarize our conclusions as to the Sherman transactions in which Mr. Belcher and Mr. Stanley were interested by saying that we find that there is no evidence of sums of money being paid to Mr. Belcher for anything he did. We are, however, satisfied that his action in withdrawing the Sherman prosecution was influenced by the persuasion of Mr. Stanley acting on Mr. Sherman's behalf and that, because of the benefactions of Mr. Stanley to him, Mr. Belcher allowed himself to be improperly influenced. So far as the applications by Sherman's Pools Ltd., for an increased paper allocation were concerned, Mr. Belcher did not yield to the persuasion of Mr. Stanley, but in our view this was because of the determined attitude which Mr. H. J. Gray adopted after the withdrawal of the prosecution against any increase in this allocation.

In respect of (d) above:

The Berkeley Square case dealt with a building licence desired by Messrs. Lewis Berger and Sons, Ltd., a firm of paint manufacturers, in respect of No. 34, Berkeley Square, in order to fit the premises for offices. Mr. W. J. Darby, the Managing Director, patronised Mr. Hirsch Teper as his tailor. Mr. Teper was also patronised by Mr. Stanley and it was Mr. Teper who had made the suits for Mr. Belcher, Mr. Gibson and Mr. Key (§§ 74—218 and 273), and who arranged a meeting between Mr. Darby and Mr. Stanley on July 22, 1948,[3] at which Mr. Stanley explained the procedure in connection with an application for a licence and invited Mr. Darby to his flat the following day when he (Mr. Darby) said that for such services in obtaining the licence, his firm would be able to pay £500 or even £1,000, if his directors approved. Mr. Stanley's reply was "Chicken feed". What he wanted was £10,000 in £1 notes, to which Mr. Darby remarked "impossible". Mr. Stanley then suggested a cheque for £2,000, but he would also want £8,000 in £1 notes, to pay for the services he got. Mr. Darby again replied "Impossible".

The door bell then rang and Mr. Belcher came in and was introduced to Mr. Darby and a discussion took place between them of a bantering nature about profits in the paint industry and nationalisation. Nothing was said about licences at this interview. Certain

[1] § 156. [2] § 161. [3] § 167.

articles were given by Mr. Stanley to Mr. Belcher in Mr. Darby's presence, Mr. Belcher remarking "Don't forget to send me the bills".[1] Mr. Belcher then left.

Soon afterwards Mr. Key, Minister of Works, arrived at Mr. Stanley's flat whilst Mr. Darby was still there—and, the Tribunal remark: "no doubt Mr. Stanley had invited Mr. Key to come to his flat[2] with the idea of impressing Mr. Darby, by Mr. Key's presence, of his ability to obtain these licences". The Tribunal, however, remark that the suggestions arising out of these matters are quite baseless.[3]

In respect of (e) above:

Another person in whose affairs Mr. Stanley was concerned was Mr. Harris, a gentleman engaged in the business of amusement catering, who desired to get licences to import novel machines and devices from the U.S.A. Mr. F. C. Price, Managing Director of Messrs. Stagg and Russell, Ltd., and also interested in the amusement catering business, was a friend of Mr. Harris.[4] The latter was a client of a solicitor—Mr. A. Bieber—who also acted for Mr. Pritchard (*see* § 78).

Early in the year Mr. Pritchard was induced by Mr. Stanley to give him the sum of £2,500 to be applied for the purchase of shares, but for some reason not explained to the Tribunal, the money was not so used and judgment for the return of the money was obtained, with the result that a bankruptcy notice was served on Mr. Stanley.

In this way Mr. Bieber became acquainted with Mr. Stanley, who intimated to Mr. Bieber that he had an unused import quota to the extent of £186,000, but Mr. Stanley denied this. As a result of what happened later, in regard to the alleged payment of £10,000 to certain go-betweens, the Tribunal are satisfied that the suggestions made against Mr. Belcher, Mr. Cross, Mr. Glenvil Hall and Sir John Woods in this matter are baseless.[5]

Mr. George Gibson, C.H.

Mr. Gibson, an ex-Trade Union official, was Chairman of the North Western Electricity Board and a Director of the Bank of England. On his journeys between London and Manchester he made the acquaintance of Mr. Stanley. Later, Mr. Gibson asked Mr. Stanley and his brother, Mr. Marcus Wulkan, to a dinner he was giving at the Garrick Hotel on April 23, 1947, at which Mr. Belcher was the guest of honour.

After this dinner, Mr. Gibson visited Mr. Stanley's flat occasionally. Later, Mr. Gibson learned that Mr. Stanley was interested in the purchase of J. Jones (Manchester 1920) Ltd., which owned a number of ladies' garment shops. In June, 1947, Mr. Stanley asked Mr. Gibson whether the Capital Issues Committee were likely

[1] §§ 168-170. [2] § 171. [3] § 174. [4] § 178. [5] §§ 178-201.

to consent to a public issue, but Mr. Gibson expressed the view that after the Budget of that year, to get a sanction would not be an easy matter and that it would be better to raise the money privately.[1]

In the autumn of 1947 Mr. Stanley again discussed the purchase of J. Jones Ltd. with Mr. Gibson. The intention, at that time, was to apply to the Capital Issues Committee for their sanction to a public issue. Mr. Stanley then offered Mr. Gibson the position of Chairman of Directors in the company to be floated at a salary of £10,000 *p.a.*, of which £2,000 was to be earmarked as expenses, conditional upon the company being formed. The Tribunal observe that there can be no doubt that the offer was intended only to take effect if the consent of the Capital Issues Committee was obtained.[2] This offer Mr. Gibson refused in a letter dated November 1, 1947, but this letter contained the expression: "I hope that I may be able to exercise a greater degree of influence in the future than perhaps I have in the past", and that the position he had been offered by the Government had emerged suddenly, "thus placing me in the position that I had to make a choice immediately, . . . and I hope that our ways may not lie entirely apart in the future".[3]

After November 1, 1947, remark the Tribunal, Mr. Gibson seems to have interested himself considerably in the efforts to obtain the consent of the Capital Issues Committee to the proposed flotation, and he wrote a "Very Strictly Private and Confidential" letter on the subject to Mr. Stanley.[4] In 1948, however, it was decided to raise the capital by public subscription.[5]

In February, 1948, Mr. Stanley took Mr. Gibson to Mr. Hirsch Teper for a new suit, which was paid for by Mr. Stanley.[6]

On February 24, 1948, at a dinner at the Garrick Hotel the question was discussed of establishing the Freedom and Democracy Trust to combat communism. To this dinner came Mr. Stanley uninvited, but he was allowed to stay and borrowed a cheque from Mr. Gibson which was filled up for £50, payable to the Treasurer, Mr. John Brown. The cheque, however, which was irregular in its drawing, was never paid.[7]

About this time, Mr. Stanley mentioned to Mr. Gibson a scheme in which Mr. Stanley's brother Wulkan was interested, whereby the United Kingdom could get an advance of dollars and Mr. Gibson wrote to Mr. Glenvil Hall on the subject, who was entirely sceptical and only offered to see Mr. Stanley on an "off the record" talk.[8]

On March 23, 1948, a dinner was given at Grosvenor House in honour of Mr. Gibson becoming Chairman of the North-Western Electricity Board, the dinner being paid for by Mr. Stanley. Mr. Gibson settled the list of guests, which included Mr. Ernest Bevin, Mr. Hugh Dalton and Mr. Stanley, who introduced himself to Mr. Dalton on leaving.[9]

[1] §§ 202-6. [2] § 207. [3] § 209. [4] §§ 210-3. [5] § 217. [6] § 218. [7] § 219. [8] § 222 [9] § 223.

On March 25, 1948, Mr. Gibson wrote to Mr. Glenvil Hall in regard to the American Loan and Mr. Glenvil Hall agreed to meet Mr. Gibson and Mr. Stanley at dinner at Grosvenor House on April 22, but it appears from the correspondence that Mr. Stanley was to arrange for the dinner and pay for it.[1] At the dinner there was a discussion on a scheme for obtaining dollars on the security of the Marshall Plan and a joint capitalization scheme for Africa, and Mr. Glenvil Hall said he would discuss the matter with Sir Stafford Cripps and let Mr. Gibson know later.[2] Sir Stafford's reaction was favourable. Mr. Gibson said that he had discussed the matter with Mr. Henry Horne, a man with large financial interests. Mr. Gibson was asked if he was going to use the "Stanley approach", to which his answer was "No".[3]

However, on May 31, Mr. Gibson wrote to Mr. Stanley on the matter.[4]

Early in May, 1948, Mr. Harry Sherman and Mr. Stanley discussed the flotation of Sherman's Pools Ltd. as a public company financed by a public issue. Mr. Stanley then arranged a meeting between Mr. Harry Sherman and Mr. Gibson at the Savoy Hotel, when the latter said that there was very little possibility of the consent of the Capital Issues Committee being obtained, but he promised he would see a friend and let Mr. Sherman know the result.[5]

Mr. Gibson then saw Mr. G. R. Young at the Treasury and a dinner in honour of Mr. Stevenson, at which some 40 people attended, including Mr. Glenvil Hall (who was only present for a short time), Mr. Isaac Wolfson and Mr. Sherman. The invitations to the dinner were sent out by Mr. Gibson, but the cost thereof was borne by Mr. Stanley. Nothing, however, came out of the Sherman flotation.[6]

Then, in June, 1948, Mr. Stanley put a proposition before Mr. Gibson to acquire some shares in Gray's Carpets and Textiles Ltd., for which Mr. Gibson paid a deposit of £500 in part payment, but this money was paid into Mr. Stanley's bank account, which was at that time overdrawn.[7]

About August 27 Mr. Gibson consented to give Mr. Stanley some letters of introduction for his wife, who was about to visit America, to some important friends of his there, one letter being addressed "To whom it may concern". These letters described Mr. Stanley as "an eminent business man with large interests, etc.," and asked for the good offices of the recipients to his wife, Mrs. Stanley.

Mr. Stanley used Mr. Gibson's covering letter in an endeavour to obtain a grant for additional dollars for his wife, saying she was engaged on a business trip. Mr. Stanley also tried to get this grant from Mr. Cross, of the Board of Trade, with a negative result. Mr. Cross was shown the letters from Mr. Gibson but when Mr. Cross

[1] § 224. [2] § 225. [3] § 226. [4] § 227. [5] § 228.
[6] §§ 229-33. [7] § 234.

said he would take up the matter officially Mr. Stanley replied that he would prefer no action being taken.[1]

The Tribunal state that they have set out in detail the various transactions in which Mr. Gibson took part and Mr. Stanley was concerned. Mr. Gibson's reputation and high standing, not only in the Labour Party but in the public life of the country gave him great influence. His advice and his word would carry great weight with any of his colleagues, whether inside or outside the Government. It was obviously not desirable that he should use that influence except in a proper case.[2]

Paragraph 245 of the Report reads:

245. To sum the matter up, Mr. Gibson agreed that he could not point to any request made by Mr. Stanley for his assistance which he had refused; although he went on to add that on many occasions when Stanley wanted him to visit him at his flat, he did not do so. Mr. Stanley's offer of the Chairmanship of the new Jones Company was made by him to Mr. Gibson as a public servant and as a consideration to induce him to assist in obtaining from the Treasury upon the recommendation of the Capital Issues Committee permission for a public issue on the flotation of the new Jones Company. We are convinced that Mr. Gibson realized that this was the purpose of the offer and although he refused it he allowed his future conduct to be influenced by it, he says out of gratitude, but we think in the hope of favours to come. All that Mr. Gibson had received apart from a few trivial gifts was the present of a suit of clothes and the results of his efforts, although they might have been very valuable to Mr. Stanley in the events which happened, were negligible. We much regret to have to find that Mr. Gibson allowed himself to be influenced by Mr. Stanley's offer which he knew was made for an improper purpose, and that Mr. Gibson continued to assist Mr. Stanley in the latter's various enterprises in the hope of further material advantage to himself.

THE RT. HON. CHARLES WILLIAM KEY, M.P.

(*Minister of Works*)

The allegations in regard to Mr. Key are in relation to:

(i) Intrade, Ltd.

(ii) Matters arising out of his relationship with Mr. Stanley.

(i) *Intrade, Ltd.*—This is a firm of civil engineers, contractors, ship repairers and barge builders, Mr. G. L. O. Shiner being a Director, and which has done no work for the Ministry of Works since Mr. Key has been Minister. From November 20, 1946, to now they have made 17 applications for licences to the Ministry in connection with their business, only 4 of which were considered by Mr. Key.[3] One was connected with the erection of hangars (£17,000) at Bristol, which was a matter of great urgency and pressed for by the Cabinet Committee, but later modified and rejected.[4]

The other licences were for building work (£159) at Northleach; extension of a canteen at the Berking premises[5] of the firm; to rein-

[1] §§ 235-8. [2] § 240. [3] §§ 248, 9. [4] §§ 250-1. [5] §§ 252-3.

state and extend their office accommodation (£2,250), damaged by enemy action.[1]

Paragraph 262 of the Report reads:

> 262. We are quite satisfied that the gifts passing to and from Mr. Key and Mr. Shiner and their respective families were tokens of friendship only and that no consideration was offered or given by Mr. Shiner or Intrade, Ltd., to Mr. Key, and no consideration sought or received by Mr. Key from either Mr. Shiner or Intrade, Ltd., in connection with the applications for licences or other matters in which Mr. Key was concerned or likely to be concerned, and that the suggestions made against Mr. Key so far as they relate to the affairs of Intrade, Ltd., are unfounded.

(ii) *Relationship with Mr. Stanley.*—Mr. Key was introduced to Mr. Stanley by a great friend of the latter, Mr. Bill Adams, on April 2, 1948. At the first meeting, there was a dinner at which Mr. and Mrs. Stanley, Mr. and Mrs. Key, Mr. Adams and Miss Myers (Mr. Adams' Private Secretary) were present. There were subsequent occasions when they all dined together, on each of which they went to Mr. Stanley's flat before dining out at Grosvenor House.[2]

On one occasion, before June 3, 1948, Mr. Stanley was anxious to know what was to be done to No. 2, Park Street, situate opposite Aldford House, Mr. Stanley's flat. About this time, Mr. Stanley, with the brothers Sherman, saw Mr. Key at the Ministry. After this interview Mr. Key reported to his Private Secretary, Mr. Newis, what had taken place at the meeting, also that Mr. Stanley was interested in the purchase of No. 2, Park Street, and wished to know what were the intentions of the Government in regard to this building; and, in particular, if the Minister would leave the negotiations in abeyance pending development and possibly completion of the purchase.[3] This was, however, disputed by Mr. Key, who contended that all that was promised was that he would let his callers know anything they could properly be told.[4] The Tribunal here remark that this seems to be another case where Mr. Stanley, at an early stage, was using his acquaintanceship with Mr. Key to obtain access for his friends to the Minister of Works, with the object of seeking to influence decisions in dealing with property in which he, or the Shermans, were interested.[5]

Towards the end of June Mr. Key was at Mr. Stanley's flat, when the latter invited Mr. Key to go with him to see Mr. Isaac Wolfson and they had lunch with him,[6] when the question was raised as to repairs of the 110, Broadway, Ealing premises of George Hopkinson, Ltd., controlled by Great Universal Stores, of which Mr. Wolfson was Managing Director, to this Mr. Key said that he told Mr. Wolfson and Mr. Stanley that an application for a licence would have to be made in the usual way through the London Regional Office of the Ministry of Works.[7]

A few days later Mr. Key met Mr. Stanley at the latter's flat,

[1] § 257. [2] § 263. [3] §§ 264-5. [4] §§ 266-7. [5] § 268. [6] § 269. [7] § 270.

when Mr. Stanley handed him the application for the licence for No. 110, Broadway, on behalf of George Hopkinson, Ltd. Mr. Key then instructed his office to send the application to the London Regional office in the ordinary way but that all correspondence be addressed to Mr. Stanley at Aldford House. The application was refused.[1]

On July 21, 1948, Mr. Stanley offered Mr. Key a new suit but after Mr. Key had had the first fitting and heard that there was some trouble in regard to Mr. Stanley's activities, he did not attend for the second fitting. Mr. Key did not inquire the price of the suit but said that he told Mr. Stanley he did not want to pay a fancy price for it.

Mr. Key also said that on 2 occasions when calling at Mr. Stanley's flat, he received 2 bottles of whisky, one for himself and one for Mr. Bill Adams. As some return for this, Mr. Key made a present of 2 dolls (£3 3s.) to Mrs. Stanley.

The Tribunal remark that Mr. Key's banking accounts have been investigated by them and they disclose no trace of monetary payments to him, apart from his salary as Minister of Works. Mr. Key told them that he had no investments or savings. There was no suggestion that any money was paid by anybody to Mr. Key.[2]

The Tribunal observe that Mr. Stanley sought to secure Mr. Key's friendship and by hospitality and gifts endeavoured to put Mr. Key under an obligation to him and so induce Mr. Key to show favour to him and his associates. Mr. Stanley had secured the interviews above-mentioned with Mr. Key and further used his presence at Mr. Wolfson's flat on July 22, 1948, to give some colour to his story to Mr. Darby that for £10,000 he could obtain licences from the Ministry of Works for the reinstatement of 34, Berkeley Square.[3]

The Tribunal state that they were quite satisfied that Mr. Key in his official actions was not influenced by any gifts or hospitality he might have received from Mr. Stanley and neither sought nor received such gifts or hospitality in connection with any applications which might have been made to him or his Ministry.[4]

The Rt. Hon. William George Glenvil Hall, M.P.

(Financial Secretary to the Treasury)

The allegations concerning Mr. Hall were made in a statement by Mr. Price (paras. 183-4) the effect of which was that the £10,000 to be paid on the grant of a licence for the importation of amusement machinery was to be divided between Mr. Stanley, Mr. Hall and Mr. Belcher, and that the latter were making fortunes out of that sort of thing.[5]

Mr. Glenvil Hall first met Mr. Stanley on April 22, 1948, at the insistence of Mr. Gibson (paras. 222-4), when the question was dis-

[1] § 272. [2] §§ 273-5. [3] § 276. [4] § 277. [5] § 278.

cussed of securing a dollar loan from financiers in the U.S.A., on the security of advances to be made under the Marshall Plan and of a joint loan for the development of the resources of Africa. Both these questions were referred to the Chancellor of the Exchequer by Mr. Hall and rejected.[1]

The next occasion when Mr. Hall met Mr. Stanley was at the dinner to Mr. Stevenson on June 15, 1948, when Mr. Hall was placed next to Mr. Isaac Wolfson and learned that he was going to the U.S.A., with full treasury backing on matters in which the Treasury was concerned. The proposed visit was discussed between them.[2]

Mr. Hall met Mr. Wolfson at lunch a few days later, which was attended by the latter's son and Mr. Stanley. When the question of financing film production was discussed.[3] Mr. Stanley asked Mr. Hall whether he could bring Mr. Sherman, who was having some difficulty in connection with football pools, along, and an appointment was made to meet at the House of Commons on June 23, 1948. Mr. Hall was informed, at that meeting, of the formation of a company with public issue to acquire Sherman's Pools Ltd., but the visitors left under no delusion as to the hopelessness of obtaining the consent of the Capital Issues Committee to the proposed public issue.[4]

The above incident is mentioned, state the Tribunal, because it was on June 23, 1948, that Mr. Sherman handed to Mr. Stanley the cheque for £7,000 and with him, saw Mr. Belcher at the House of Commons with regard to the paper allocation (para. 122).[5]

At Mr. Stanley's request, he met Mr. Hall at tea in the House of Commons on July 12, when Mr. Hall told Mr. Stanley that there were one or two film producers who were still looking for finance and that he felt Mr. Wolfson might be interested; he thought Mr. Stanley was in Mr. Wolfson's confidence.[6]

The Tribunal were satisfied that there was no foundation for the statement as to the £10,000 (*see above*) and that neither Mr. Hall nor the Treasury were ever approached by Mr. Stanley or anyone else in relation to such importation and that Mr. Hall knew nothing whatever of any such suggestion.[7]

Paragraph 289 of the Report reads:

> 289. In regard to the meetings which Mr. Glenvil Hall had with Mr. Stanley, Mr. Sherman and Mr. Isaac Wolfson, there is no suggestion of or any evidence of any indiscretion or impropriety on the part of Mr. Glenvil Hall, and no suggestion by anybody of any offer to him or payment to him of any money or other consideration for anything that he may have done, either by the persons to whom we have referred or by anyone else.

Sir John Woods, K.C.B., M.V.O.

(*Permanent Secretary to the Board of Trade*)

The Tribunal state that no-one suggests that Sir John Woods re-

[1] § 279. [2] § 280. [3] §§281-2. [4] § 283. [5] § 282. [6] § 288. [7] *Ib.*

ceived any gifts or considerations of any kind from either Mr. Stanley or Mr. Sherman or anyone else. The Tribunal further state that:

> Sir John Woods never met Mr. Stanley or, as far as the evidence goes, any of the Shermans. We are quite satisfied that in all these matters Sir John Woods has acted with discretion and propriety and any suggestions of improper conduct are baseless and without foundation.[1]

THE RT. HON. SIR FRANK SOSKICE, K.C., M.P.
(*The Solicitor-General*)

The Tribunal is quite satisfied that any statements made by Mr. Stanley, such statements so far as they relate to Sir Frank Soskice, have no foundation in fact and they are equally satisfied that he received no money from Mr. Stanley or Mr. Sherman for the withdrawal of the prosecution or at all. The Tribunal also remark that the proceedings against Sherman's Pools were no concern of the Solicitor-General or of the Law Officers' Department; that Sir Frank Soskice was not in any way interested in these proceedings and was never consulted about them. Sir Frank Soskice never met Mr. Stanley or any of the Shermans and that the suggestions made in relation to Sir Frank Soskice were quite baseless.[2]

THE RT. HON. HUGH DALTON, M.P.
(*Chancellor of the Duchy of Lancaster*)

Mr. Dalton was formerly Chancellor of the Exchequer.[3] No allegations were made against Mr. Dalton, but Mr. Stanley stated he met Mr. Dalton at the dinner on March 23, 1948, to Mr. Gibson at Grosvenor House. Mr. Stanley also said that Mr. Dalton had been offered a directorship by Mr. Isaac Wolfson in Great Universal Stores Ltd., and later, Mr. Stanley altered his evidence to the effect that Mr. Dalton had sought such directorship. Reference was also made in the evidence by Mr. Stanley that Mr. Dalton visited him at his flat and to Mr. Wolfson's office as well as to letters written to him by Mr. Dalton.[4]

Mr. Dalton applied to the Tribunal to be heard.[5] Mr. Dalton was one of those who attended the dinner to Mr. Gibson on March 23, 1948. He (Mr. Dalton) visited Mr. Stanley at his address (Aldford House) on April 15, which he then found was a flat.[6] On that occasion, Mr. Stanley raised the question of Mr. Dalton becoming a director of the Great Universal Stores Ltd., which offer he brushed aside but later, on learning of the work this Company was doing in development areas, he was induced to attend at the office of Mr. Wolfson, their Chairman, the next day.[7] Nothing further transpired in regard to the directorship.

[1] § 292. [2] § 293. [3] *See* JOURNAL, Vol. XVII. 188. [4] Rep. §. 295.
[5] § 296. [6] § 297. [7] § 298.

The Tribunal give prominence to a letter in which Mr. Dalton addressed Mr. Stanley as "dear Stan", as Mr. Dalton had only met Mr. Stanley 2 or 3 times prior to this.

The Tribunal observes that the suggestion that Mr. Dalton sought a directorship depends entirely on the evidence of Mr. Stanley, whatever may have been Mr. Stanley's motive in making this offer. The Tribunal are satisfied that it had no influence on Mr. Dalton's mind and was not considered by him as an offer to him of a consideration to influence his future conduct. The Tribunal remark that, "It was indeed unsought by him and unwanted by him."[1]

Mr. Harold James Gray
(*An Assistant Secretary in the Board of Trade*)

Paragraph 303-311 deal with the allegations made against Mr. Gray and para. 312 of the Report reads:

312. We are satisfied there is no ground for any of the suggestions which have been made in relation to Mr. H. J. Gray, and in our view, as we have already stated, it was his strong attitude that prevented Mr. Belcher from increasing the Sherman paper allocation on the 24th June 1948 (paras. 124, 166).

Mr. James Richard Cross
(*Private Secretary to Mr. Belcher*, 1947—)

In regard to the allegations made in respect of Mr. Cross, the Tribunal in para. 326 of their Report state that:

326. So far as Mr. Cross is concerned, the only gifts he is alleged to have received are the two bottles of whisky from Sir Maurice Bloch, and some hospitality at Mr. Stanley's flat and at the birthday party on the 5th August, 1948. We are quite satisfied that so far as Mr. Cross is concerned, he did not regard these gifts and hospitality as being made with a view to obtaining favours from him, nor did he allow himself to be influenced by the receipt of such gifts and hospitality. All that he did was to carry out the instructions he received from Mr. Belcher, and we do not find him blameworthy for anything that he did.

Mr. Gerald Lionel Pearson, M.C.
(*Private Secretary to Mr. Belcher*, 1946-47)

In regard to Mr. Pearson, the Tribunal say that, in their view, no suggestion can be made against Mr. Pearson which reflects in any way adversely upon him.[2]

SUMMARY OF FINDINGS

The Summary of Findings by the Tribunal are given verbatim as follows:

Mr. John Belcher, M.P.

I. *The Case of Mr. L. J. Matchan.*

Although certain small gifts and hospitality were received by Mr. and Mrs.

[1] § 302. [2] § 324.

Belcher from Mr. Matchan, these were not made or received as a consideration in connection with any licence or permission but were made and received out of friendship only (para. 31).

II. *The Case of Mr. Robert William Liversidge.*

No consideration was sought, offered, promised, made or received by or to Mr. Belcher from or by Mr. Liversidge, and there was no justification for any allegations in this case (para. 40).

III. *The Case of Sir Maurice Bloch.*

We are satisfied that Sir Maurice Bloch made presents of wine and spirits to Mr. Belcher for the purpose of securing favourable and expeditious treatment by the Board of Trade of his applications for licences to import sherry casks and that Mr. Belcher received these gifts knowing the purpose for which they were made and in return for these gifts intervened to secure the grant of licences to import sherry casks (para. 60).

IV. *The Case of Mr. Sydney Stanley.*

We are satisfied that Mr. Stanley paid for Mr. and Mrs. Belcher's stay at Margate in May, 1947, for one week and made Mr. Belcher a present of a gold cigarette case and a suit of clothes; Mr. Stanley entertained him at dog race meetings and boxing matches. Mr. Stanley at his flat offered continuous hospitality to Mr. Belcher from the time he first met him on the 23rd April, 1947, to the 5th August, 1948. These benefactions were made by Mr. Stanley for the purpose of securing expeditious and favourable consideration by the Board of Trade or other Ministries of any application made by any person whom he might introduce to Mr. Belcher and to secure the latter's assistance for such persons. Mr. Belcher accepted these benefactions knowing the purpose for which they were made, and as a result thereof gave Mr. Stanley free access to him in his private office and met any persons Mr. Stanley might desire to introduce to him either in his private office, the House of Commons or in Mr. Stanley's flat.

It was because of these benefactions and the obligations which he felt that he owed to Mr. Stanley that Mr. Belcher assisted Mr. R. J. Pritchard in relation to the Margate premises of Craven Productions Ltd. (para. 82) and Mr. R. R. Curtis in relation to the licence for the Annexe to The Royal Norfolk Hotel, Bognor Regis (para. 90). It was also because of these benefactions that Mr. Belcher decided upon the withdrawal of the prosecution of Sherman's Pools Ltd. (para. 112, 166). We, however, are not satisfied that Mr. Stanley sought or received any assistance from Mr. Belcher in the Berkeley Square case (para. 174) or the Case relating to Amusement Machinery (para. 200).

We are not satisfied that Mr. Belcher received the sum of £5,000 or any other sum in respect of his decision to withdraw the Sherman's Pools prosecution or that he received the sums of £50 or any other sum a week from Mr. Stanley or that Mrs. Belcher ever received any money from Mr. Stanley (para. 163).

There is no reliable evidence that Mr. Belcher received any sums of money in respect of any of the transactions which we have investigated or indeed in respect of any transactions. The only benefits which we can find he did receive were the small gifts and hospitality from Mr. Matchan, the wines and spirits from Sir Maurice Bloch and the benefactions by way of gifts and hospitality from Mr. Stanley.

Mr. George Gibson, C.H.

We are satisfied that Mr. Gibson was offered by Mr. Stanley the chairmanship of the proposed new company J. Jones (Manchester) 1948 Ltd., as a consideration to induce Mr. Gibson as a public servant to assist in obtaining from the Treasury upon the recommendation of the Capital Issues Committee

permission for a public issue of the shares of the new company and that Mr. Gibson realized the reason for this offer. Although for other reasons he refused the offer, Mr. Gibson continued to assist Mr. Stanley in his efforts to secure this permission for a public issue and to assist in any other enterprise in which Mr. Stanley sought his help. We are satisfied that Mr. Gibson did this in the hope of material advantage to himself, although in fact all he received apart from some trivial gifts was the present of a suit of clothes (para. 245).

OTHER MINISTERS AND PUBLIC SERVANTS

So far as there are any allegations or suggestions in reference to the Right Honourable W. G. Glenvil Hall, M.P., Sir John Woods, K.C.B., M.V.O., the Right Honourable Sir Frank Soskice, K.C., M.P., the Right Honourable Hugh Dalton, M.P., Mr. Harold James Gray, Mr. James Richard Cross or Mr. Gerald Lionel Pearson, M.C., we are satisfied that there is no foundation for any such allegation or suggestion. We find that in the transactions which have been investigated before us no payment, reward or other consideration was sought, offered, promised, made or received in connection with any licence or permission or in connection with the withdrawal of any prosecution by or to any one of them.

Paragraph 335 of the Report reads:

335. The allegations which led to the appointment of this Tribunal were that large sums of money were being, or had been paid, to some Ministers and some public servants. These allegations in our view were largely the result of the statements and activities of Mr. Sydney Stanley. We are satisfied that for his own purposes he represented to various persons that upon payment by them to him of substantial sums he could secure licences for various purposes and also assistance from different Ministries, and in particular the Board of Trade, and that he was able to do this by paying part of the money received by him to the Minister and officials who would have to deal with these matters. Mr. Stanley is a man who will make any statement, whether true or untrue, if he thinks that it (is) to his own advantage so to do. He was, however, able to give colour to his statements because Mr. Belcher, Mr. Gibson and Mr. Key received him on apparently friendly terms and it is not therefore surprising that rumours arose and that these baseless allegations of payments of large sums of money were made.

Private Notice Question.—On February 3,[1] the Leader of the Opposition (Rt. Hon. Winston Churchill) (*by Private Notice*) asked the Attorney-General whether he had come to any decision in regard to criminal proceedings arising from the Report of the Tribunal.

The Attorney-General (Sir Hartley Shawcross) replied that before the Tribunal entered upon its inquiry, the Director of Public Prosecutions certified, to which he (the Attorney-General) agreed, that there was not then sufficient evidence to justify criminal proceedings in relation to matters referred to the Tribunal. Since then he had considered the question with the Director and much of the relevant and essential evidence which might be used against the particular defendants in any possible criminal proceedings arising out of the Tribunal's inquiry, consisted in their own statements made to a Tribunal necessarily possessing wide powers of summoning witnesses and interrogating them in circumstances which at least made it difficult for them to answer.

[1] 460 *Com. Hans.* 5, s. 1836.

Sir Hartley said that he was very far from saying that in a proper case a prosecution should not follow upon the report of such a Tribunal, but in general it was necessary to exercise great discretion in the use of statements obtained in the exercise of compulsory powers of interrogation as evidence against the persons who, under that interrogation, actually gave those statements. In the present matter it would be difficult, if not impossible, to establish the commission of criminal offences without the use of information and statements obtained in that way. That was a factor which he would not completely ignore. In addition, it was a fundamental principle of the administration of their criminal law that juries should act, and act only on the evidence before them.[1] He did not say that a jury properly instructed, would be incapable of so acting in any prosecution arising from the recent inquiry, but it would certainly be impossible to empanel a jury which was not familiar with the findings of fact made by the Tribunal, and, indeed, with much of the evidence on which those findings were based. This would inevitably detract, not from justice being actually done but from the manifest appearance of justice which was scarcely less important.

In those circumstances, the Director had advised him that although there was no *prima facie* evidence of the commission of certain criminal offences, he did not consider that on the information then available, proceedings should be taken in respect of them. The Attorney-General expressed himself as satisfied that the requirements of public justice had been or would be sufficiently met without criminal proceedings and he had, therefore, concluded that on the information then available the public interest did not require that such proceedings should be taken.

Sir Hartley, however, added that his answer related to those matters which were the subject of public inquiry by the Tribunal and did not exclude the possibility of judicial or administrative action under the Aliens Act, the Bankruptcy Acts or the Revenue Law. Nor did it relate to the 3 cases referred to in paragraph 17 of the Tribunal's Report as not having been publicly investigated by the Tribunal, since they were more appropriately the subject of Police inquiry. In one of these cases, he had authorized proceedings against a minor official of the Board of Trade for offences under the Prevention of Corruption Act 1916.[2] The two others related to private individuals whose activities were not publicly inquired into by the Tribunal, although the names of one of the individuals concerned was mentioned before it. Those cases were still engaging the attentions of the Police.[3]

The hon. member for Liverpool: W. Derby (Rt. Hon. Sir David Maxwell Fyfe, K.C.) then asked the Attorney-General whether, while appreciating the first part of his answer and the importance he had attached to the fact that certain people had been questioned at

[1] *Ib.* 1837. [2] 6 & 7 Geo. V. c. 64. [3] 460 *Com. Hans.* 5, s. 1838.

the Tribunal, he would reassure the House that that fact, of itself, would not interfere with a prosecution if evidence were forthcoming from some other source? The second question was whether the Attorney-General would let them know clearly what he (the speaker) understood to be implied, that what the Attorney-General said about the Bankruptcy Act[1] and the Aliens Act[2] meant that the position of Mr. Stanley was still under the Attorney-General's consideration with a view to further action?

Sir Hartley Shawcross replied: "Yes, Sir, the mere fact that a person had been compulsorily interrogated before a Tribunal of that kind would certainly not preclude a subsequent prosecution of that person if other evidence against him were available" and that even if no evidence against him was available in a suitable case prosecution would have been disclosed in the course of public proceedings of this kind. That was one of the factors to which he had had regard in deciding whether or not to prosecute in the circumstances of these particular cases. So far as concerned the second of the rt. hon. and learned Gentleman's questions, the position of Mr. Stanley was certainly still engaging the attention of the appropriate Departments.

An hon. member asked the Attorney-General if, in regard to the Bankruptcy and Revenue Law, he would see that any sums secured by any individual through exploiting a depraved career in the columns of the Sunday papers would be directed into the proper channels, to which Sir Hartley replied that no doubt the appropriate authorities would not neglect that possibility.

Because a jury could not be empanelled which had not been prejudiced by reading all the findings of the Tribunal, another hon. member asked, would not the Attorney-General suggest to the Prime Minister that the time had arrived when the Act should be amended so as to exclude hearsay evidence from the proceedings of the Tribunal?[3]

Sir Hartley replied that the question of hearsay evidence did not really arise in connection with the proceedings of this Tribunal, as stated by the learned judge in the course of the proceedings. It was manifestly essential for the State, in the protection of public interest, to have these wide powers of compulsory interrogation for use when Parliament so decided in cases of exceptional public importance to the community, but the corollary of the right to exercise such powers as that, must be those the State may have, in the circumstances of a particular case, to accept some limitation on the further right it possessed to prosecute illegal offenders submitted to compulsory interrogation in that way.

Another hon. member asked if the Attorney-General would answer definitely whether or not the Director himself assented to this particular kind of procedure, to which Sir Hartley said that that did not appear to be a question which could properly be put to him or which

[1] 4 & 5 Geo. V. c. 59. [2] *Ib.* 17. [3] 460 *Com. Hans.* 5, s. 1839.

he should answer. The House decided to establish this form of procedure and he apprehended that it would not be for this House to ask for the assent of the Director of Public Prosecutions in such a matter.[1]

Personal Statement by Mr. Belcher.—At 3.58 p.m. on February 3, 1949,[2] in the Commons, the hon. member for Sowerby (Mr. J. W. Belcher) first thanked Mr. Speaker for affording him this opportunity of making the personal statement, which he felt he owed to the House, to the country and to himself.

He apologized for the part which any injudicious actions or indiscretions of his had played in bringing about an inquiry which focused upon the Government and the Department in which he had the privilege and honour to serve, upon the House and upon the whole of their democratic institutions, an unwelcome publicity.

A letter in *The Times* had drawn attention to the possibility that the business and industrial community might suffer because of the exposure before the Tribunal of some dubious transactions, but such transactions represent a very tiny proportion of the total number of business transactions in this country. During the last 3 years, when he had been in close contact with business in this country, the hon. member said that he would like to place on record that the overwhelming majority of those with whom he had been in contact were honest. Continuing, Mr. Belcher said that throughout the inquiry he was very conscious of the limitations imposed upon him by the procedure adopted. He was not able to know in advance what was the nature of the allegations against him. It has been necessary on more than one occasion for his counsel to ask for his cross-examination to be reserved because he had not been instructed. The hon. member felt throughout that irrelevant matters were being admitted, which had a damaging effect, not only upon his own name and reputation but which, it appeared to him, must have a damaging effect upon the name and reputation of others.

He understood that some people were not allowed to give evidence before the Tribunal because they were not Ministers of the Crown.[3] Mr. Belcher also felt that less than justice had been done by some sections of the Press to some of those who had appeared before the Tribunal.

He had made it his Ministerial duty to lessen the burden on controls.[4]

The Report of the Tribunal indicated that in some instances he had been on friendly terms with certain individuals and "been the recipient of small benefactions", but in the case of Mr. Pritchard, no matter who introduced those men to him (the speaker), he would have been prepared to look into their cases and take the same action as he did take.

In regard to the Sherman prosecution it had been suggested that

[1] *Ib.* 1840. [2] *Ib.* 1844. [3] *Ib.* 1845. [4] *Ib.* 1846.

the hon. member had exceeded his authority, but that action had been taken as a result of an instruction from his senior Minister.[1]

Mr. Belcher said that had he been a criminal convicted in a criminal court there would have been an appeal against the verdict.

Concluding, the hon. member said that out of his desire to assist in maintaining the standards of this House he proposed forthwith to apply for the stewardship of the Chiltern Hundreds. The hon. member then thanked Mr. Speaker for his kind consideration of him during the time he had been a member of the House.[2]

The hon. member then withdrew.

Debate on Acceptance of Tribunal's Report.—The Prime Minister (Rt. Hon. C. R. Attlee) in moving:

That the Report of the Tribunal appointed under the Tribunals of Inquiry (Evidence) Act, 1921, to inquire into allegations reflecting on the Official Conduct of Ministers of the Crown and other Public Servants presented on the 21st January, be accepted.[3]

said he thought that the hon. member had taken the right course in deciding to terminate his membership of the House.

It was right that in this House and in public administration there should be insistence on the highest standards, and that if there was any departure from them there should be the fullest and most vigorous investigation.

In the Report before them there was an adverse finding both in the case of Mr. Belcher and Mr. Gibson.[4]

Where any individual is highly placed, a finding that he had in any way departed from the highest standards involves a very heavy penalty. The House would recall what was the occasion for this inquiry. He thought that they should all acknowledge that the members of the Tribunal had conducted that inquiry thoroughly, competently and impartially and he asked the House to accept their Report.

There were cases, happily very infrequent, where it was necessary that there should be a searching inquiry before a properly constituted Tribunal, but, where that inquiry could not be carried out, recourse had to be made to the ordinary procedure of law. Thus, there may be no evidence sufficiently reliable to justify the institution of criminal proceedings and no infringement of the rights of private individuals on which civil proceedings could be instituted. Where there were rumours of corruption in the Public Service, which might shake public confidence, there must be the means of rapid investigation.[5]

This inquiry differed from any others which had been held under the Act of 1921 in that the Tribunal was not limited to inquiry into certain specific allegations but given wide terms of reference. Every allegation was fully considered by the Tribunal and if they thought

[1] *Ib.* 1847. [2] *Ib.* 1848. [3] *Ib.* 1849. [4] *Ib.* [5] *Ib.* 1850.

fit was thoroughly investigated on their instructions by the Police.[1] It had been established beyond doubt that the allegations of corruption in the Public Service had no foundation in fact. One junior Minister had been found by the Tribunal to have been influenced in the exercise of his functions by the receipt of benefactions from persons with whom he had had official or social relations and one individual holding a public position had been found to have been influenced in his actions by the offer of a directorship. The high reputation of the British Civil Service not only had not suffered as a result of the inquiry but had emerged from it as firmly established as ever. They might well regret that there should have been even 2 instances where public men had been held to have fallen below the standard which was rightly expected of them.

The Question as to whether there should be any criminal proceedings as a result of the inquiry was not a matter which concerned the Government, but was a matter in the exclusive province of the Attorney-General and the Director of Public Prosecutions.[2]

A deputation order had been made out in 1933 against the man known as Sydney Stanley and it was now conducive to the public good that he should leave this country.

In paragraph 336 the Tribunal make the following statement:

> 336. In the course of our Inquiry it was suggested to us that we might give some guidance to Ministers and officials who have to deal with applications from personal friends. We feel, however, that such a matter is not one which falls to be dealt with by us under the terms of our Appointment, and we express no views upon this matter.

Continuing, the Prime Minister observed that it was essential that Ministers should keep a close watch on the working of their Departments and their machinery, but there must be no ground for suspicion that by the submission of a case to a Minister or a senior official, rather than through the ordinary official Departmental channels, an individual would be able to get more favourable treatment.

The Prime Minister was considering whether some further guidance might not be given as to the extent to which Ministers should accept hospitality from persons whose business brought them into relationship with their Departments.[3]

Another passage in the Report was the relationship between a Parliamentary Secretary and Departmental officials. The constitutional position was that the Minister alone is answerable to Parliament for the administration of his Department. The Parliamentary Secretary, like the Permanent Secretary and other officials of the Department, derived his powers of delegation from the Minister and the extent of his delegation might vary. The Prime Minister said that it was most desirable that junior Ministers should be given a full share of responsibility. Foremost among the duties of the Parliamentary Secretary are, normally, the duty of assisting the Minister in the Parliamentary

[1] *Ib.* 1851. [2] *Ib.* 1852. [3] *Ib.* 1853.

aspects of his Departmental work, but, in addition, the Minister might delegate to the Parliamentary Secretary responsibility for a specific section of work.

Within this field, the Parliamentary Secretary would have power to take decisions on behalf of the Minister; but he should not take final decisions contrary to the advice of the Permanent Secretary or senior officials of the Department. Where differences arose between the Parliamentary Secretary and senior officials, the right course was for the matter to be referred by the Parliamentary Secretary to the Minister for decision. When a Minister in charge of a Department is absent for a considerable period, the usual practice is to arrange that major issues of policy arising in his Department should be handled in his absence by another Cabinet Minister.[1] It had emerged from the Report that there were such persons as "contact men" holding themselves out as having special knowledge of the working of a Department, or even as being able to influence Ministers or civil servants in return for payment made to them in one form or another. Such a person might owe his success and his power to make money to holding out, however falsely, that he could get advantages for his client from that access. Mr. Attlee then said that he proposed to set up a small Committee to examine the matter.

There was also the "contact man" who was at pains to become acquainted with M.P.s and Ministers and who offered, for gain, to put such persons in touch with them. Some of these "contact men" made quite an improper use of the facilities of the House. In one instance, a "contact man" sent a sum of money to an M.P., who returned it. Had the M.P. reported the matter to the House, it might well have been an inquiry by the Committee of Privileges.[2]

The Prime Minister said that he had spoken to Mr. Speaker on the matter, who suggested that, with the assistance of some members of the House, they might review the existing rules as to the admission of strangers to the precincts of the House. Concluding, Mr. Attlee said:

> Whatever be our Party differences, we are all united in our determination to maintain the highest standards of integrity in the public life of the country. . . . It is therefore, the duty of every one of us to exercise a constant vigilance.[3]

The Leader of the Opposition (Rt. Hon. Winston Churchill), in accepting the Report, remarked that there was no need for the House either to add to or subtract from it.

Mr. Gibson had acted with propriety in resigning his directorship of the Bank of England and also his position on the Nationalised Electricity Board.[4]

This special procedure of law was prescribed to deal, not only with matters where common criminalities and specific charges were

[1] *Ib.* 1854. [2] *Ib.* 1855. [3] *Ib.* 1856. [4] *Ib.* 1857.

involved, but with the special position, obligations and behaviour of Ministers of the Crown.

There is a great gulf fixed between private conduct and that of persons in an official capacity, and, above all, in a Ministerial position. The abuse or misuse for personal gain of the special powers and privileges which attach to office under the State is rightly deemed most culpable and quite apart from any question of prosecution under the law, is decisive in respect of Ministers.

Mr. Churchill then quoted the words the Prime Minister himself used, when Leader of the Opposition in 1936, on the J. H. Thomas case:[1]

> The debate today does not raise in any way at all a Party issue. It is a mere House of Commons matter, concerning the honour of Members of this House . . . and the two Members concerned have been found by the Tribunal to have acted in a manner inconsistent with the position which they held in public life. I agree entirely with the Prime Minister that that alone is a very heavy punishment. Other consequences have followed, such as the necessity, which they have rightly realized, that they must vacate their seats, and I do not think that any one of us would wish, by any word of ours, to add to this punishment. . . . We must all sympathize with the families of the Members who necessarily suffer, though entirely innocent, and I think we all have a very natural reluctance to pass judgment on others. We are all conscious of our own faults; at the same time, we must not allow our personal sympathy for men who are down to lead us to condone in any way, the seriousness of the offences committed. It is our clear duty to vindicate the honour of this House. We owe that duty not only to this House but to democratic government and to the servants of the State. There are many attacks made on democratic government today, and any action of the nature of utilization of a public position for private gain cuts at the root of democratic government. The corruption which accompanies dictatorships is generally hidden; the corruption which enters into a democracy is brought to light and must be dealt with drastically, and if there is any suggestion at all it is that, as a democratic assembly, we are bound to take action.[2]

Mr. Churchill remarked that they were glad the Tribunal had declared that no taint or reproach of corruption lay upon the various other Ministers whose names were mentioned during "the unthinking cruelty of modern publicity".[3]

Continuing, Mr. Churchill said that he was bound to say that whereas the honour of those Ministers had been effectively cleared, the competence of some of them in the discharge of their departmental duties was not free from criticism in all respects and would seem to require at a later stage the attention of the Prime Minister. The Head of a Department ought to know pretty well how his immediate Parliamentary subordinates were carrying on.[4]

With reference to the making of rules in connection with "contact men" visiting this House, Mr. Churchill remarked that after all they were members of Parliament and if they could not manage the conduct of their personal relationships within this building in a

[1] *Ib.* 1858. [2] 313 *Com. Hans.* 5, s. 420. [3] *Ib.* 419. [4] 460 *ib.* 1859.

decent and reasonable manner "we have smudged ourselves in a manner which no statutory Tribunal has ever done".[1]

Mr. Churchill trusted that the most severe methods open to the law would be used against the disreputable persons who had been concerned in attempts to corrupt their public men or had been concerned in the processes which the Tribunal had censured.

In conclusion, Mr. Churchill said:

> We are Britons and we are all brothers, and we are proud of our decent, tolerant, comprehending life at home. We have been brought up to believe that our standards are certainly not inferior to those of any other long-established or newly formed system of Society in the world, but we must beware of putting too great a strain on British human nature.[2]

In the debate which followed, many points were raised, including the attention called to the particular procedure of these Tribunals; the sudden manner in which the inquiry was referred to the Tribunal; why Ministers of the Crown should be treated differently from ordinary individuals; anonymous letters; the enormous increase in the power of patronage of individual Ministers and Departments, etc.; but as they were mostly dealt with subsequently by the Attorney-General, the following quotations from his speech will indicate the points more concisely:[3]

The Attorney-General said that the general attack upon the Tribunal seemed to be based largely upon an attempt to translate into the field of this judicial fact-finding inquiry, the rules of evidence appropriate to criminal procedings in the courts where particular individuals were charged with specific offences. In the criminal law every possible advantage is given to the alleged wrong-doer. He is not to be convicted unless the case against him is proved beyond all reasonable doubt. The life or liberty of the prisoner is at stake and the rules of evidence are particularly strict. In particular, the criminal law provides that the one person who knows most about the circumstances of an offence—that is to say, the offender himself—cannot be called to give evidence and information about them.

If these rules were applied to a fact-finding inquiry—this Tribunal—or if the rules of criminal procedure were applied to ordinary civil proceedings in civil courts, where the defendant can be compulsorily interrogated and compelled to give evidence, although the result may go against himself, it would be quite impossible to get at the real truth in the matter of allegations of this kind. Allegations of public corruption; of public misfeasance would have to go uninvestigated, unless the people concerned were subjected to a criminal charge and governed by the rules of evidence, peculiar to our criminal law.

It was precisely because of this, continued the Attorney-General, that, following allegations made by Captain Loseby in 1921, Parlia-

[1] *Ib.* 1860. [2] *Ib.* 1861. [3] *Ib.* 1863-1921.

ment decided to set up a Tribunal of this kind and passed the Tribunals of Inquiry (Evidence) Act 1921.[1]

To suggest that because this Tribunal did not and could not apply to the evidence the rules of evidence peculiar to criminal courts, that its proceedings were really unsatisfactory, was wholly unrealistic.

If it was found that, although grave allegations of a public nature had been made concerning the public life of the country, there was not sufficient evidence[2] on which criminal proceedings could be based—and that was the position because the Director of Public Prosecutions could not issue a certificate and he (the Attorney-General) had no doubt that that was right—what were they going to do? Were the allegations to be left, were they to be passed over and left to rankle and contaminate our public life, or were they to be brought out in the open, investigated and proved, or disproved in the only way that the ingenuity of this House or of the legal profession had so far found possible?

The Tribunal had to find out by all the legitimate means of evidence available, according to the ordinary rules of evidence, what the facts were. Then it proceeded to decide whether, in regard to particular individuals, corruption had been proved, and in deciding whether, in regard to particular individuals, specific charges had been established, it applied the rules of evidence applicable to that matter.[3] What happened in respect of the receipt of anonymous communications received by the Tribunal is what happened in the case of the receipt of anonymous communications by the Director of Public Prosecutions or by the Police. They are treated with discretion. If it was thought that it contained some specific allegations which could be made the subject of investigation or could be proved or disproved by routine investigation, the matter was investigated. Something in the order of 100 anonymous communications were received by the Tribunal. Eight were thought sufficiently specific to be worthy of investigation. They were looked at privately, not in public; not a word was known about it by the newspapers and there was no discussion of it before the Tribunal; but they were looked into.[4]

With regard to 2 of the 8 letters, it apparently appeared to the Tribunal that they were matters which ought to be made the subject of public investigation by asking questions of the people most directly concerned with them and asking them in public.[5]

In regard to one allegation upon which the Tribunal was to inquire and in the conduct of a particular witness is in point, it was manifestly proper and legally admissible for them to explain their conduct by saying what other people had told them. The following was how the matter was put by Mr. Justice Lynskey himself, who, the Attorney-General said, was one of the greatest trial judges in this country:

[1] 11 & 12 Geo. V. 117. [2] 460 *Com. Hans.* 5, s. 1923. [3] *Ib.* 1924. [4] *Ib.* 1925. [5] *Ib.* 1926.

The whole thing is that applying the ordinary rules of evidence all these matters are properly admissible. The position really is that there is no issue before the Tribunal to decide and no defendant to be tried or no parties to be adjudicated between and this Tribunal was asked first of all to see what accusations had been made. That meant, of course, all evidence relating to accusations was relevant to our inquiry. Equally so far as each individual witness was concerned, he was potentially a person whose conduct was being inquired into. The result is that any evidence which affected him, or which he gave which would affect himself, became relevant evidence from his point of view, and the result, of course, is that in an inquiry of this sort all evidence which affects the conduct of any individual, or affects any accusation which is alleged to have been made becomes relevant evidence before the Tribunal. So far as the Tribunal are concerned, we have tried to apply that rule and that is why, when at times we have been asked to go outside the real ambit of the inquiry we have taken the view that that is not relevant to any question before us. That is the principle we have sought to apply. I hope I have made clear what we have done.[1]

Sir Hartley, continuing, said that it was not to be said that, although it may well be that innocent names were canvassed before the Tribunal that was in any way the result of departing from the normal rules of evidence which would be applied to any court.[2]

The Attorney-General:

I will not have it said that this Tribunal failed to call a single person who might have given relevant evidence and whom any interested party asked to be called. Not one. No application was made in the course of these proceedings to call a witness which was refused.[3]

Sir Hartley, in reference to the personnel of the Tribunal, said that when it was suggested that this Tribunal had done violence to the law, that it had failed to observe the elementary rules of evidence and fair play, he wondered if it had been forgotten what the Tribunal was. Chaired over by one of the most distinguished trial judges, assisted on the one hand by the Chairman of the Bar Council, and on the other hand, by a distinguished Chancery silk. The Attorney-General then closed his speech as follows:

I know, of course, that it is only the intense zeal for the rights of the individual and their great passion for law and justice which have prompted my hon. Friends to make the criticisms which they have made of this procedure, but having made them, I hope they will now vote for this Motion and thus demonstrate to all the world that this Party and this House are united on this—that the integrity and honour of public life will be manifestly and fearlessly maintained.[4]

The hon. member for Oxford (Mr. Quinton Hogg) observed that the Tribunal procedure was set up to investigate cases of this kind, very largely because the only alternative procedure which had been invented had broken down. The only alternative procedure was that of a Select Committee, and in fact the Select Committee had discredited itself over the Marconi case.

The hon. member said that he could not conceive any responsible person suggesting, either that matters could satisfactorily be dealt

[1] *Ib.* 1927-8. [2] *Ib.* 1928. [3] *Ib.* 1930. [4] *Ib.* 1934.

with by private investigations of the Police, or that any sort of private investigation replaced the fullest publicity in cases where allegations were made against the purity of their public life.[1]

It was absolutely intolerable that it should be thought that there was a higher standard for Ministers and a lower standard for honourable members of this House. If hon. members were found guilty of conduct that unfitted them for being Ministers it thereby unfitted them for being members of this House.

The hon. member drew attention to the fact that queer underworld characters who appeared in the witness box before the Tribunal were not representative either of British business or British public life.[2]

The hon. member for Scottish Universities (Rt. Hon. Sir John Anderson) said that Mr. George Gibson was well known to him as a Minister, and that he was very conscious of the valuable work Mr. Gibson had done in connection with National Savings Banks. It was a sad reflection to the hon. member that that work may have led directly to his advancement and thus to his downfall by upsetting the balance of his judgment.

The hon. member for Sowerby (Mr. Belcher), too, had accepted the penalty and the consequences for him and those connected with him were terrible indeed. It must be largely a matter of speculation that he took a somewhat mistaken view of his position as Parliamentary Secretary. He may have thought that it was inherent in that position that he could override the judgment of experienced permanent officials.[3]

There were later passages in the Report, observed the rt. hon. Gentleman, which he thought complicated the situation still further, because it appeared that when the Parliamentary Secretary had given his decision, the Permanent Secretary of the Department was moved to address a protest to the President of the Board of Trade, the responsible Minister. The rt. hon. member considered that he was fully justified in doing so. Then, it was found that the Permanent Secretary of the Department recorded an opinion that there had been a misunderstanding and that the Parliamentary Secretary had not correctly understood the view taken by the permanent officials.[4]

He was bound to say that he thought that the President might have realized what was going on in the Department. Certainly the permanent officials realised it.[5]

Continuing, the rt. hon. Gentleman remarked that they had just learned of the appointment of a number of Parliamentary Secretaries, and he hoped that they were taking up their offices under no illusion that they became automatically vested with authority to override permanent officials of experience in matters of administration. That was not the legal position, that was not the constitutional position and it was not common sense.

[1] *Ib.* 1935. [2] *Ib.* 1937. [3] *Ib.* 1948. [4] *Ib.* 1949. [5] *Ib.* 1950.

Great regard must be paid to the Parliamentary Secretary who occupied a position of great importance and responsibility, but he came to a Department, in the first instance, without experience of it. He had a job to learn. The relationship between the Parliamentary Secretary and the permanent officials presents no difficulties. It could be conducted with perfect good feeling on both sides, as he knew from long experience.[1, 2]

Sir John Anderson referred to the Prime Minister having said that a prosecution was not a matter of concern to the Government; but a matter solely for the Attorney-General.

The Attorney-General here interjected by saying that he always understood the position of the Attorney-General to be that he was solely responsible for the decision in any case which came before him. He must inform himself of all relevant matters. Matters of policy may be relevant. If he thought that they were, it was for him to inform himself of the views of his colleagues, and not for his colleagues to volunteer those views to him. If, when he had informed himself of those views, he though it desirable—and it was a matter for him—he attached such weight to them as he though fit, but the decision was solely and exclusively for him. That was laid down in a number of cases.[3]

The Lord President of the Council (Rt. Hon. Herbert Morrison) at the close of the debate, remarked how important it was that the standard of purity in British public administration must be maintained, even to the point of severity, even if it involved a rough time for people in given circumstances. Whether in national or local government, there could be no greater threat to the permanence of their democracy and democratic liberties than that the public should get it into their heads that national or local government was irregular, subject to improper inferences or even corruption and bribery.

To a good democrat, a good Parliamentarian or a good municipal adminstrator, it was always right and well worth while to make the most determined efforts to keep their public administration clean and above suspicion and to be determined to root out bribery, corruption, and even irregularity whenever they appear.[4]

Referring to the functions of Parliamentary Secretaries, Mr. Morrison said that it was important that there should be a reasonable measure of delegation to Parliamentary Secretaries for 2 reasons; first, it helped to relieve the Minister who would otherwise be overburdened; secondly, it gave the Parliamentary Secretary experience within a given field. They should be brought into confidence. It was surely right that they should have delegated functions within a proper sphere.

What he did in regard to the work of his 3 Parliamentary Secre-

[1] Sir John Anderson had held many high positions in the Civil Service and later was a Minister and eventually the Chancellor of the Exchequer.—[ED.]
[2] 460 *Com. Hans.* 5. s. 1951-2. [3] *Ib.* 1952. [4] *Ib.* 1956.

taries at the Home Office and the Ministry of Home Security, was to go through the list of functions of the Department, decide what should be delegated, what should not be delegated and then give instructions both to the Parliamentary Secretaries and to the senior officers of the Department that, if there was disagreement between the Parliamentary Secretary and the senior officers, the matter must come to the Minister for decision.[1]

Mr. Morrison then referred to what had been said during the debate in regard to the use of the House of Commons by strangers. He hoped that the House would agree with Mr. Speaker's idea, because there were certain matters regarding the use of the House by strangers which it would do no harm to look into. He thought that the matter could be cleared up by means of a useful, modest, quiet investigation.[2]

Question was then put and agreed.[3]

Space does not admit of a synopsis of the voluminous evidence, but official reference thereto has been given above for any reader wishing to go more deeply into the matter.

As an outcome of this investigation under the Tribunals of Inquiry (Evidence) Act 1921, Mr. Belcher, following his announcement in the House of Commons (*see above*) that he would forthwith apply for the stewardship of the Chiltern Hundreds (actually the Manor of Northstead) made such application on February 3, 1949, which ceased his membership of the House of Commons and a new writ was issued.[4]

Mr. Belcher had already resigned from the Ministry of the Board of Trade on December 14, 1948.

On January 26, 1949, Mr. Gibson announced his resignation from the Chairmanship of the North-Western Electricity Board and on the following day also his resignation from the following posts:

Vice-Chairman: National Savings Movement;
Chairman: North West Industrial Estates Ltd.;

as well as his association with the Educational Travel Association, the Canadian Relief Fund and St. John's Ambulance Association.

The Times in a leader[5] suggested that the following should be queried by Parliament:

(1) lack of fastidiousness in private friendships of eminent men must re-act adversely upon the quality of public life; and

(2) the growth of "contact men".

The Times further remarks that the labyrinth of technicality in which the administration of controls has tended to become involved, is no doubt no excuse or justification for some of the strange conduct of which this Inquiry has given so revealing a glimpse, but the Inquiry will have conferred positive benefit upon the country if it gives fresh impulse to the drastic simplification of this administrative

[1] *Ib.* 1958. [2] *Ib.* 1960. [3] *Ib.* 1962.
[4] 461 *Com. Hans.* 5, s. 1833; 204 C.J. 126. [5] Jan. 26, 1949.

paraphernalia, however necessary measures of control may continue to be.

There have only been 3 other inquiries made under the Tribunals of Inquiry (Evidence) Act 1921, namely:

(1) Report of the Tribunal of Inquiry in regard to the interrogation by the Police of Miss Savidge in 1928;[1]

(2) The Report on Budget Disclosure Inquiry, 1936;[2] and

(3) Report of the Tribunal of Inquiry into the loss of H.M.S. *Thetis*, 1940.[3]

Other notable inquiries have been:

(*a*) Special Report from the Select Committee appointed to inquire into the origin and circumstances of the invasion into the South African Republic by an Armed Force and into the administration of the British South Africa Company, etc., 1897.[4]

(*b*) Second Report from such Committee ((*a*) above) with the Proceedings, Evidence, Appendix and with Index and Digest of Evidence, 1897.[5]

(*c*) Report of the Select Committee of the Cape of Good Hope, House of Assembly on the Jameson Raid into Territory of the South African Republic, 1897.[6]

(*d*) Imprisonment of Mr. Davies and Captain Sampson, 1897.[7]

(*e*) Claim for Damages on account of the Jameson Raid, 1897.[8]

(*f*) Affairs in South African Republic, 1897.[9]

(*g*) Closing of the Vaal River Drifts, 1897.[10]

(*h*) British South African Company, Native Administration, 1897.[11]

(*i*) Report from the Select Committee on Marconi's Wireless Coy., Ltd., with proceedings and appendix (with diagram), 1913.[12]

(*j*) Special Report from Select Committee on Marconi's Wireless Company, Ltd., 1913.[13]

(*k*) Special Report from Select Committee of House of Commons on Marconi's Wireless Coy., Ltd., 1913.[14]

(*l*) Report from Select Committee on Marconi's Wireless Co., Ltd., 1913.[15]

(*m*) Report from Select Committee on Marconi's Wireless Co., Ltd., with Proceedings, Minutes of evidence and appendix, 1913.[16]

(*n*) Correspondence on termination of Miss Douglas Pennant's appointment as Commandant, W.R.A.F., 1919.[17]

(*o*) Report from Select Committee of House of Lords on Inquiry on Miss Douglas Pennant, 1919.[18]

[1] *Cmd.* 3147. [2] *Ib.* 5184; *see* JOURNAL, Vol. V. 21. [3] *Cmd.* 6190.
[4] H.C. 64. [5] H.C.H.C. 311 and 311—II and H.L. 165. [6] *Cmd.* 8380.
[7] *Ib.* 8346. [8] *Ib.* 8404. [9] *Ib.* 8423. [10] *Ib.* 8474. [11] *Ib.* 8547.
[12] H.C. 185. [13] *Ib.* 351. [14] *Ib.* 515. [15] *Ib.* 515—I. [16] *Ib.* 152.
[17] H.L. 182 and 254. [18] *Ib.* 243.

VI. THE CANADIAN CONSTITUTION AND THE FEDERAL-PROVINCIAL CONFERENCES OF 1950

By Léon J. Raymond, O.B.E.
Clerk of the House of Commons.

The anomalous position of Canada with regard to her constitution has long been realized. Canadians are more than ever anxious that the British North America Act, 1867, should be repatriated as a Canadian document to be amended by their own Parliament and by the Legislatures of the Provinces. As has, on different occasions, been noted in this JOURNAL[1] the question has oftentimes been raised in the Canadian Parliament, at the different federal-provincial conferences held at Ottawa and by many authors[2] who have written on the subject.

Thus the question was kept alive up to the time of the opening of the First Session of the twenty-first Parliament when Prime Minister Saint Laurent announced, in the Speech from the Throne that the United-Kingdom Parliament would be asked to vest in the Canadian Parliament the power to amend the Canadian constitution in federal matters and that subsequently a federal-provincial conference was to be called to try and reach agreement upon a procedure for making all constitutional amendments within Canada.

The Parliament of the United Kingdom having granted to the Canadian Parliament the right, already possessed by the Canadian Legislatures, of amending its own constitution the stage was set for dealing with the method of amending other parts of the British North America Act.

The first Session of the Constitutional Conference of Federal and Provincial governments took place in Ottawa on the 10th of January, 1950, and the Prime Minister, the Right Hon. Louis St. Laurent, in his opening address, explained the purpose of the meeting. He said: "The purpose of this conference is to seek together to devise a generally satisfactory method of transferring to authorities responsible to the people of Canada the jurisdiction which may have to be exercised, from time to time, to amend those fundamental parts of the constitution which are of concern alike to the federal and provincial authorities."

The Prime Minister of Canada was followed by the premiers of all the provinces who were in agreement on the object to be attained. The Premier of Nova Scotia the Hon. Angus L. Macdonald read a

[1] *See also* JOURNAL, Vols. IV. 14; VI. 191; VIII. 30; IX. 97; XV. 158; XVIII. 203.

[2] Clokie, H. McD., *Canadian Government and Politics* (Toronto, 1944). Corry, J. A., *Democratic Government and Politics* (Toronto, 1946). Ewart, John S., *The Kingdom of Canada, Imperial Federation, the Colonial Conferences, the Alaska Boundary and Other Essays* (Toronto, 1908). Gérin-Lajoie, Paul, *Constitutional Amendment in Canada* (Toronto, 1950). Kennedy, W. P. M., *Essays in Constitutional Law* (London, 1934); *The Constitution of Canada, 1534-1937* (2nd Ed., London, 1938). Ollivier, Maurice, *Problems of Canadian Sovereignty* (Toronto, 1945).

carefully prepared memorandum which pretty well outlined the point of view of the provinces. As to the purpose of the Conference he said:

This is to discuss the feasibility of divising a constitutional amendment which will enable subsequent amendments to be made in Canada without resort to the Parliament of the United Kingdom; except as to matters already within the exclusive jurisdiction of the Canadian Parliament, pursuant to the B.N.A. Act (No. 2), 1949, or of the provinces under S. 92 (1) of the Act of 1867.

It is to be noted that what is to be considered is a general procedure for amendment and not the consideration of particular amendments. We are concerned here with methods, rather than with the substance of amendments.

The province of Nova Scotia assumes that the Conference will not attempt to draft an amending procedure, but will explore the views of all concerned in the effort to secure a basis of agreement in general terms, capable of being put into the form of a draft statute after further discussion by a committee appointed by this Conference. It is our view that what is sometimes called a continuing committee should be set up to prepare, perhaps several different methods to accomplish the purpose, and that this Conference at some later date should re-assemble to consider those suggestions and if possible on that second occasion to come to a conclusion.

As to the amending process in general he added:

(*a*) The amending process should require the association of both the dominion and the provinces.

(*b*) The province believes that the amending process should require only the participation of the legislative bodies of the dominion and provinces. It sees no advantage to be had by importing such machinery as popular referenda or constitutional conventions into a process which is essentially one for the established legislative bodies.

The provinces of course realized that there are different types of provisions in the constitution and therefore that there could not be one uniform method of amendment applicable to all but rather that there should be a prescribed method for each main type of provision "with safeguards proportionate to the importance of the interests concerned".

Mr. Macdonald in his speech suggested that these provisions should fall in the following classes:

(*a*) Provisions concerning the dominion only, *e.g.* Sections 23, 24, 30-36. These are sections of the type that we feel could be amended by the dominion parliament without any consultation with the provinces. For instance, they deal with such matters as a quorum of the House of Commons, a quorum of the Senate, qualifications of Senators and so on. We feel that that is not a matter of any concern to the provinces.

(*b*) Provisions concerning Fundamental Rights, *e.g.* Section 92 (Nos. 12, 13, 14). These are the clauses of Section 92 that deal with the administration of justice, the solemnization of marriage and property and civil rights in the provinces. We regard these as fundamental: Section 93, which deals with education; Section 99, which deals with the tenure of office of judges; and Section 133, which deals with languages, also embody fundamental rights.

(*c*) Provisions concerning the dominion and some of the provinces. Examples are found in Sections 69 to 80, 86, 87, 88, 94, 124 and 147.

(*d*) Provisions concerning the mutual relation of the dominion and all of

the provinces. Examples are found in Sections 21, 22, 28, 51, 51A, 90, 91, 92 (except Nos. 12 to 14), 95, 96, 101, 118, 121 and 125.

These four types of provision, we think, exhaust the sections indicating the complete character of the British North American Act.

As to the question of delegation of powers the Conference had it constantly in mind, recalling that the Commission on Dominion-Provincial relations had recommended in 1938 that " a general power of delegation for both the dominion and the provinces should provide a measure of flexibility which is much needed in our federal system ".

It was recognized, and this opinion was later confirmed by a judgment of the Supreme Court,[1] that this power of delegation did not exist in the constitution and if it was to be created it would have to be by a constitutional amendment.

Whereas the first day of the January Conference was given to general statements respecting principles by the Prime Minister and Premiers; the second day was consecrated to the discussion of ways and means of applying those principles and to the suggestion of specific proposals to that effect and ended in the suggestion of the setting up of a small committee composed of the Attorney-General of Canada and the Attorneys-General of the provinces to devise a wording embodying the proposals made as to principles and categories mentioned, including with the same a delegation provision.

The Attorneys-General met the next morning and brought in a unanimous report as follows:

REPORT OF THE COMMITTEE OF ATTORNEYS-GENERAL TO THE CONSTITUTIONAL CONFERENCE OF FEDERAL AND PROVINCIAL GOVERNMENTS

Your committee recommends the following resolutions:

1. That the provisions of the British North America Acts, 1867-1949, and other constitutional acts be grouped under six heads, namely:
   (1) Provisions which concern parliament only.
   (2) Provisions which concern the provincial legislatures only.
   (3) Provisions which concern parliament and one or more but not all of the provincial legislatures.
   (4) Provisions which concern parliament and all of the provincial legislatures.
   (5) Provisions concerning fundamental rights (as for instance, but without restriction, education, language, solemnization of marriage, administration of justice, provincial property in lands, mines and other natural resources) and the amendment of the amending procedures.
   (6) Provisions which should be repealed.
2. That in respect of group (1) amendment shall be made by an Act of the parliament of Canada.
3. That in respect of group (2) amendment shall be made by an Act of the provisional legislatures.
4. That in respect of group (3) provision be made for amendment by an Act of the parliament of Canada and an Act of legislature of each of the provinces affected.

[1] The Attorney-General of Nova Scotia *v.* The Attorney-General of Canada, October 3rd, 1950.

5. That in respect of group (4) provision be made for amendment by an Act of the parliament of Canada and Acts of such majority of the legislatures and upon such additional conditions, if any, as may be decided upon.

6. That in respect of group (5) provision be made for amendment by an Act of the parliament of Canada and Acts of the legislatures of all the provinces.

7. It is recommended that the process of amendment in respect of categories (3) to (6) inclusive of paragraph 1 be capable of being initiated by one or more of the provincial legislatures or by the parliament of Canada.

8. In the opinion of this committee the subject of delegation of powers should be placed upon the agenda.

All of which is respectfully submitted.

The report was brought at 12.50 o'clock, then the Conference adjourned to meet again at three o'clock when the report was generally accepted.

Mr. St. Laurent then stated:

This report does indicate the categories for the distribution of the provisions of the British North America Acts, 1867-1949. We realize, of course, that includes even those that were not, in form, amendments of any specific sections of the act of 1867. The other acts are all declared in their terms to be susceptible of description in a group as the British North America Acts, 1867-1949, inclusive. The categories are determined. The characteristics for each provision are set out in the headings of those categories. Again I say I believe it would be unrealistic to hope that we could all be prepared at this time to express definite views as to where any given provision should be placed in these categories.

There are some provisions about which there can be no doubt. All those that are indicated as examples, are examples of what will be in those categories and will, themselves, be there. But with respect to the other matters there there may be some doubt.

Yesterday Mr. Manning stated twice, once at page 67 and again at page 87, that in his view the individual governments would want to have some time to give very serious consideration to the allocating of these matters to one category or another. He suggested that the most practical procedure might be the establishment of a continuing committee, with the understanding that each government would supply this continuing committee with its considered views as to the proper allocation of these various matters. After that is done, the conference should reconvene to try to harmonize the views that will have been formulated on bealf of each of the governments concerned.

According to this suggestion of the Prime Minister and along the lines of a first draft by Mr. Macdonald of Nova Scotia the Conference then accepted the following resolution respecting a Standing Committee of the Constitutional Conference.

Resolved that this conference agree to:

(1) The appointment of a standing committee representative of the federal government and the provincial governments, of which the Attorney-General of Canada shall act as chairman.

(2) Presentation to the Committee, with the least possible delay, by the federal government and the provincial governments of their views respecting the classification of each section of the B.N.A. Act, 1867, as amended, and all other constitutional acts of the United Kingdom parliament or other constitutional documents relating to Canada.

(3) The standing committee shall use its best efforts to harmonize the views of the federal government and the provincial governments.

(4) The committee shall, as soon as possible, report to the federal government and the provincial governments the results of its work.
(5) The conference shall then re-assemble to determine finally the amending procedure to be recommended to the several legislative bodies concerned.

At the conclusion of the plenary session of the Constitutional Conference of January, 1950, a secretariat was appointed to the Committee of Attorneys-General. The procedure which followed was that briefs of all governments were forwarded at different dates to the secretaries and then distributed to all governments, federal and provincial, on or before July 24, 1950, classifying the sections in the different categories accepted at the plenary session of the 12th of January.

A compilation of these classifications was made and submitted to the Committee of Attorneys-General which met in Ottawa on the 21st of August to carry out the instructions of the conference.

It was found from the Report of the Attorneys-General that there were some 36 sections on which there was a large measure of agreement in the briefs submitted prior to the meeting of the Committee. The Report showed further that agreement had been reached on 61 other sections at the Conference but that there still remained some 45 sections upon which it was not possible to secure unanimous agreement and on which accordingly the Committee recommended there be further consideration given at the General Conference and fixed the date for the reassembling of the Conference as September 25, 1950, at Quebec.

Of those sections on which there was not complete agreement it is to be noted that 4 of them were made to stand pending the decision of the Conference on the advisability of drafting a uniform section on the constitution of the legislatures, providing for a yearly session thereof, and for the duration of the legislatures. Then another 7, namely: 100, 108, 109, 117, 121, 123 and 125 were reported as being sections to which there appeared to be quite a substantial measure of agreement, which meant, as underlined by Mr. Garson, that: "out of the 140 odd sections of the Act that leaves something of the order of approximately 30 sections which represent the more difficult ones upon which to reach agreement".

The fact that at times the delegates insisted on dealing with certain sections, not as they stood, but as they should stand, further complicated the matter. In other words, there were moments when the Premiers were not content with providing a method of amending the constitution as they found it, but suggested that Canada should have a new constitution with certain sections which constituted quite a departure from the present provisions. For instance, Mr. Duplessis, the Premier of Quebec, suggested that the appointment of lieutenant-governors should be made by the provinces in lieu of the governor-in-council and have something to say in the constitution of the Senate of Canada.

The stumbling block of the Conference, however, was in connection with what Mr. St. Laurent had previously mention as "amendments that would in effect have the consequence of enlarging some jurisdiction and restricting some other jurisdiction".

In the British North America Act, 1867, section 91 deals with the Legislative authority of the Parliament of Canada and section 92 with the Exclusive Powers of the Provincial Legislatures. With regard to section 92 Ontario and Quebec were at first of the opinion that practically all the powers of the provinces should be so entrenched that they could not be curtailed except with the consent of all the provinces. The provinces were in general agreement as to the necessity of entrenching items 12 and 14 of section 92 which are "The solemnization of marriage in the Province" and "The administration of Justice in the province".

The conference in the end was mainly of the opinion that section 92, except items 12, 13 and 14 could be amended by the federal parliament and a majority of the legislatures representing 55 per cent. of the poplation.

The most difficult problem that occurred was the disposal to be made of item 13 of section 92 "Property and Civil rights". Mr. Duplessis was not willing that amendments should be made to the Constitution affecting property and civil rights within the province unless by unanimous consent. It was objected that, as most amendments to be made in future would so affect this item, the result would be to put the constitution in a straight jacket and make future amendments quite impossible.

It was then suggested to subdivide this item in different categories, for example, to place the civil code or civil law in one class and social services in another, but this was also objected to by the Premier of Quebec for the reason that it was quite difficult to subdivide, not to say impossible, and for the further reason that social services meant one thing in Quebec and yet something else in the other provinces.

This second General Conference adjourned without solving all of its problems and reported that it "has had a full and frank discussion of the principles applicable to such a general amending procedure and has reached agreement on many of them. Its members are unanimously of the opinion that substantial progress has been made and are exceedingly gratified at the spirit of harmony and co-operation which has been shown by all delegates throughout the whole of the proceedings.

Important sections of the constitution involving what are considered fundamental and basic rights of the provinces were studied at length and considerable progress towards agreement has been made. Various formulæ for amendment were submitted, which, while having in view the safeguarding of these basic rights, would assure adequate flexibility in the constitution."

In its report the Continuing Committee of Attorneys-General were again requested to study the proposals received with a view to arriving at an amending procedure satisfactory to the governments concerned. It was understood that they would hold a meeting in Ottawa in November of 1950 and report to a third plenary session of the Constitutional Conference which to be held in December, 1950. The Continuing Committee was also authorized to study the methods and techniques whereby a Canadian Constitution could be domiciled in Canada as a purely Canadian instrument.

The Continuing Committee sat as it had been authorized to do and discussed the matters entrusted to its consideration but have not as yet reported for the reason that the third plenary session of the Constitutional Conference, on account of the nearness of the session and other important events, did not sit in December as had been anticipated.

All that can be said at this stage is that more progress has been made with respect to providing a procedure for amending the British North America Acts and repatriating the Constitution generally in the last fifteen months than in the last fifteen years and that the Canadian people as a whole have been made conscious of liberating themselves, I will not say of a badge of colonialisms, but of an anomaly, an anachronism, which everyone is agreed should be made to disappear in the very near future.

VII. CROWN CORPORATION PROCEDURE: THE SASKATCHEWAN LEGISLATURE'S PRACTICE

By George Stephen, M.A.
Clerk of the Legislative Assembly

The Province of Saskatchewan has 13 government-owned and operated public corporations and agencies, designated as Crown Corporations, 11 of which were post-war creations of the present Government formed by the Co-operative Commonwealth Federation (C.C.F.) Party. None of these enterprises, by the very nature of things, is comparable in size or complexity with the great nationalized industries of the United Kingdom, nor do they enjoy the same degree of autonomy.[1] Nevertheless, in Saskatchewan as at Westminster the fact that government, pursuant to policy or responsive to current politico-economic trends, has gone increasingly into business in recent years, has posed certain procedural problems similar in many respects (though again not in degree) to those encountered by the United Kingdom Parliament. The problems concerned the method by and the extent to which Legislature or Parliament should exercise its undoubted right of scrutiny where public moneys are thus involved.

[1] *Vide Ministerial Control of British Nationalized Industries.* The Canadian Journal of Economics and Political Science, May, 1951.

That these problems should, in Saskatchewan, have proved easy to diagnose and relatively easy to solve, was directly attributable to two factors. The first was that, since the Government was in business, much of it competitive business and all of it involving public moneys, the right of scrutiny was universally acknowledged and never challenged. The second was that the enterprises themselves were (and are) more or less uniform in structure, and quasi-departmental. Contrary to the British practice, each Board of Directors has as Chairman a Minister of the Crown, who is specifically gazetted as the "responsible" Minister.[1] Responsibility, therefore, was established and accepted. Thus from the start it was evident that sooner or later the Legislative Assembly would come to a realization that it was entitled virtually to a full disclosure, within the limits of "public interest", of all the operations of the various Crown Corporations. That is to say, since non-responsibility could not be pleaded, questions could be rejected only on the grounds of public interest.

The Saskatchewan Legislature, however, did not realize the full extent of its powers of inquiry all at once; nor did it reach its present procedures and techniques without the irritations of "growing pains". True, the right of scrutiny was acknowledged, the method ready-made for application; but how far that scrutiny should go, what brakes or checks should be applied and where, remained at issue. Even with agreement on principles and method, the difficulty of devising suitable techniques within the existing Standing Orders persisted. These techniques, as developed during the last (1951) Session, may stand the test of time and of succeeding Legislatures—with refinements born of experience.

It would be foolhardy, of course, to attempt to compare the incomparable, and certainly more than presumptuous to contrast Saskatchewan practice with that at Westminster, as so competently reported by Mr. K. A. Bradshaw in Volume XVIII of the JOURNAL.[2] Nor could relevancy justify the inference that the Saskatchewan Legislature had succeeded where the United Kingdom Parliament had failed by reason of a different approach to certain cognate problems. The purpose here is not, by implication or otherwise, to reflect upon proceedings in any other jurisdiction, but solely to record and review, as a matter of interest, the successive steps in the evolution of satisfactory procedure to meet a set of conditions peculiar (it may be) to the Province and Legislature of Saskatchewan.

Saskatchewan's 13 Crown Corporations are engaged in industrial and commercial activities, and in providing services such as telephone, power, transportation (highway and air) and marketing. The Government operates an extensive insurance business in virtually all branches except Life; manufactures clay, wool and timber products;

[1] Cf. *Ibid.*, p. 177.

[2] *Parliament and the Nationalized Industries: British Parliamentary Practice.* By K. A. Bradshaw. JOURNAL, Vol. XVIII. page 128.

produces sodium sulphate on a major scale from lacustrine deposits; controls the forest resources in pursuance of a sustained-yield policy; markets furs and fish for the producers; has trading posts in the remote north, and owns a printing plant. Of these, the Telephone Corporation is essentially monopolistic in character, while the Power, Forest Products and Transportation companies are quasi-monopolistic. The remainder are either directly competitive with private interests or contain elements of the competitive in their operations.

The Provincial Government took over a privately owned telephone system prior to 1910, and went into power generation and distribution in 1930. The first was administered by a Department of Telephones, whereas Power was placed under a Commission operating along departmental lines. Moneys required for and by both were voted annually by the Legislature to which annual reports were submitted. The operations of both were, in theory if not always in practice, subject to scrutiny by and through the Select Standing Committee on Public Accounts. In other wards, they were treated as ordinary departments of government. These government-owned utilities set the pattern for the new corporation established under the Crown Corporations Act of 1945[1] and the revised Act of 1947.[2]

The original Act of 1945 provided for the submission of annual reports and financial statements to the Legislature, and the corporation set-up was such as to facilitate supervision by the Legislature, as the following memorandum procured from the Government Finance Office for purposes of this article will show:

> Saskatchewan Crown Corporations, like most other business enterprises, have Boards of Directors to which management is responsible. Each Board of Directors has a Cabinet Minister as Chairman, and is directly responsible to Cabinet for the operations of the corporations. The Cabinet, in turn, is responsible to the Legislature in the normal manner of parliamentary government, and the Legislature is responsible to the electorate.
>
> In addition to the regular Crown Corporations engaged in industrial and commercial activities, there is one, the Government Finance Office, which occupies a special position in respect to the other corporations. The Board of Directors of the Governments Finance Office is composed of a majority of Cabinet Ministers, so that it resembles in some ways a committee of Cabinet. The Corporation exists to advise Cabinet on questions affecting Crown Corporations, and to give advice to the corporations respecting the administration of policies previously determined by Cabinet.
>
> The aim of this type of organization is to provide flexibility in the operation of Crown Corporations while ensuring that they are responsible to the Cabinet and thus to the Legislature.

The Government Finance Office in addition to its co-ordinating function acts as a sort of clearing-house. It is the repository of any operating surpluses earned by the corporations, and the agency through which any residual surplus is channelled into the consolidated revenue fund of the Province. Capital requirements are provided by the Legislature either directly or by guarantee of borrowings.

[1] Statutes of Saskatchewan, 1945, c. 17. [2] *Ib.* 1947, c. 13.

The Crown Corporations being thus quasi-departmental in character, it followed that Legislative scrutiny should conform more or less with established practice. In the 1946 Session of the Legislature, a new Select Standing Committee on Crown Corporations was created and appointed.[1] However, few of the new corporations being then in a position to submit annual reports and financial statements as required by the Act, the Assembly did not attempt to prescribe the terms of reference to the Committee. This was left for the Committee itself to work out and recommend.

The original intention was that the Committee should conduct a "post-mortem examination" (to use Durell's term) of the reports and financial statements, following the general lines of a Committee on Public Accounts. Since, however, the Crown Corporations established under the 1945 Act had not yet completed a full year's operations and were in consequence unable to submit the required reports and statements, the Assembly acquiesced in the recommendation of the Committee, dated March 27, 1946, as follows:

> That for the present Session of the Assembly, the reference to the Select Standing Committee on Crown Corporations be as follows:
>
> That the said Committee examine and inquire into all matters and records, completed to the latest date certain, pertaining to the financial structure and financial results of the operations of the Crown Corporations established under the provisions of The Crown Corporations Act, 1945.[2]

Then, in its final report dated April 3, 1946, the Committee recommended (among other things):

> (2) that, when Annual Reports and Financial Statements are tabled in the Assembly, each Session, under provisions of The Crown Corporations Act, 1945, the said Reports and Statements be automatically the Order of Reference from the Assembly to the Select Standing Committee on Crown Corporations.[3]

The Assembly concurring, the annual reports and financial statements tabled during the next (1947) Session were duly referred to the Committee. Again, however, difficulties were encountered. The financial year of several of the corporations had ended on March 31, 1946, and much had happened to the new corporations in the interim. Having regard to the circumstances, the Committee agreed that the reference was insufficient in itself to afford the members an opportunity to investigate adequately and report conclusively on the operations of the various government-owned enterprises. It therefore recommended, in its first report, March 18, 1947:

> That the terms of reference of the Committee be extended to permit questions to be asked respecting operations of the Crown Corporations to September 30, 1946, provided that the information sought is readily available and not, in the opinion of the responsible Ministers, of a nature to prejudice the interests of the corporations or of the public.[4]

[1] Sask Journals, 1946, p. 12. [2] *Ib.* p. 104. [3] *Ib.* p. 124.
[4] *Ib.* 1947, p. 112.

"Availability of information" was linked with "public interest" as a ground for refusal, for reasons which will appear. The concern about the commercial position of the corporations, particularly those engaged in competitive business, could readily be comprehended in the light of controversy waged in Committee over rejection of certain questions. It had become increasingly obvious that, in the more competitive of the public enterprises, trade secrets had to be protected, agreements relating to patents or with distributing agencies had to be regarded as "privileged" documents and that on certain matters Government and management must preserve reticence in the interests of the corporations, and, directly or indirectly, of the public. In the highly charged political atmosphere surrounding some of the more competitive undertakings, pressure for disclosures of this type occasionally had been intense and polemical, and the reticence thus open to misunderstanding and misinterpretation, not to say misrepresentation.

Subsequently the Government altered the fiscal years of the corporations to conform with, or to terminate later in, the calendar year so that the annual reports and financial statements should be completed to a date more closely related to the Session of the Legislature (February-March) during which they would be considered.

The Provincial General Election of 1948 brought many new members into the Assembly; and the new Committee included many wholly unfamiliar with past proceedings and lacking knowledge of the details of the capital structures of the various corporations. In these circumstances the Committee agreed to recommend in its first report to the Assembly, dated March 16, 1949:

> Your Committee has had under consideration its Order of Reference and, having regard to all the circumstances, recommends to the Assembly that the Reference be extended to include the right to inquire into current and past operations of the various Crown Corporations and Government enterprises, the reports of which have been referred to it.[1]

The extension, granted, had this noteworthy sequel: all questions relating to the Crown Corporations appearing thereafter on the Order Paper of the House were promptly "dropped" on the ground that they should more properly be asked in the Committee. This position was accepted without demur although, since Committee proceedings are not printed, the House by that act denied itself information sought by its members, many of whom were not members of the Committee.

Despite an understanding that the extension of reference should apply only for the then current Session, a similar arrangement was sought during the 1950 Session. Nor was the pressure for it relaxed until it was conceded that questions on day-to-day and past operations would be permitted provided they were, or could be,

[1] *Ib.*, 1949, p. 91.

related to figures contained in the reports and financial statements. This seemed, *prima facie*, a reasonable alternative to the recurrent requests for expansion of the reference; but the inherent difficulties in the *modus operandi* quickly became apparent. There was, for example, the matter of availability of the information sought concerning current and past operations of corporations whose records and files were (and are) located in head offices scattered throughout a far-flung province, many of them remote from the seat of government.

In this context it should be reiterated that the reports and financial statements which constitute the physical reference (so to say) cover the last completed fiscal year of the various corporations. The Committee, in developing its procedure to date, had clung closely to the precedents and methods of Committees on Public Accounts. That is, it directed its attention primarily and predominantly to the balance sheets and operating statements appended to the reports; it expected Ministers, general managers, and ranking officials of the Government Finance Office,[1] to appear before it prepared to answer all legitimate questions arising from, or related to, the figures under review. Ministers and management personnel were expected to come equipped with explanatory and supplemental data on the figures. Their summons to attend was an implied (at least) *sub pœna duces tecum* so far as the reports and statements were concerned.

When, however, questions were asked relating to past or current operations, questions legitimate no matter how tenuously they might be related to the figures under consideration, difficulties began to proliferate. Such questions were unexpected; they were unprovided for; the information was not readily available because the factual source was remote. Furthermore, organizational changes had brought changes in managing personnel, and the newcomers had not at their fingertips all the details of the earlier operations. Then, too, Ministers and management were reluctant to commit themselves to definite and immediate answers to questions of detail on current or day-to-day operations without recourse to the records. Thus many questions were parried rather than answered, or the replies couched in general terms not wholly satisfactory to the members, or "deferred" until files could be consulted—a polite way of saying they would not be given at all. For time runs out quickly in a normal Session of six weeks.

Procedural discussions in Committee to this point had established: (1) that members were agreed they should conduct basically a post-mortem examination of the physical reference—the annual reports and financial statements—along the lines of a Public Accounts Committee; (2) that a strong body of opinion opposed inclusion of past operations, on a "blanket" reference, as a reflection

[1] Cf. Attendance of Treasury officials at meetings of Public Accounts Committees.

upon the work and reports of preceding Committees; (3) that majority opinion, cutting across Party lines, was averse to inclusion of current operations, on a similar "blanket" reference, as an encroachment on the rights of the House itself. Since the House deals with Estimates through Committee of Supply, and retains the right of question on current business of Crown Corporations and Departments alike, the Committee agreed that past and current operations were, in fact, House matters to be considered by it only on special reference specific as to the details of the information sought.

At this point and in these circumstances the conviction grew that some Question Procedure satisfactory to both Committee and House was desirable and, indeed, essential, if the major difficulties were to be surmounted. The Committee agreed that such a procedure must meet the problems of specific reference and the deferred answer, and at the same time provide a means whereby the House itself might receive all information furnished in response to referred qustions. On February 23, 1951, the Committee presented its proposals to the House in a report which recommended: "(1) that all Questions by Members relating to Crown Corporations to which written answers are desired, be printed in a separate section under the heading 'Notices of Questions' in the VOTES AND PROCEEDINGS for the day on which they are submitted; (2) that the said Questions duly appear in the appropriate ORDERS OF THE DAY, a separate section under the heading 'Questions by Members', and (3) that, when called, the said Questions or such of them as may in the opinion of the responsible Minister be answered without prejudice to the public interests, be referred by routine Motion to the Select Standing Committee on Crown Corporations to be answered in writing at the appropriate time by the responsible Ministers".[1]

Provision was thus made for specific expansion of the reference, for the screening of questions by the House and for all questions save those concerning which public interest can be pleaded and sustained, to be automatically referred to the Committee. The device is simple, the technique in no way elaborate.

The latter involves a close liaison between the Clerk's Office and the Government Finance Office and, through it, with the head offices of the various corporations. The Finance Office distributes the questions to the corporations and assembles the answers. These are tabled in Committee prior to or coincidental with consideration by the Committee of the corporations concerned, in order that supplementary questions may be asked. Since Committee proceedings are not printed or published, the Committee appends all questions and answers received to its final report to the Assembly. This appendix is treated and numbered as a Sessional Paper which, with other Sessional Papers, is later considered by the Committee on Sessional Printing. On recommendation of that Committee all or any of the

[1] Sask. Journals, 1951, p. 68.

questions and answers may be ordered to be printed with the Journals of the House.

In default of any Notice-of-Question procedure in the Committee itself, the deferred answer to which is not readily available, that question is treated as a Notice of Question the answer to which, again through the agency of the Government Finance Office, is submitted in due course.

These procedures and the technique devised to make them work ensure that the Legislature has every opportunity of inquiring into all operations of the Saskatchewan Crown Corporations, subject always to the consideration of public interest. The Committee enjoys full rights of scrutiny with respect to the annual reports and financial statements, and with regard to the questions on past and current operations referred to it. The House for its part retains all rights to inquire into and discuss operations and policies past, present and future via the Budget Debate and in Committee of Supply on the Estimates inasmuch as the Budget Speech invariably gives a progress report on the corporations, and for the reason that capital requirements and operational advances for the various enterprises are regularly voted under the item "Government Finance Office". In brief and in sum, nothing stands in the way of full disclosure being sought except where such disclosure (in the Committee's own words) "might be contrary to the public interest or prejudicial to the commercial position of the corporation or agency involved."[1]

The new procedure went on trial at the last (1951) Session. In its final report dated April 5, 1951, the Committee commented as follows:

> Your Committee . . . is gratified to report that its Notice-of-Question procedure, the basis of which was laid in its recommendation to the Assembly on February 23rd, appears to have worked out satisfactorily. Of the 47 questions of which due Notice was given and to which written answers were requested, all have been answered, the said questions and answers being submitted herewith as an Appendix. . . .[2]

The question might pertinently be asked: How can a committee possibly investigate the operations of 13 Crown Corporations as effectively and thoroughly as these procedures permit in the limited time at its disposal in a legislative session of 40 sitting days?

Last Session, the Committee held 12 meetings of an average duration of three hours each, and in that time did a competent job. Since Opposition members largely directed the course of the inquiries, the tendency is to concentrate on those corporations upon which public attention has been focused for some reason and on those which were controversial in their origins. On the other hand, examination of the reports and financial statements of the utilities—Telephones, Power and Transportation—representing the largest relative public investment, usually follows a routine course involving no great

[1] *Ib.* p. 154. [2] *Ib.*

expenditure of the available time. It is significant that, of all the Standing Committees, Crown Corporations now attracts most public interest and is regarded by the Press as the most fecund source of extra-cameral news.

Note.—All statements of opinion attributed to the Committee not related to footnote references are taken from the Minutes (unpublished) of the Committee proceedings and the writer's own shorthand notes of debates and discussions on procedural matters.—[G. S.]

*VIII. AUSTRALIAN PARLIAMENT—DOUBLE DISSOLUTION

By A. A. Tregear, B.Com., A.I.C.A.

Clerk-Assistant of the House of Representatives.

For the second time since Australian Federation, both Houses of the Parliament have been dissolved simultaneously by the Governor-General.

In 1914, the proposed law occasioning the double dissolution was the Government Preference Prohibition Bill, which was twice passed by the House of Representatives and twice rejected by the Senate.

This time a Bill for an Act to repeal the Banking Act 1947-1948 and to amend the Commonwealth Bank Act 1945-1948 was the medium.

The source of the Governor-General's power to dissolve both Houses simultaneously is found in section 57 of the Constitution. From the dissolution proclamation set out below may be read the relevant provisions of that section and the incidents in both Houses which satisfied His Excellency the Governor-General (Rt. Hon. W. J. McKell, K.C.) that the constitutional requirements had been met.

Whereas by section fifty-seven of the Constitution of the Commonwealth of Australia it is provided that if the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested or agreed to by the Senate, and the Senate rejects or fails to pass it or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously:

And whereas on the fourth day of May, One thousand nine hundred and fifty, the House of Representatives passed a proposed law, namely, a bill for an Act to repeal the Banking Act, 1947-1948, and to amend the Commonwealth Banking Act, 1945-1948:

And whereas on the twenty-first day of June, One thousand nine hundred and fifty, the Senate passed the proposed law with amendments:

And whereas on the twenty-second day of June, One thousand nine hundred and fifty, the House of Representatives disagreed to the amendments:

And whereas on the eleventh day of October, One thousand nine hundred and fifty, the House of Representatives, in the same session, again passed the proposed law:

And whereas the Senate has failed to pass the proposed law:

Now, therefore, I, the Governor-General aforesaid, do by this my Proclamation dissolve the Senate and the House of Representatives.

Given under my Hand and the Seal of the Commonwealth this nineteenth day of March, in the year of our Lord, One thousand nine hundred and fifty-one, and in the fifteenth year of His Majesty's reign.

Those events of parliamentary interest which led to the dissolution are given in their sequence.

On March 16, 1950, the Commonwealth Bank Bill was introduced by the Treasurer (Rt. Hon. A. W. Fadden).[1]

Banking had been an issue at the general elections held in December, 1949, and the debate on the second reading of the Bill lasted until April 19 when the second reading was agreed to without division. Certain parts of the Bill were contested in Committee by the Opposition but the Bill emerged from the Committee stage without amendment, and was granted a third reading on May 4.

In the Senate, where the Government lacked a majority, the Bill was amended in 11 places. On June 22, the House disagreed to the Senate's amendments for the reason that they would defeat certain principles "for the establishment of which the Government obtained approval at the last general election."[2]

The Bill was returned to the Senate and the Government's motion in that place that the amendments be not insisted on was defeated by the majority Opposition.[3]

In the House, a motion insisting on disagreeing to the amendments was carried. When the message containing this decision was received in the Senate on June 23, the Government moved to have it considered forthwith but the Opposition successfully amended the motion and deferred the matter until "the next sittings of the Parliament,"[4] the Parliament at this date being on the eve of the winter recess.

Mr. Fadden reintroduced the Bill on October 4. A point of order was taken that its title was the same as that of the Bill still before the Senate, and that two identical Bills could not be under consideration at the same time. Mr. Speaker Cameron ruled that certain provisions of the constitution contemplated such an occurrence and that Bill No. 2 was properly before the House.[5]

By applying the guillotine, the second Bill was forced through the House by October 11 without amendment.

On the notice paper of the Senate for October 10, the consideration of the Message from the House in respect of the first Bill stood as Order of the Day No. 2, Government Business.

Against the desires of the Government, the Leader of the Opposition in the Senate, by suspending the Standing Orders and carrying a direction for the Order of the Day to be called on, succeeded in

[1] Votes and Proceedings, p. 34. [2] *Ib.*, p. 171. [3] Senate Journals, p. 109.
[4] *Ib.* [5] Votes and Proceedings, p. 189.

bringing the first Bill before the Senate, and, by a vote against the Government, passing a motion still insisting on the amendments. When the covering Message reached the House, the Government deferred its consideration by placing it at the bottom of the Notice Paper. There it remained for the rest of the Session.

When Bill No. 2 reached the Senate on October 12, the Opposition declined to treat it as an urgent measure. A long debate ensued on the second reading, and, after that reading on March 14, 1951, the Opposition majority, on motion, referred the Bill to a Select Committee composed of Opposition Senators only.

Nearly 12 months had elapsed since the introduction of the first Bill and the Government had not been able to put its banking proposals into legislative form.

It was, therefore, not unexpected that the Prime Minister would present submissions to His Excellency the Governor-General for a simultaneous dissolution of both Houses. These submissions are not yet available for publication.

His Excellency decided the matter without delay and within five days of the Senate Opposition's decision to refer the second Bill to a Select Committee the proclamation was issued dissolving both Houses.

Election writs were issued, and on April 28 polling took place for the return of 60 Senators and 123 Members of the House of Representatives, the full membership of both Houses.

IX. AUSTRALIA:

RESULTING CHANGES IN 1950 FOLLOWING THE ENLARGEMENT OF COMMONWEALTH GOVERNMENT

By J. E. Edwards, J.P., and F. C. Green, M.C.
Respectively the Clerk of the Senate and the Clerk of the House of Representatives of the Commonwealth.

Following the passing of the Representation Act 1948 whereby the membership of the Senate was increased from 36 to 60, and the revision of electoral boundaries of the House of Representatives, which had the effect of increasing the number of electorates from 75 to 123,[1] the House of Representatives was eventually dissolved on October 31, 1949, and a General Election was held on December 10 of that year.

To meet the needs of the increased Parliament which first met on February 22, 1950, many changes were effected. The following is a brief summary of the changes made up to and including the year 1950.

The Senate.—Unlike the House of Representatives no changes of a major character have been effected insofar as the functions of the Senate are concerned.

[1] *See* JOURNAL, Vol. XVII. 246.

No alterations to its Standing Orders have been made.

Although it can scarcely be attributed to any increase in the number of Senators, two changes of interest were made to its Sessional Orders. For many years the Sessional Orders have provided (1) that the sitting days of the Senate shall be Wednesday, Thursday and Friday of each week, and (2) that at 3.45 p.m. on Fridays the President shall put the question—That the Senate do now adjourn, which question shall *not* be open to debate. These two Sessional Orders were again duly agreed to at the commencement of the 1950-51 Parliament, but some three months later, on May 25, 1950, at the instance of an Opposition majority, new Sessional Orders were adopted which provided (1) that the days of meeting shall be Tuesday, Wednesday and Thursday of each week, and (2) that at 10.30 p.m. on days upon which proceedings of the Senate are not being broadcast, and at 11 p.m. on days when such proceedings are being broadcast, the President shall put the question—" That the Senate do now adjourn ", which question *shall* be open to debate.

Whereas it is provided in the Constitution that, irrespective of population, the Senate representation of each of the six Australian States shall be equal, the following figures may prove of some interest:

State.	*No. of Electors Enrolled as at 10.12.49.*	*Average No. of Electors per Senator.*
N.S.W.	1,916,746	191,675
Victoria	1,369,821	136,982
Queensland	697,029	69,703
South Australia	434,320	43,432
West Australia	315,771	31,577
Tasmania	161,540	16,154

The House of Representatives.—To facilitate the transaction of business in the House of Representatives a complete revision of the Standing Orders was made by the Standing Orders Committee and finally adopted by the House on March 21, 1950. From this point of view the most important amendments were the reductions in the time limits of speeches and debates, and the limiting of extensions of time to Members, to one period only. For example, the time for speaking on the second Reading of a Bill has been reduced from 45 minutes to 30 minutes, and in Committee on a Bill from 2 periods of 15 minutes each to 2 periods of 10 minutes each.

The extent to which the Standing Orders have been revised is dealt with under Editorial in this Volume.

Hansard.—Prior to the enlargement of the Parliament, the Parliamentary Reporting Department consisted of the Principal Parliamentary Reporter, the Second Reporter, the Third Reporter, 11 reporters (6 of whom reported the proceedings of the House of Representatives and 5 of whom reported the Senate), 2 clerical officers, one attendant and 8 female typists. The typists are engaged on a

sessional basis only, and are not full-time officers. To meet the circumstances of the enlarged Parliament 2 addition reporters were engaged and the actual shorthand work is done at present by 7 reporters in the House of Representatives and by 6 reporters in the Senate. When only 1 House is sitting all reporters are rostered on the one House. Experience last year in reporting the proceedings of the Parliament showed that the additional 2 men were absolutely necessary for coping with the extra work. It would be unreasonable to base final conclusions on one year's work, but the fact remains that last year the *Hansard* output of work, expressed in pages of the printed *Hansard* volumes, was an all-time record. It ran into almost 9,000 pages. This has not been even nearly approached since the first 4 formative years of the federation.

Structural.—Fifty-one rooms for use as offices for Senators and Members were added to the existing building, the party rooms being quite inadequate to accommodate the increased number of Senators and Members.

In the House of Representatives Chamber the problem of seating an additional 48 Members proved a difficult one and involved the use of a portion of the Speaker's Gallery, and Members themselves do not enjoy quite as much space as was formerly the case.

The problem of seating an additional 24 Senators in the Senate Chamber did not present any real difficulty, an additional 12 seats and benches being placed in the semi-circular aisle at the rear of the previously existing seats and benches. The gallery space on the floor of the Chamber remains undisturbed.

Perhaps the most extensive alterations and additions were effected in the Refreshment and Engineering blocks where the opportunity was taken to completely modernise these essential services when necessary additions were being made.

Alterations were made to the main Members' Dining Room and the Members' Visitors Dining Room, while an additional room was erected to meet the needs of the staff and press.

An additional Billiard Room was erected, the Members' Bar extended and modernized, new serveries installed and the kitchens modernized. The purchase of additional equipment and furniture were also items of a major character.

The main alteration to the engineering services was the replacements of the inadequate air-conditioning system, which has served the two Chambers for over 20 years, with a larger and more up-to-date system. This system also covers the Library. Additional rooms were also provided for use by the press.

Administrative.—In the Senate a new position of Second Clerk-Assistant has been created for the purpose of providing relief at the Table to the Clerk of the Senate or Clerk-Assistant and to take over some other duties. Two additional attendants and a sessional typist have also been appointed. In the House of Representatives one

clerical officer, 4 attendants and 2 typists have been added to the staff and 2 additional reporters have been appointed to the *Hansard* staff.

The Joint House Department which administers the catering, engineering and cleaning services of the House increased its regular staff from 67 in June, 1949, to 78 in June, 1950, while the sessional staff employed in the Parliamentary Refreshment Rooms was increased from 36 to 50 during the same period.

Financial—For purposes of comparison the Budget Papers for 1950-51 reveal that the total cost of Parliament for the Financial Year 1948-49 (the latest complete year prior to the enlarged Parliament) was £828,026, while the estimated cost for the Financial Year 1950-51 (the first complete year of the enlarged Parliament is £1,187,962, an increase of £359,936. The whole of the increase, however, is not directly the result of the enlarged Parliament, salaries and wages of Commonwealth officials having increased considerably over the past few years, likewise material costs.

*X. AUSTRALIA: LIMITATION OF DEBATE: SPECIAL URGENCY PROCEDURE

By A. A. Tregear, B.Com., A.I.C.A.
Clerk-Assistant of the House of Representatives.

The First Session was opened by His Excellency the Governor-General (the Rt. Hon. W. J. McKell) on February 22, 1950.

Although the General Elections in December had resulted in the formation of a Liberal-Country Party Government under the leadership of the Rt. Hon. R. G. Menzies, K.C., there was still a Labour majority in the Senate.

Also, the size of the Parliament had been enlarged, necessitating new standing orders in the House of Representatives in order to facilitate business.

These factors indicated that some variations in the internal proceedings in the House and in the relationship with the Senate were bound to occur.

Conflict between the two Houses did arise, and the following report of the procedings on the Communist Party Dissolution Bill 1950 may be of interest.

On the April 27, 1950, in a second-reading speech lasting 82 minutes,[1] the Prime Minister (Mr. Menzies) explained the Bill and its objects. May 10 (the third day of the second reading debate) saw the Bill declared urgent and guillotine times fixed, setting May 16 for the second reading and May 23 for the remaining stages.

Amendments moved in Committee by the Labour Opposition were unsuccessful, and the operation of the guillotine prevented the

[1] *Hans.*, p. 1994.

Opposition from submitting further amendments of which notice had been given.

When the Bill was received in the Senate, the Minister for Trade and Customs (Senator O'Sullivan) declared the Bill to be urgent[1] and moved "That the Bill be considered an Urgent Bill". This motion was defeated.

Senator O'Sullivan then moved the suspension of the Standing Orders to allow the Bill to be taken through all stages without delay. This motion also was lost.

The second reading debate lasted several days, and, on June 8, the second reading was agreed to on the voices.

On June 15 the Senate returned the Bill to the House with 29 amendments, 15 of which had been moved by the Opposition.

Some amendments were agreed to by the House, some disagreed to, and others agreed to with amendments.

In the Senate, although the Government moved to accept the decisions of the House in relation to the disputed amendments, the Opposition vote was too strong and the disputed amendments were kept alive.

June 23 saw finality when the Bill was laid aside in the House, on the motion of the Prime Minister, who remarked that the procedure laid down in the Standing Orders had produced a complete disagreement on the measure.[2]

After the winter recess the Government reintroduced the Bill on Septembr 28, in the form in which it was last transmitted to the Senate, declared it urgent and allotted time for its consideration. The Bill passed the House without amendment.

On October 4 the receipt of the Bill was announced in the Senate and motions by the Government to declare it an urgent Bill and to suspend the Standing Orders to expedite its passage were again defeated by the Opposition. Subsequent motions by the Government to give the Bill priority were also unsuccessful. Closure motions on the second reading were moved three times but not carried. On October 19 the second reading was passed without a division and the Bill taken through the remaining stages without amendment.

The Bill became law (Act No. 16 of 1950) but the validity of certain of its provisions are at present being challenged before the High Court.

From the above account emerges the fact that the Government's desire to pass its urgent legislation will be subject to the co-operation of the Labour majority in the Senate.

Addendum

The following provisions in regard to the procedure in the Senate and House of Representatives as to Urgent Bill Motions are contained in Senate Standing Order 407.B. and House of Representatives

[1] See *Addendum* hereto.—[A. A. T.]

[2] *Hans.*, p. 4823.

S.O. 262.A. (as *below*) the words within brackets occurring only in the Senate Standing Orders and those in italics only in the House of Representatives Standing Orders; the other words being common to both:

(407.B.)(1) *262.A.(1).* (When a Motion for leave to introduce a Bill is called on, or when a Message is received from the House of Representatives transmitting a Bill for concurrence, or at any other stage of a Bill.) *On the reading of a Message from the Governor-General recommending an appropriation in connection with any Bill, on the calling on of a Motion for leave to introduce a Bill or on the consideration of any Resolution preliminary to the introduction of a Bill, or at any stage of a Bill* a (Minister) *Member of the Government* may declare that the Bill is an Urgent Bill and *on such declaration, the question* (move) "That the Bill be considered an Urgent Bill" (and such Motion) shall be put forthwith—no debate or amendment being allowed (If the Motion be agreed to) *and on such Motion being agreed to* without dissentient voice or (be) *being* carried by an affirmative vote of not less than (13 Senators) *24 Members* a (Minister) *Member of the Government* may forthwith, or at any time during any sitting of the (Senate) *House* or Committee, but not so as to interrupt a (Senator) *Member* who is addressing the (Senate) *House* or Committee move a further Motion or Motions specifying the time which, exclusive of any adjournment or suspension of sitting (and notwithstanding anything contained in any other Standing Order or any Sessional Order) shall be allotted to all or any of the following:

(*a*) The initial stages of the Bill *including any Motion or Resolution preliminary to the introduction of the Bill* up to, but not inclusive of, the Second Reading of the Bill;

(*b*) The Second Reading of the Bill;

(*c*) The Committee stage of the Bill;

(*d*) The remaining stages of the Bill;

and the order with regard to the time allotted to the Committee stage of the Bill may, out of the time allotted, apportion a certain time or times to a particular Clause or Clauses, or to any particular part or parts of the Bill.

(II) *When Estimates of Expenditure are being considered, a Member of the Government may at any time declare that the Estimates are of an urgent nature, and, on such declaration, the question "That the Estimates of Expenditure be considered of an urgent nature" shall be put forthwith—no debate or amendment being allowed—and on such Motion being agreed to without dissentient voice, or being carried by an affirmative vote of not less than 24 Members, a Member of the Government may forthwith, or at any time during any sitting of the Committee, but not so as to interrupt a Member who is addressing the Committee, move a further Motion or Motions specifying the time which, exclusive of any adjournment*

or suspension of sitting, shall be allotted to each or any Department of, or to the whole of, the Estimates.

(III) *When a Customs or Excise Tariff Resolution is being considered, a Member of the Government may at any time declare that the proposed Resolution is of an urgent nature, and, on such declaration, the question "That the Resolution be considered of an urgent nature" shall be put forthwith—no debate or amendment being allowed—and on such Motion being agreed to without dissentient voice, or being carried by an affirmative vote of not less than 24 Members, a Member of the Government may forthwith, or at any time during any sitting of the Committee, but not so as to interrupt a Member who is addressing the Committee, move a further Motion specifying the time or times which, exclusive of any adjournment or suspension of sitting, shall be allotted to any portion or portions of the Tariff, or to the Tariff as a whole.*

(IV) *When any Motion of any kind whatsoever has been moved, a Member of the Government may at any time declare that the Motion is an urgent Motion, and, on such declaration, the question "That the Motion be considered an urgent Motion" shall be put forthwith—no debate or amendment being allowed—and on such Motion being agreed to without dissentient voice, or being carried by an affirmative vote of not less than 24 Members, a Member of the Government may forthwith move a further Motion specifying the time which, exclusive of any adjournment or suspension of sitting, shall be allotted to the Motion.*

(V) Upon such further Motion or Motions with regard to the allotment of time being moved, no debate thereon shall be allowed for more than one hour, and in speaking thereon no (Senator) *Member* shall exceed ten minutes. If the debate be not sooner concluded then forthwith upon the expiration of that time the (President) *Speaker* or the Chairman shall put any questions on any amendment or Motion already proposed from the Chair.

(2) (VI) For the purpose of bringing to a conclusion any proceedings which are to be brought to a conclusion on the expiration of the time allotted under any Motion passed under (the provisions) *any* of the preceding paragraphs of this Standing Order, the (President) *Speaker* or the Chairman shall at the time appointed under the Motion for the conclusion of those proceedings put forthwith the question on any amendment or Motion already proposed from the Chair(,) and, in the case of the consideration of any Bill in Committee, shall then put any Clauses and any Government amendments and new Clauses and Schedules, copies of which have been circulated by the Government among (Senators) *Members* two hours at least before the expiration of the allotted time, and any other question requisite to dispose of the business before the (Senate) *House* or Committee. No other amendments, new Clauses, or Schedules, shall be proposed.

(3) (Standing Orders 281,[1] 431[2] and 433[3]) *Standing Order "A" The Closure—adopted by the House on November* 23, 1905 shall not apply to any proceedings in respect of which time has been allotted in pursuance of the Standing Order.

(4) (VIII) Where any time has been specified for the commencement of any proceedings in connection with any business under this Standing Order, when the time so specified has been reached the business, whatsoever its nature be, then before the (Senate) *House* or Committee shall be postponed forthwith, and the (consideration of the Urgent Bill proceeded with) *first-mentioned business shall be proceeded with*, and all steps necessary to enable this to be done shall be taken accordingly.

XI. NEW ZEALAND: ABOLITION OF UPPER HOUSE

By the Editor

The question of the abolition of the Legislative Council, the Upper House of the Parliament (or "General Assembly" as it is called) of New Zealand has been reported in the JOURNAL from time to time, beginning with the Legislative Council Abolition Bill of 1947[4] introduced in the House of Representatives by the then Leader of the Opposition (Hon. S. G. Holland) but defeated by 2 *R.* by a "reasoned amendment"[5] on the Motion of the then Prime Minister (Rt. Hon. Peter Fraser: since deceased), by which a Select Committee of the House of Representatives, consisting of 13 members, was set up to consider the matter, with power "to sit together and confer with any similar Committee to be appointed by the Legislative Council and to agree to a joint or separate report".

The Select Committee was authorized to sit during the Parliamentary Recess and to report within 28 days after the beginning of the next Session.

A Resolution, in similar terms, was adopted by the Legislative Council on the Motion of the Hon. D. Wilson. Joint Chairmen of these 2 conferring Committees were then elected and after certain preliminaries began their investigations.

In the same year, the Statute of Westminster Adoption Bill[6] and the New Zealand Constitution Amendment (Request and Consent) Bill[6] were pased, which paved the way for the abolition of the Legislative Council, by making possible the repeal of S. 32 of the Constitution Act,[7] under which Imperial Act the Upper House was entrenched, as a constituent part of the New Zealand Parliament.

In 1948 these conferring Select Committees, now called the Joint Constitutional Reform Committee, reported to both Houses that they had not been able to reach agreement and therefore had no recom-

[1] Dilatory Motions. [2] Motions not open to debate. [3] Closure.
[4] *See* JOURNAL, Vol. XVI. 161. [5] *Ib.* 163. [6] *Ib.* 166. [7] 15 & 16 Vict. c. 172.

mendation to make. The report, together with the minutes of evidence, etc., was laid in the respective Houses. The Committee of the Legislative Council, however, submitted a scheme[1] somewhat on the lines of the re-constituted Upper House of the Parliament of the State of New South Wales.[2]

Meanwhile, in the House of Representatives, amendment was moved to refer the Report of the Committee back, with the suggestion that a referendum be taken on the subject. The debate on this question, however, was interrupted. But on the 2 Special Reports being Tabled in the Legislative Council by the Leader of that House, he moved that the Report of the Joint Constitutional Reform Committee be adopted, which was agreed to.

Against this background, therefore, the Legislative Council Abolition Bill of 1950 was introduced and passed by both Houses, a sufficient number of new Councillors having been appointed to the Legislative Council to enable the new Prime Minister (Rt. Hon. S. G. Holland) to ensure the passage of the Bill.

The purpose of this Article is to give a summary of the proceedings, together with the principal points in the debate on this measure, during its passage through both Houses of Parliament and, in view of this being the first instance of an Overseas Sovereign Parliament taking such an important constitutional step, a somewhat fuller report will be given without, of course, reiterating the arguments brought forward in debate by members in both Houses.

In the first place, the clauses of the Legislative Council Abolition Bill, together with the actual words of enactment will be given verbatim so as to enable the reader more readily to follow the debate on the Bill.

The clauses of the Bill read as follows:

Title. AN ACT to abolish the Legislative Council.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

Short Title and Commencement.—1. (1) This Act may be cited as the Legislative Council Abolition Act, 1950.

(2) This Act shall come into force on the first day of January, nineteen hundred and fifty-one.

Abolition of Legislative Council. (*See* reprint of *Statutes*, Vol. I, p. 997.) —2. (1) The Legislative Council of New Zealand is hereby abolished, and section thirty-two of the New Zealand Constitution Act, 1852,[3] is hereby accordingly amended by omitting the words " a Legislative Council ".

(2) The office of member of the Legislative Council and all offices constituted or created therein or in connection therewith are hereby abolished.

(3) All references in any enactment to the General Assembly or to the Parliament or to the Legislature shall, unless the context otherwise requires, be read as references to the General Assembly, consisting of the Governor-General and the House of Representatives.

[1] *See* JOURNAL, Vol. XVII. 37. [2] *Ib.* II. 11.

[3] 15 & 16 Vict. c. 72; S. XXXII reads: *Establishment of a General Assembly.*—There shall be within the Colony of New Zealand, a General Assembly, to consist of a Governor, a Legislative Council and House of Representatives.

(4) All references in any enactment to the Legislative Council and the House of Representatives, or to both Houses of Parliament or of the Legislature or of the General Assembly, or to each House of Parliament or of the Legislature or of the General Assembly, or to either House of Parliament or of the Legislature or of the General Assembly shall, unless the context otherwise requires, be read as references to the House of Representatives.

(5) The references to the Clerk of the Legislative Council in paragraph (g) of section two hundred and seventy of the Legislature Act, 1908, and the reference to the Clerk of Parliaments in section ten of the Acts Interpretation Act, 1924, and all other references in any enactment to the Clerk of the Legislative Council or to the Clerk of Parliaments shall, unless the context otherwise requires, be read as references to the Clerk of the House of Representatives. (*See* reprint of *Statutes*, Vol. VI, p. 461; Vol. VIII, p. 576.)

(6) The enactments specified in the Schedule to this Act are hereby repealed.

(7) It is hereby declared that no action, claim, or demand whatsoever shall lie in favour of any person or be made by any person against the Crown, or any Minister of the Crown, or any other person for or in respect of any damage, loss or injury sustained or alleged to have been sustained by reason of the passing of this Act.

The Schedule to the Bill repealed the following Acts: The Legislature Act (No. 101) 1908: Div. I, Ss.2 to 11; the Legislature Amendment Act (No. 36) 1913; the Legislative Council Act (No. 59) 1914; the Legislature Amendment Act (No. 2) (No. 65) 1914; the Legislative Council Amendment Act (No. 15) 1918; certain provisions of the Civil List Act (No. 31) 1920; the Legislative Council Amendment Act (No. 32) 1920; the Legislative Amendment Act (No. 82 of 1920); S. 40 of the Statutes Amendment Act (No. 26) 1941; S. 5 (1) of the Finance Act (No. 3) 1943 (No. 15); and so much of Schedule III of the British Nationality and New Zealand Citizenship Act (No. 15) 1948 as relates to the Legislature Act 1908.

As the Bill originated in the House of Representatives, the debate and proceedings in the Lower House will be taken first.

House of Representatives.—On July 11,[1] a message was received from the Governor-General conveying a draft of the Legislative Council Abolition Bill, which was duly referred to the Committee of the Whole House, upon which a resolution was agreed to, and reported to the House.

On the question: "That the Resolution be read a second time" the Leader of the Opposition (Rt. Hon. Peter Fraser) requested information from the Prime Minister as to the contract entered into by the preceding and the present Governments in regard to the term of service of Legislative Councillors and the proposal in the Bill that no compensation be paid to Legislative Councillors, the acceptance of office by them amounting to a contract, as, upon the abolition of the Upper House in the State of Queensland, its members were given the privilege of free travel and the right to retain their gold (free) railway passes.

The Prime Minister (Rt. Hon. S. R. Holland) replied to the effect

[1] 1950 *Parl. Hans.*, No. 3, 281-3.

that he was advised that there was no legal contract, but that it would be as well to make legislative provision so that everybody would know the intentions of the Government. Continuing, Mr. Holland said that, in the years he had been in the House, he had not seen the Legislative Council perform any useful function. He was, however, still going to search for an alternative and he proposed to ask a Committee of both Houses to continue to seek some such alternative to the present unicameral system.

If the Committees could not find one, then it would be the policy of the Government to abolish the Legislative Council as it existed to-day.

The Resolution was then read a second time, agreed to and the Bill passer 1 *R*.

In moving 2 *R*. of the Bill on July 19[1] the Prime Minister said that the Government regarded the Bill as a very important plank in their platform, as submitted to the people at the recent general election.

The Bill sought to abolish the Legislative Council as from January 1, 1951, and provided that its members would have no claim for damages for loss of office; provision was also made for consequential amendments of other Statutes.

At one time or another, said Mr. Holland, the abolition of the Legislative Council had been the policy of both political parties. Originally, it was intended—and he thought put into practice—that those appointed to the Legislative Council should be people of independent thought, people of great strength of character and their appointment was for life. Then, the intention was: (1) to make the Legislative Council a truly revisory Chamber, whose members would examine legislation and make any necesary improvements—and some very important amendments were made in those days—or (2) to block such legislation as they considered was opposed to the best interests of the country, or (3) to initiate legislation themselves.

So much legislation, however, was blocked by the Legislative Council that, in 1891, a 7-year appointment was substituted for life. Therefore, as the influence of the people's Parliamentary representatives grew, so the power of the Legislative Council fell away. Then followed a time when Legislative Council appointments came to be regarded as a reward for services rendered.[2]

To-day, the position was that they had a Legislative Council of 33 members, 27 of whom were opposed to the Government's policy and able to thwart the will of the people. The Council as at present constituted, was, in the Prime Minister's opinion, a costly farce. It no longer initiated or revised legislation and, in fact, performed no useful function or justified its retention. There had been many demands to reconstitute it. In 1914 a Bill was passed[3] providing for an elective Legislative Council, New Zealand to be divided into 4 electorates, 2 in the North and 2 in the South Islands. The people were to vote

[1] *Ib.*, No. 5, 537-8. [2] *Ib.* 539. [3] Act No. 59.

by P.R., a system which had proved such a failure in the Christchurch municipal elections, that the Labour Party voted it out.

From 1865 to 1914 at least 33 Bills were introduced into Parliament to amend the Constitution of the Legislative Council. He knew that many people supported the safeguard of a Second Chamber, but, in effect, there had not been a Legislative Council for the past 15 to 17 years. From 1872 to 1946, 370 Bills had been initated by the Legislative Council. Since 1935, 7 such Bills had lapsed in the House of Representatives and between 1939 and 1946 not a single Bill had been initiated in the Legislative Council.[1] After 1936, however, there had been two Conferences between the two Houses for the purpose of compromising difficulties.[2]

There had only been 3 divisions in the Legislative Council since 1946. Mr. Holland then referred to the work of the Joint Constitutional Reform Committee,[3] in which, after an exhaustive inquiry, only 13 Councillors recommended that the Council be retained, but with a change in its Constitution. No one defended the Legislative Council as at present constituted. A number of well-informed and well-read newspaper editors recommended vocational representation in the Legislative Council, but Mr. Holland stated that he could see no virtue in such a proposal. He had also anxiously weighed all the evidence available to him, and had reached the inescapable conclusion that a satisfactory solution was not in sight.

The Prime Minister then announced that he was going to ask the Legislative Council to sit alongside a Select Committee of the House of Representatives, to continue the search to see whether an alternative could be found. If the conferrings of such Committees was not possible, then he would carry on with one Chamber and see how it worked. He would, however, welcome the advice and counsel of some advisory body—not a revisory body—but some adaptation of the Law Revision Committee, which did such useful work in the examination of legislation by reporting implications and suggesting improvements.

In recommending the Bill to the careful consideration of the House,[4] the Prime Minister said that he had consulted both the Premier and the Leader of the Opposition in the State Parliament of Queensland, who said that under no circumstances would they go back to the bicameral system.[5]

The Leader of the Opposition (Rt. Hon. Peter Fraser) suggested that instead of appointing a political Chamber an alternative might be found which could initiate certain legislation. Mr. Fraser then moved:

That all words after the word " That " be deleted and the following words substituted in place thereof " consideration of the Bill be deferred until the alternative proposals referred to in the manifesto of the National party during

[1] 1950 *Parl. Hans.*, No. 5, 541. [2] *Ib.* 542. [3] *Ib.* 543.
[4] *Ib.* 545. [5] *Ib.* 546.

the 1949 election campaign, and by the Government, have been considered by this House.

Quoting the Queensland precedent, Mr. Fraser urged the payment of compensation to those Legislative Councillors who had been appointed for long periods. He asked if the Legislative Council was any handicap to the Government as there was no indication that, with the Upper House functioning as it was at present, any Government measure would be rejected. The proposal of the Government was a revolutionary change. New Zealand would now be the first sovereign State of the British Commonwealth to adopt a single-Chamber Legislatiure.

The Legislative Council had, of course, the right of veto, but it had not been exercised in an arbitrary way. Such right could be curtailed and M.L.C.s were willing to say that if a Bill came before them and was held up for a limited period, it should become law, upon insistence by the Lower House. That would give the Government what it wanted quite effectively. Would not the suggestion of the Prime Minister that an advisory body be set up be an innovation which would detract from the independence of the Government?[1]

Here the debate was adjourned at 10.30 p.m. and resumed on July 25, both in regard to the question for the Second Reading and the amendment thereto.

The hon. member for Island Bay (Mr. McKeen) regretted the drastic step which the Government was taking. What they were discussing concerned the rights and privileges of their democracy and sought to abolish what was part and parcel of their Parliamentary institution.[2] He doubted whether half a dozen newspapers could be found to support the Government in passing this Bill before an alternative was placed before the House. If it was desired to make the Legislative Council workable, it could initiate Bills and what was there to hinder provision being made for a Minister to go into the Second Chamber. The Leader of the Legislative Council was a member of the Cabinet and the representative of the Government in the Upper House.[3] Opinions extracted from the leading articles of 20 of the leading newspapers showed that 16 of them were in favour of the maintenance of the Second-Chamber system, but they considered that the Legislative Council should be reformed.

Mr. Winston Churchill was quoted as saying: "Show me a powerful, successful, free democratic Constitution of a great Sovereign State which has adopted the principle of single Chamber Government".[4]

Continuing, the hon. member observed that Queensland could not be compared with New Zealand. After all, a Federal system gave protection; if units thereof abolished the Second Chamber, that did not affect free democratic government.[5] Many of the leading consti-

[1] *Ib.* 552. [2] *Ib.* 622. [3] *Ib.* 623. [4] *See* JOURNAL, Vol. XVII. 146.
[5] 1950 *Parl. Hans.*, No. 5, 624.

tutional authorities in New Zealand favoured reform of their Second Chamber system.

Once the Upper House was abolished, without any safeguard being put in its place, it meant that any future Government coming into office would have the road made easy for them again to alter their Parliamentary institution.

At present anyone in the country had the right to appear before a Committee of the Legislative Council in regard to any measure. That right would now be abolished so far as that House was concerned.[1]

The Minister of Transport (Hon. W. S. Goosman) observed that in the case of the Electoral Amendment Bill, the Bill abolishing the country quota, one of the most important measures that could have been placed before the Legislative Council, all the readings were taken in 1 hour and 41 minutes "and it fell down on the job". Therefore, there was no justification for the Legislative Council continuing in existence.[2]

The hon. member for Waimarino (Mr. P. K. Kearins) suggested that, in his opinion, the only Second Chamber that would be of any use would be a panel of Supreme Court Judges as the final interpretation of the law always rested with them.[3]

The Minister of Education (Hon. R. M. Algie), in referring to written constitutions, observed that New Zealand could not give itself one which could not be altered by subsequent governments, the New Zealand Government not being a federal one. The difficulty was that they in New Zealand were now watching democracy reach one of its high peaks. "The people are sovereign, and the people who play the game do not need either a referee or a set of rules. It is only those who do not play the game that require those things".[4] If they were a Federal Parliament they could not alter the Constitution without the consent of those who came in with them and a Second Chamber would be part of it.[5] It was illogical to have 2 Chambers in a full sovereign State if one of them could impede the will of the elective body.

The conclusion the Minister had come to was that there was no longer any significance in their 2-Chamber system.[6]

The hon. member for Parnell (Mr. D. McF. Rae) quoted Gladstone as saying, with reference to the New Zealand Constitution, that:

> A nominative Council is not a shield of authority at all, but a source of weakness, disorder, disunion and disloyalty.

Mr. Rae observed that in 1854, when the New Zealand Parliament was established, it was hoped by its framers in England that New Zealand would have a Second Chamber largely modelled on the House of Lords. From 1854 to 1876 the Legislative Council was very jealous of its rights. It sought rulings from the Governor

[1] *Ib.* 625. [2] *Ib.* 629. [3] *Ib.* 631. [4] *Ib.* 633.
[5] *Ib.* 634. [6] *Ib.* 636.

and from the Colonial Office for superiority over the Lower House—rulings sometimes disallowed—but matters never reached a breach between the two Houses because they were identical in rank and importance in the community. They had the same economic interests.

In 1862, however, a very determined effort was made by the Upper House to get complete control and a Bill was introduced in the Legislative Council—it did not get very far in the Lower House—to limit the number of members in the Legislative Council, which would have put that House in an unassailable position, but the measure was defeated.

In 1876, continued the hon. member, there came a great battle between the two Houss over public works taxation, which the (then) Provinces thought would override their rights and they rebelled against the measure, but a Bill was put through both Houses disestablishing the Provinces. About 1881-1890 a Conservative Government, fearing the growing opposition of the Liberals against the Upper House, brought forward all sorts of devices to sidetrack that growing opposition and a commission was suggested to report on the reform of the Upper House. Then, in 1890, came a political revolution when a Liberal Party threw out the Conservative Government. The new Liberal Prime Minister found that there were 35 to 40 M.L.C.s on whose support he could not depend and that in the interregnum between the Conservatives going out and the new Government coming into power, its Leader had nominated 6 Conservatives, including himself. Between 1891 and 1893 there were many clashes between the two Houses and the Prime Minister of the day appointed some new Councillors but he could not swamp the Upper House sufficiently.

The Lower House then brought in a Bill to limit the tenure of office of new Councillors appointed to 7 years, which was fiercely opposed in the Upper House, but when the Liberals very definitely won the election, the Upper House realized that it must accede to the new legislation and all appointments thereto were then limited to 7 years. That, however, did not affect those already in the Legislative Council.[1] It was in the period 1893 to 1912, however, that the Upper House was the most subservient.

When Andre Siegfried visited New Zealand in 1912 he pronounced the New Zealand Upper House the weakest and most unsatisfactory Second Chamber he had found in any part of the world and that it had been reduced to a mere Council of registration.[2]

Then came the time when Sir Francis Dillon Bell feared that the militancy of labour and industrial unrest would seriously overthrow the country as the French Revolution had done in France. In order to provide a constitutional check against it, he convinced Mr. Massey, the then Prime Minister, that the Upper House should be

[1] *Ib.*, No. 6, 642. [2] *Ib.* 643.

made elective, with 4 electorates (*see above*). In that way a direct mandate would be obtained from the people, thus giving solidarity to the Legislative Council. Upon a Coalition Government taking over in 1914 the Proclamation of such Act was, however, put forward to 1916, but because of the War, the Act, although on the Statute Book, was not promulgated by 1920. In that year a Reform Party came into power and the Prime Minister succumbed to the temptation, which always presents itself to a Prime Minister (although he may have opposed the continuance of the Upper House while he was in Opposition), to use the Second Chamber as a retreat for his defeated candidates or political friends.

On July 25,[1] upon the House dividing on the question: "That the words proposed to be struck out stand part of the question" the voting was: Ayes, 44; Noes, 34.

The amendment was therefore negatived and both the debate and the House were adjourned.

On the resumption of the interrupted debate on th 2 *R.* of the Bill on July 26, the Minister of Health (Hon. J. T. Watts) said that there was a strong feeling among the present Opposition and the people outside the House that there should be some check, some revisory Chamber, such as their present Legislative Council should be, did it perform its proper function. It was for that reason that the Joint Committee had been set up, in order that every step might be taken to find some suitable and workable alternative to the present Legislative Council, but both sides of the House had searched in vain, up to the present, to find such alternative.

Part of their democratic theory of government was that there should be certain checks and balances in the legislative machine; that there should be certain restraining influences in order to prevent the elective Assembly[2]—their Parliament—or the Government of the day, the Cabinet and the majority Party, from getting too much power into their own hands and exercising arbitrary authority against the interests of the country as a whole. It was to prevent that possibility that a Second Chamber was set up. It was for that reason, also, that some of the democracies, when they came into existence, provided for a written Constitution to divide the power between the Legislature, the Judiciary, the Federal Government and the various States, to see that there was a balance of power and the exercise of restraining influence upon the Government.

In New Zealand at the present time, they had, in fact, a single-Chamber system, which worked well, because the Government and the Opposition in the House of Representatives kept public opinion informed, through their debates, as to the problems of the day.[3]

Their Standing Orders gave the fullest opportunity of delaying legislation until public opinion had been informed and its weight brought to bear upon the Government. Therefore any Government

[1] *Ib.* 662, 3. [2] *Ib.* 706. [3] *Ib.* 707.

had to take into account the feelings of the people it represented and weigh that opinion against the power vested in the Government. Further, as part of the system, they had general elections every 3 years, which, the hon. Minister considered, was a sufficient period for any Government to carry out its policy. Their 3-year system was one of the checks and safeguards the people has under what he, the Minister, called the single-Chamber régime which they now had in New Zealand. Mr. Watts said he was satisfied that they could adapt it to give them all they needed in carrying out a proper system of democratic government.[1]

There was still a considerable regard throughout the country for a Second-Chamber and there was genuine fear that its renewal would be a retrograde step. It was important for them to discover what was the reason for the desire of certain well-informed people to retain the two-Chamber system in New Zealand.[2]

Further, said the Minister, the position was different to that of Australia and the United States, where they had Federal governments.

In conclusion, Mr. Watts observed that, speaking for himself, he was in favour of some declaration of ideals—not a written Constitution where everything was set out in detail—but something akin to, but shorter than, the Declaration of Human Rights, or the American Declaration of Independence.

The hon. member for Riccarton (Hon. A. McLagan) remarked that if there was a revisionary Committee of the House of Representatives then the same minds were viewing the Bill after it had passed that House, as those who had seen the measure in their debating capacity. The full advantage of revision could only be gained by having entirely new minds examining a measure after it had been dealt with by the House of Representatives. They, on their side of the House, agreed with the suggestion that there should be an advisory Committee to the Cabinet, but that it should be in addition to the Legislative Council.[3]

The Prime Minister observed that nothing had been said in the debate to justify the Legislative Council. With the exception of a statement by the hon. member for Island Bay there had been none from the Opposition side of the House that the Legislative Council had justified itself; no one had brought forward any workable alternative.[4]

If any such alternative was found between now and the end of the year, he gave his word that it would not be brought into legislation until it had been put to the people.[5] Mr. Holland reiterated that when once the Legislative Council had been abolished no future Legislative Council would consist of a fixed number of members with fixed terms of office.

Upon the Prime Minister asking for an assurance from the Opposi-

[1] *Ib.* 708. [2] *Ib.* 709. [3] *Ib.* 710. [4] *Ib.* 723. [5] *Ib.* 724.

tion that if the Legislative Council was abolished the Labour Party would not put in its place a Legislative Council with a fixed number of members, Mr. Fraser (the Leader of the Opposition), in giving the same assurance, said: "We would not be a party to anything that would defeat the Lower House".

Mr. Holland concluded by saying that he firmly believed that when the Legislative Council was abolished they would run along entirely satisfactorily with a single Chamber. If, after a trial of the single Chamber, it was found that there was need for something additional, "then, alright, let us discuss it together. Any alternative can be brought to the House and discussed on its merits".

The Bill then passed 2 *R.*[1] and the House immediately went into Committee but there was no debate on the clauses or schedule and no amendments were offered.

The Third Reading[2] was taken on August 1, but there was no debate and the Bill was duly sent up to the Legislative Council for concurrence.

Legislative Council.—On August 1,[3] when the question was proposed: "That this Bill be now read the first time", Councillor the Hon. J. F. Paul, in raising a question of Privilege, said that one of the Privileges of the Legislative Council was that guaranteed to either House, namely, that any Bill which proposed to make any change in the constitution must originate in the House whose constitution it was proposed to affect. Legislative Council S.O. 3 reads as follows:

(1) All questions arising in the conduct of or in relation to the business of the Council shall be decided by the Speaker, subject to review by the Council, and to the order of the Council thereon.

(2) In considering all such questions regard shall be had to the customs and usages of the Commons House of Parliament of Great Britain.[4]

S.O. 1 reads:

1. These Standing Orders shall in no way restrict the Council in the upholding and exercise of its privileges, immunities and powers.

Continuing, the hon. Councillor said that a question was raised in 1919 on the Bill giving women the right to sit in the Council, when Blackstone's Commentaries, Vol II, p. 353, was quoted as follows:

All Bills that may in their consequences in any way affect the rights of the peerage are by the custom of Parliament to have their first rise and beginning in the House of Peers.[5]

Therefore, said the hon. Councillor, the established principle is that any Bill concerning the privileges or proceedings of either House, shall commence in that House to which it relates.

In support of his contention, he quoted the Bills affecting the Legislative Council which had originated in such House as well as a Speaker's opinion of 1919.[6] The Journals of the Legislative Council recorded that on October 1, 1919, Mr. Speaker said:

[1] *Ib.* 727. [2] 289 *Parl. Hans.* 662. [3] 1950 *Ib.* No. 7, 727.
[4] *Ib.* 882. [5] *Ib.* 882, 3. [6] *Ib.* 884.

The Women's Parliamentary Rights Bill proposes to amend the constitution of this Council, and therefore, in my opinion, in so far as it refers to the Legislative Council, is an infringement of the privileges of the Council, and that portion of it should not be accepted.

Debate on the Motion was then adjourned.

On August 4, Mr. Speaker, in replying[1] to the request of the hon. Councillor for a Ruling on the matter, concluded his remarks by suggesting to Mr. Paul that, with the leave of the Council, he would withdraw his Motion for a Speaker's Ruling and move, without notice:

That the Legislative Council Abolition Bill be discharged from the Order Paper on the grounds that it is an infringement of the Privileges of the Legislative Council and should be introduced in the House to which it relates.[2]

[*Discussion then took place, during which instances, at Westminster and at Wellington, were given when such Privilege had been both waived and acknowledged.*][3]

There being no objection to the withdrawal of the request for a Ruling or for notice being given, the hon. Councillor then, with leave, withdrew his Motion, and the following Motion was moved by Dr. the Hon. O. C. Mazengarb, K.C.:

That even if there has been a breach of the Privileges of this Council by the introduction of the Legislative Council Abolition Bill in the House of Representatives, this Council is prepared to waive any such breach and to allow the Bill to proceed.[4]

After discussion[5] the Motion was agreed to.

The Hon. D. Wilson then moved:

That the following statement of the hon. the Leader be entered in the Journals of the Council:

> That while this Council places on record that the Legislative Council Abolition Bill should have been initiated in the Council in accordance with established privilege, the question of privilege be waived on this occasion.

The Bill then passed 1 *R.*

On August 8,[6] the Minister without Portfolio and Leader of the Council (Hon. W. J. Polson) said that what with sickness and the sad death of one of them, there were not enough Councillors among the new appointees, to ensure that, if all the old Councillors rallied and voted against the measure, the Bill could still be carried. They now had 53 Legislative Councillors, 24 old Councillors and 29 new appointees, of which latter 2 were now absent through sickness.[7]

After debate, the following "reasoned amendment" was moved to the Question for 2 *R.* of the Bill by the Hon. Sir William Perry:[8]

That all the words after the word "That" be struck out with a view to inserting the following words: "the second reading be not proceeded with until after a report has been received from the Joint Select Committee of both

[1] *Ib.*, No. 9, 1080. [2] *Ib.* 1082. [3] *Ib.* 1082-1102. [4] *Ib.* 1104.
[5] *Ib.* 1104-1107. [6] *Ib.*, No. 10, 1147. [7] *Ib.* 1148. [8] *Ib.* 1152

Houses—which the Right Hon. the Prime Minister has stated it is the intention of the Government to set up—and such report has been considered."

In moving the amendment, the hon. Councillor submitted that the Joint Constitutional Reform Committee was a quasi-judicial Committee which should have been free from any Party feeling, affiliations or personal opinions on the subject. The Committee first met on November 14, 1947, before which date the 13 members of the Legislative Council on such Committee had been industriously and conscientiously trying to find a solution of the problem. Sir William Perry then read the conclusions reached by the Committee from the Legislative Council[1] to which the following Proviso should be added:

Provided that in the case of legislation to effect an alteration of the Constitution of New Zealand there shall be not less than three months delay between the rejection of the first Bill by the Council and the introduction of a similar Bill in the House of Representatives so that public opinion may be fully ascertained.[2]

Continuing, the hon. Councillor said that when the Joint Committee first met, a Sub-Committee was set up comprising the Prime Minister, the Speaker of the House of Representatives, the Leader of the Legislative Council, the Leader of the Opposition and himself. The task of the Sub-Committee was to frame an agenda and see what type of evidence should be obtained for the deliberations of the Joint Committee. That "Steering Committee" met on February 3, 1948.

In the meantime the conferring Committee from this Chamber had met on numerous occasions and were hammering out the scheme given above. The material gathered was forwarded to each member of the Committee and the Joint Committee met again on March 11, 1948, when it considered the evidence collected. Opinions were then sought from Queensland and professors of constitutional law.[3]

A Sub-Committee was appointed to collate the evidence which was contained in 4 volumes, a summary of which was made by the Hon. T. Bloodworth and the Hon. R. M. Algie.[4]

The result of this was that all the evidence which they had taken such great pain and trouble to collect was contumeliously rejected. The suggestions made by the Council part of the Committee were not adopted because of the way in which the recommendations were passed.

On the first page of this summary it is stated that:

The great English-speaking communities outside Europe—whether republican or monarchial, whether presidential or parliamentary, whether federal or unitary—are alike in their loyalty to the bicameral arrangement.

Most of the unitary States of Europe have followed the bicameral principle. Some, however, that emerged after the first World War—Yugoslavia, Esthonia, Latvia and Lithuania—adopted the single chamber system. Czechoslovakia, Poland, Austria and Eire—all more or less post-war—adopted the two chamber plan.

[1] For text *see* JOURNAL, Vol. XVII. 37. [2] 1950 *Parl. Hans.*, No. 10, 1154.
[3] *Ib.* 1154. [4] *Ib.* 1155.

A number of these Legislatures have since become unicameral. This is particularly true of states in which Communist influence has been strong. It is interesting to observe, however, that the constitution of the U.S.S.R. itself provides for a bicameral legislature.

There is also the case of Queensland which became unicameral in 1922. In this latter case the Committee noted the fact that Queensland is a member State in a greater Commonwealth Government, and it is a common circumstance to find that the units of a Federal system have followed a unicameral principle. Each of the provincial legislatures of Canada (excluding Quebec) serves as an illustration of this fact.

Sir John Marriott, when considering constitutional developments in France states that " France, royalist at times, imperialist and even republican on other occasions, has, in spite of her many constitutional changes, resolutely refused to repeat the unicameral experiment that was associated with the first and second Republics ".[1]

The hon. Councillor then quoted the following controversial argument by Mr. Herbert Morrison, the Lord President of the Council in the United Kingdom, as to the powers and composition of the House of Lords:

In the present Parliament, the House of Lords has done useful work as a revising Chamber, and has inserted useful amendments in some of the important Measures which we have passed in the last two Sessions. I have, however, noticed among the praise which has been bestowed upon the other House in various quarters some tendency to give them credit for having passed the various nationalization Measures which have been sent up to them. It was, of course, an accepted convention of the Constitution, soon after the passing of the Reform Act, 1832, that the Lords ought to pass any Bill desired by the nation, and that the Lords ought, in general, to consent to a Bill passed by the House of Commons as representing the will of the nation, even if Their Lordships did not approve of the Measure.

The Hon. Sir William Perry went on to say that the Leader of the Council had criticized the lack of work done by the Legislative Council over a number of years and observed that there was some truth in that criticism, but the reason was partly that the Government of the day for the past several years had not given the Legislative Council nearly enough work to do. For many years the Government had initiated legislation in the Council generally of a non-controversial nature in order that the public might know something about it. The Council was also often used by the Government of the day for " flying a kite ". Furthermore, private members themselves introduced many Bills, there being a tremendous list of them up to 1931, but for some reason, which the hon. Councillor could not fathom, that practice seemed to have fallen into disuse. Since 1934, however, only 2 Bills had been initiated in the Council.[1] Sir William Perry then quoted views on the bicameral system held by Mr. Winston Churchill, who said:

There is no doubt, however, that what His Majesty's Government seek and intend is virtually what is called single Chamber Government. On this issue there are wide and world famous arguments. No free country enjoying democratic institutions that I know of has adopted single Chamber Govern-

[1] *Ib.* 1156.

ment. No free country of which I have heard up to the present—I quite agree that there might be some countries throughout the world—which is enjoying democratic institutions has adopted single Chamber Government. The United States, the Swiss, the Dutch, the Belgians, the French, even in their latest constitutions have a second Chamber. Eire has created its own Senate. Our Dominions, the most democratic countries in the world, all have, with the exception of Queensland, I am reminded, sought and preserved, two Chamber Government—what clever people would call bicameral Government. All feel that between the chance vote of an election on universal suffrage and the permanent alteration of the whole slowly built structure of the State and nation there ought to be some modifying process. Show me a powerful, successful, free democratic constitution of a great sovereign state which has adopted the principle of single Chamber Government.

But all these constitutions have the same object in view, namely, that the persistent resolve of the people shall prevail without throwing the community into convulsion and disorder by rash or violent irreparable action, and to restrain and prevent a group or sect or faction assuming dictatorial power. Single Chamber Government, as I have said, is especially dangerous in a country which has no written constitution and where Parliaments are elected for as long as five years. When there is an ancient community built up across the generations where freedom broadens slowly down from precedent to precedent, it is not right that all should be liable to be swept away by the desperate measures of a small set of discredited men.

> A thousand years scarce serve to form a State.
> An hour may lay it in the dust.[1]

The hon. Councillor then repeated the views of the Rt. Hon. Anthony Eden on the subject:

Let us try and discuss for a moment the question of composition, because it does bear on our discussions. I know that it is a very complex question; I have sat on some of the committees which examined the composition of the House of Lords a great many years ago. But I am equally certain that if we want to—and I suppose that even the right honourable gentleman would wish it—at some time resolve the problem of the composition, as opposed to the powers of the Second Chamber, we will never really do that successfully unless we have an all-party agreement.

I believe there is a case for a Second Chamber. I think it is is indispensable. In most democratic countries today they have a Second Chamber.

Supposing we did happen to have a Second Chamber with a closer balance of parties than there is today, does the Prime Minister think that it necessarily follows that that Second Chamber would be more subservient to the view of this House than is the present hereditary Chamber. Earlier tonight we had a very sincere speech by the hon. member for Stoke (Mr. Ellis Smith) about the kind of Second Chamber he wanted constituted, with doctors, scientists, and all sorts of people in it, but only a minority of the wicked politicians. Let it be argued that there is a case for that. Do not let the Government think that a Chamber of that kind will be more subservient to this House than is the present hereditary Chamber.

I would go even further and say to the Government that once they have got rid of the hereditary principle they may find the Second Chamber far less ready to pass their Iron and Steel Bill than even the present House of Lords.[1]

Sir William Perry thereupon gave the views of the Rt. Hon. Herbert Morrison (Lord President of the Council), who said in an address to the Labour Party in 1948:

[1] *Ib.* 1157.

. . . any kind of elective second Chamber would carry much greater authority than the House of Lords as at present constituted or as it was proposed to amend it. It was desirable that they should avoid the elective principle.

It is true that at the 1932 Conference a Motion was passed in favour of abolishing the House of Lords and, presumably, having a single Chamber Government, but that was 16 years ago and we have had a lot of experience of legislation and the organization of Parliament since then. I assure this Conference that, curious though it may seem, from three years' experience as Leader of the House of Commons, I am convinced that from the point of view of getting legislation considered and passed, two Chambers are more expeditious and effective than one. That is partly because you can start legislation in both Houses at the same time, and partly because the opportunity of revision and amendment as Bills go through is so extensive that you need this additional stage. Very often the House of Lords is exceedingly useful for purposes of revision, and if we had not got the Second Chamber I am certain we would have to invent another stage in the passage of Bills in the Commons, with the result that we would choke up the House.[1]

The hon. Councillor then quoted from authorities, 24 of whom are listed in the summary of evidence and 23 of whom favoured the bicameral system as also did 16 out of 20 of the New Zealand newspapers.[2] He then put forward the arguments both for and against the retention of the bicameral system set out by the Sub-Committee of two:

(*a*) *Arguments for the Retention:*

(1) The initiation of Bills of a non-controversial character which may have an easier passage through the Lower House if they have been fully discussed and put into well considered shape before submission to the Lower House. (*Bryce Commission.*)

(2) Full and free discussion of large and important questions to which the Lower House has not the time to give its thorough consideration. In some countries, for example, external affairs or broad political internal issues can be discussed in a Second Chamber where divisions would not involve the fate of the executive government.

(3) The interposition of so much delay and no more in the passing of a Bill into law as may be needed to enable the opinion of the nation to be adequately expressed upon it. (*Bryce Commission.*)

(4) Persons of eminence and position with high educational and intellectual attainments and possessing notable professional or administrative qualifications who are deterred, under existing circumstances and methods of election or for reasons of age or occupation, from entering political life, are absent from the Legislature. Unless such persons are given membership in the Second Chamber their services in many cases are not available to the Legislature in the drafting and discussion of Legislation. (*Soulbury Commission.*)

(5) A unicameral government is contrary to the practice of every self-governing member of the British Commonwealth and of most major States in the world. (*Soulbury Commission.*)

(6) A Second Chamber serves as a check on hasty and ill-considered legislation. (*Soulbury Commission.*)

(7) It is easier in a Second Chamber to make adequate provision for minority representation. (*Soulbury Commission.*)

(8) A Second Chamber is a safeguard against tampering with or the removal of constitutional limitations.

(9) A Second Chamber is necessary to review the vast amount of delegated

[1] *Ib.* 1158. [2] *Ib.* 1159.

legislation which characterizes present-day parliamentary government. A Second Chamber could recommend revision or amendment of legislation by regulation, particularly of that portion of delegated legislation which, for various reasons, does not receive sufficient, if any, consideration by the Lower House owing to pressure of other work.

(10) A Second Chamber could revise measures of the Lower House and correct errors of drafting, etc. In some countries, owing to special rules of the Lower House limiting debate, many measures may not be sufficiently or adequately discussed in the Lower House. This applies particularly to those of a controversial nature.[1]

(*b*) *Arguments against the Retention:*

(1) The Second House is either representative, in which case it is merely a duplication of the first, or else it is unrepresentative of the people as a whole, in which event it has no place in a truly democratic Parliament. (*Sir Stafford Cripps.*)

(2) If a Second Chamber agrees with the First, it is superfluous; while if it disagrees, it is obnoxious. (*Abbé Sieyes.*)

(3) Second Chambers have been said to be undemocratic and reactionary.

(4) Second Chambers represent only a section of each community and have been accused of resisting progressive legislation.

(5) Unicameralism has the effect of accelerating and simplifying legislation, and has enabled the party in power to give almost instantaneous effect to its will.

(6) Unnecessary public expense. This opinion has been expressed in leading articles in some of our New Zealand newspapers.[2]

The hon. Councillor then quoted the two New Zealand authorities:

I do not regard the Legislative Council as necessary. I think that was sufficiently demonstrated by the experience of the provincial system. The experiment was tried in the Provinces of having a single Chamber, and I think it was tried successfully. (*Sir George Grey.*)

My view of the Second Chamber is that it should be a revising one entirely, and should not deal with questions of policy, except, perhaps, in special cases, when it was thought that public opinion was not ripe for any political change. Then it should take steps to prevent that change being carried out until public opinion was ripe for it.

I do not think that a single Chamber, if it exists at all, should have anything to do with matters of policy in the strict sense of the term, but should only act as a revising or checking body. . . . I am of opinion that, instead of having a second Chamber, we should have the unicameral system; or, if the representative House chose, they could take steps to elect a revising committee and clothe it with certain powers. But so long as a second Chamber does exist, I think it should only act in the way I have stated; and consequently I think that the constitution should remain a nominated one, and not elective. (*Sir Robert Stout.*)[3]

Sir William Perry drew attention to the great trouble Mr. Bloodworth and Mr. Algie had taken to summarize the evidence of the Joint Committee. He felt that he should apprise all members of the Council of this summary: "first of all the new appointees, who have not seen it, and secondly, the old members, who, in some cases, had not read it".[3]

The hon. Councillor said that it must be conceded that amongst a very large number of the National Party there was grave uneasiness

[1] *Ib.* 1159-60. [2] *Ib.* 1160. [3] *Ib.* 1161.

that this Bill should have been introduced at all in the form in which it had been, and also, that it was sought to pass it before a Committee had been set up to examine the possibility of an alternative, or of reform.[1]

He then set forth the expressions of the New Zealand Press on the subject.[2]

In conclusion, Sir William Perry said:

> . . . Not even the bitterest opponent of this Council or its personnel can say this Council is an evil, or that any Second Chamber, as far as we know, is an evil. I find it embarrassing as a member of the National Party to have to move this amendment and to vote, as I intend if this amendment is carried or lost, against the Bill. But, after all, my embarrassment is not so acute as it might have been had I not realized that the National Party prides itself, and with justification, on the fact that it does not tie its members hand or foot to vote by what the majority of the caucus or the Party decides.[3]

The Hon. F. P. Kelly said that the procedure adopted in Queensland, where they had a unicameral system, was that on 2 *R.* the Bill was perused by the Solicitor-General (a Government official) and if, in his opinion, it was necessary, he gave a certificate and the amendments deemed essential by him, or by the Government, were introduced into the Bill on 3 *R.*[4]

The hon. Councillor claimed that the Council had failed as a Chamber both in initiating or revising legislation and in representing diverse opinions on the various Bills introduced; otherwise there would have been a greater record of divisions.

This Chamber had, in the hon. Councillor's opinion, failed, owing to the growth of the Party system. The Party system was the only way they knew, at the moment, of democratic government. When a Government found a Legislative Council that was resisting the passing of legislation it took steps to stop that interference with the power of the House of Representatives. The Government of the Day therefore appointed a sufficient number of Councillors to provide majorities to put their legislation through.[5]

The Hon. Councillor T. Bloodworth observed that the proposal now before the Council to amend the Constitution Act of 1852 was the first definite proposal made to amend that Act, with the exception of the amendment in 1857 when the Act was amended by the Imperial Parliament.

The Hon. Councillor Bloodworth then quoted what had been said on the question of Second Chambers by Viscount Jowitt, the present Lord Chancellor:

> The functions of a Second Chamber should be, first, to examine and revise Bills brought from the Commons; and, second, to initiate Bills dealing with subjects of a comparatively non-controversial character which might have an easier passage through the Commons if they had been fully discussed and put into well-considered shape before being submitted there. Thirdly, its functions should be the interposition of so much delay, and no more, in the pass-

[1] *Ib.* [2] *Ib.* 1161-5 [3] *Ib.* 1166. [4] *Ib.* 1168. [5] *Ib.* 1169.

ing of a Bill into law as might be needed to enable the opinion of the nation to be adequately expressed upon it. This would be specially needed as regarded Bills which affected the principles of the Constitution or introduced new principles of legislation. Fourthly, there should be full and free discussion of large and important questions, such as those of foreign policy, at moments when the House of Commons could not find sufficient time for them. Such discussions might often be all the more useful if conducted in an assembly whose debates and divisions did not involve the fate of the executive Government. The risk of their losing the Second Chamber would be if that Second Chamber were to bring itself into fundamental opposition to the elected Chamber and thwart that Chamber.

If we get into that position, or if we allow our Chamber to clog the machinery of Government, or if we dispose our Chamber to embark on controversies for the sake of asserting its own power . . . then we shall have brought about the classical conditions on which we shall lose the Second Chamber altogether.[1]

Upon resumption of the debate on the Legislative Council Abolition Bill, on August 9, Sir William Perry was given leave by the House to alter his amendment to read:

That all the words after the word "That" be deleted and the following words inserted: "the second reading be not proceeded with until after a report has been received from the Joint Select Committee of both Houses which the Rt. Hon. the Prime Minister has stated it is the intention of the Government to set up and such report has been considered."[2]

The Hon. T. Bloodworth, continuing his speech from the previous sitting, observed that the Bill they were now asked to pass would rob great numbers of people and institutions throughout the country of their right of appeal for at least 2 or 3 years.[3] The Bill would also affect their officers, as follows:

As honourable members know we have a Clerk of the Council who is Clerk of Parliaments, and an Assistant Clerk of the Council whom we call the Clerk Assistant or Second Clerk. I think that the Second Clerk had a reasonable chance of expecting that in the course of time he would succeed the Clerk of Parliaments. By this Bill he is debarred from that. The double position of Clerk of Parliaments and Clerk of the Legislative Council is a very high position, and our Second Clerk could expect in due course to succeed to the office of Clerk of Parliaments, but when this Bill passes he will be refused any such promotion. I think that that is a gross injustice. Our officers have served us very well and faithfully in this Chamber. Provision should be made if possible for this gentleman, who may have expected to succeed to that office, to be allowed to succeed, or at any rate to receive some office equivalent in status. Our officers have certainly never failed in their duty and we should not fail in our duty to them.[4]

[*Several hon. Councillors during the debate on the Bill had spoken in high praise of the splendid services rendered to the Council by Mr. C. M. Bothamley, the Clerk of the Parliaments, and of his Assistant at the Table, Mr. H. L. de la Perrelle.*]

When discussing the privileges of members of the Legislative Council, the Hon. Councillor Bloodworth quoted their warrant of appointment, which is of interest and reads:

[1] *Ib.* 1186 [2] *Ib.* 1230. [3] *Ib.* 1231. [4] *Ib.* 1232.

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith:

To our Trusty and Loving Subject, THOMAS BLOODWORTH, ESQUIRE, of Auckland, GREETING:

WHEREAS by an Act of the General Assembly of Our Dominion of New Zealand, the short title of which is the Legislature Act, 1908, it is, among other things, enacted that the Governor of Our said Dominion may from time to time, in Our name, by Instrument under the Public Seal of Our said Dominion, summon to the Legislative Council of New Zealand such persons as Our said Governor shall think fit; and every person so summoned shall thereby become a member thereof:

Now therefore, know you that, in pursuance of the said Act, and in exercise of the power vested in Us and reposing special trust and confidence in the loyalty, prudence and discretion of you, the said

THOMAS BLOODWORTH

We do hereby summon you, the said THOMAS BLOODWORTH, to the Legislative Council of Our said Dominion of New Zealand, To hold the said office under and subject to the provisions of the hereinbefore in part recited Act.

In testimony whereof We have caused these letters to be sealed with the Seal of Our said Dominion of New Zealand, this 8th day of September in the year of our Lord one thousand nine hundred and forty-eight and in the twelfth year of Our reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, upon whom has been conferred the Decoration of the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Doctor of Laws, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies.

By His Excellency's command.
(P. FRASER)

(B. C. FREYBERG)
Governor-General.[1]

The hon. Councillor, in concluding his speech, said:

It has been said that New Zealand will not need a written Constitution if the people can hold their position of having sovereign power over the parties in the country. I have attempted to show that it is no longer possible for people to hold the sovereign power with the parties exercising the power they do, and there should be a second Chamber to attempt to guard the rights of the people against the possible tyranny of a one-Chamber Lower House. It has been said that those in office in a democracy are charged with administering the affairs of the nation in accordance with the will of the people. My submission is that the Government has never ascertained the will of the people on this measure, and that it has no right to make such a drastic change in the Constitution without first having obtained the will of the people. I ask honourable members to remember that, whatever may happen.

I now ask all honourable members to remember that it is a very short step from one-Chamber government to one-party government, and from one-party government to one-man government.[2]

The Hon. H. Pitts-Brown remarked that one of the main objections to the Bill was that it should be put to referendum. There was a good deal of misconception about what could be done by referendum. The scope of subjects suitable for referendum was very

[1] *Ib.* 1233. [2] *Ib.* 1234.

limited. There must be a simple question capable of a simple "yes" or "no" answer. It was necessary to have a well-informed electorate.[1]

Queensland, as a State of the Australian Commonwealth, was not a sovereign State. Even the powers of its Federal Government are subject to the Federal Courts of law.[2]

On August 10,[3] the debate on the question: "That this Bill be now read the second time", and the amedment proposed thereto, was resumed.

The Hon. E. R. Davis observed that he had listened to many speeches in the Council Chamber, but never had a word appeared in the papers. The Council had had more publicity from the Press in the last month or so than it had had in all the years he had been a member. Had the proceedings of the Council been broadcast, as they were in "another place" and had they had a fair coverage in the Press, he felt confident that many people would have a different idea of their work.

The Hon. H. G. Dickie remarked that there was no limit to the members in this Council. What disgusted the public about their Chamber was that after every General Election it had been necessary to stuff it with Government members to carry out the Government policy.[4]

Councillor the Hon. D. Wilson, the Chairman of the Joint Constitutional Reform Committee, reported that the Legislative Council Committee met on innumerable occasions and gave a tremendous amount of time to the study of the question. He was sorry to say, however, that the Committee of "another place" met very infrequently and that when it did meet it did not give very much attention to the evidence placed before it. There were any number of schemes in the evidence and if a majority of the members of the Joint Committee had really been anxious to find some substitute for this Council they could have found it.[5]

To obviate a void of 3 years, the hon. Councillor suggested, that between the time this Council went out and possibly another one came in, a Royal Commission be set up to investigate this question from the people's point of view. If a Joint Committee was appointed, the whole matter was immediately thrown into the political arena and kicked about for Party purposes. As the personnel of the Commission, the Hon. Mr. Wilson suggested the Chief Justice, 2 Judges of the Supreme Court and the Speakers of the 2 Houses.

Continuing, the hon. Councillor remarked that he was certain he was voicing the opinion of the majority of members there, irrespective of Party, when he said that they wished to see a Second Chamber of some sort. They all thought that the Council should be reformed but there was not a majority in favour of abolition.[6]

[1] *Ib.* 1236. [2] *Ib.* 1239. [3] *Ib.* 1296.
[4] *Ib.*, No. 11, 1300. [5] *Ib.* 1318. [6] *Ib.* 1320.

The first reference to the abolition of the Legislative Council was at the Labour Conference of 1927, when it was referred to the national executive, but no action was taken. Neither was any action taken in 1928. In 1929 a decision was made to re-word the "platform" but again no action was taken. In 1930 nothing was done, but in 1932 it was resolved that the Party re-affirm its "platform" for abolition; that remission was, however, lost. The Party's platform was first instituted in 1918. Abolition was lost in 1923 and 1932. In 1933 a resolution was passed re-affirming the principle of abolition and in 1934 it was again re-affirmed. Abolition was again raised in 1935 but not carried. All the above were Conference decisions.

In 1936 and 1938 remits, that the Labour Party re-affirm abolition, were defeated. There were no remits in 1940 on account of the death of the then Prime Minister (Mr. Savage). In 1941, abolition was referred to the Government for consideration and in 1943 and 1944 abolition was approved. The abolition again came up when an amendment was carried that the re-constitution of the Legislative Council be referred to the Government for consideration. In 1948 the question came up, that the Legislative Council be replaced by an Elective Senate, but this was defeated. During the same year, at the Labour Party's Conference, the straightforward question was put to the 600 delegates. They were asked: "Are you in favour of single-Chamber Government?" and they turned it down with a thud and in 1949 there was a remit that the Council be abolished and this amendment was carried in face of the decision:

That improvements in the constitution and functions of the Legislative Council should and could be effected with advantage and without in any way impinging on the powers of the House of Representatives.[1]

Continuing, the hon. Councillor observed that if the Legislative Council Committees' scheme had gone to the vote, it would have been the recommendation of such Committee. They had 13 on their side in favour of the recommendation but only 2 Labour members from "another place" were in favour of abolition. The rest of them favoured the scheme, but he supposed that all the Nationalists were opposed to it. If the Legislative Council had pressed the matter, it would have been carried by 17 to 9. The Legislative Council members, however, did not wish to press a scheme upon which members of "another place" were not unanimous. Abolition of the Legislative Council was in the Labour Party "platform" but it never was once their election policy, so that it could not be said that the majority of Labour members were in favour of abolition; they were certainly not in favour of single-Chamber government.[2]

The Hon. Mr. O'Kane's suggestion was for a revised Legislative Council, consisting of a body of 40 members, one for every 2 in

[1] *Ib.* 1321. [2] *Ib.* 1322.

"another place", on a 3-year term, going out with the House of Representatives, each Party nominating according to its strength. Nevertheless, if 4d. p.a., per head was the cost of the Legislative Council to the adult population, was it too much to pay for a safeguard against hasty, unjust and ill-considered legislation.[1]

On August 11, 1950,[2] debate on 2 *R.* and the amendment was resumed.

Councillor the Hon. H. T. V. Marumaru said it seemed to him that when Parties were in opposition they talked about abolishing the Upper House, but when they became the Government they changed their minds.[3] The Maori people would be delighted to know that something was being done about the Upper House. They were not in favour of a single Chamber; they preferred a Second Chamber under different conditions.

Councillor the Hon. Mrs. Weston considered that the debates in the Council were valued for their detached analytical qualities, just as an experienced lawyer's advice was valuable in revising and amending legislation.[4] She believed, however, that with their simple governmental problems, their small population, their restricted territory and their united races, an elected House of 80 members should govern.

The Hon. A. H. Allen feared that, if they adopted the unicameral system, they would drift towards the totalitarian State.[5] They might have a Prime Minister anxious to have dictatorial powers.

Councillor the Hon. Mr. Hamilton considered that the Legislative Council had outlived its usefulness.[6]

Dr. the Hon. O. C. Mazengarb, K.C., said that he had perused the 4 volumes of the Joint Committee's report and congratulated those responsible for their preparation, namely the Hon. T. Bloodworth and the Hon. R. M. Algie. After 40 years' study of the bicameral system he had more than a passing interest in the subject. It appeared from the debate that there was now not so much difference between the various interested persons on what should be done.[7] He was, therefore, forced to the conclusion that the only reason for the silence that morning of those members who had been expected to oppose the Bill, was the fact that they had accepted the view that this Chamber must go and that they must get to work as soon as possible on the arrangements for a substitute Chamber.[8]

Now that this Chamber was being abolished after having shown that it could not act as an effective constitutional safeguard, they had to find a solution themselves. It was no use saying that a solution could not be found; one must be found, but that was not possible until the present Chamber had been abolished.[8]

The original Constitution, of course, was an attempt to fashion a law-making Chamber on some such basis as they had in the House

[1] *Ib.* 1330. [2] *Ib.* 1377. [3] *Ib.* 1382. [4] *Ib.* 1388.
[5] *Ib.* 1389. [6] *Ib.* 1391. [7] *Ib.* 1392. [8] *Ib.*, No. 12, 1393.

of Lords, but instead of hereditary membership, the Imperial Government decided to allow New Zealand to provide life membership. From 1854 to 1890 perhaps some of these life members were too overbearing. In its first 50 years the Council was undoubtedly too strong. It rejected, out of hand, many of the measures passed by the Lower House. It completely misconceived its functions as a revisory body and claimed the right to reject money bills. Small wonder that there was tremendous opposition to the decisions of this Council, which culminated in a change in 1892, from life membership to nomination for 7 years, which was thought to be a solution of the problem, and it would have been, if the Governor of the day had been given discretion to decide if he would appoint the the people whom he was requested to appoint, for 7 years. But in 1894 a serious dispute arose between the new Liberal Government and the then Governor over his authority—whether he had to appoint everyone he was asked to appoint or whether he could say, "No, I shall not appoint all of those." The matter was carried to the Colonial Office and the Governor was instructed to accept the advice of the Government of the day.[1] The 12 Councillors whom Mr. Ballance (the then Prime Minister) insisted upon, were later appointed by the Governor at the request, or, on the decision of the Colonial Office.

From then on, all appointments to the Council had been on a Party basis; particularly since 1935. Then a third Party factor came into the matter, which the other 2 Parties found to be a nuisance. Another insidious factor arose in the Government finding it more convenient to legislate by delegation, namely—not through the Legislative Council, but by Orders in Council which had all the force of law, and which avoided criticism in another Chamber. The hon. and learned Councillor continuing said that they must obtain a constitutional check through some other body working in some other way to provide constitutional safeguards, which the people of New Zealand so earnestly desired. With the Legislative Council abolished, the dominant political party in "another place" would have complete control—should they like to exercise it—for all time, over what should be done in the country.[2] Until 1947, there was control, for the minority—even although the majority might support the measures of the Lower House—was in the position of being able to awaken public opinion as to what was being done, if that minority were so minded.

Another protection was that until 1947, when the Government framed the Constitution Amendment Act,[3] it was impossible for the Lower and Upper Houses combined to interfere with the Imperial Constitution of 1852. This gave the dominant Party in the Lower House the right to introduce, in the claim of urgency, a measure to extend the life of the House of Representatives to 5, 7 or 10 years.

[1] *Ib.* 1394. [2] *Ib.* 1395. [3] *See* JOURNAL, Vol. XVI. 166.

There was no country placed in the position in which New Zealand was placed. If he thought that by retaining the Legislative Council they would have an effective constitutional check on the Lower House extending its own life, he would vote against the Bill, but he would do anything to help set up a proper constitutional safeguard in the country.

Was it beyond the scope of one's imagination to think that some member, some time, might get up and declare that the Oath of Allegiance was no longer necessary. That could not have been done prior to 1947. Some member could even now move that the office of the Governor-General could be abolished, or that the sum of £10,000,000 be devoted to support the philosophy of Communism.

The hon. and learned Councillor said he would vote for a single-Chamber in the meantime because this Council was not an effective brake.[1]

The Council, as it had been constituted since 1891, was powerless to obstruct the will of the Lower House. No one had thought it desirable to put the Act of 1914 into operation. It was clear, however, that the Council should not have a veto over all legislation passed in "another place". For many years it had rarely exercised its power to reject Bills. Apparently it had been incapable of exercising that veto because, as one understood the position, for a good many years a number of the Councillors appointed had been in the habit of attending the caucus of the majority Party in the Lower House, and having agreed upon measures which should be submitted to the Lower House, when the measures had ultimately come there, they had not thought it necessary to debate those measures in the Council because they had already made their decisions on them in caucus. Therefore, what had been a constitutional safeguard through the Council had, in practice, ceased to be a constitutional safeguard.

The great matter in dispute was not the membership of the Council; not the manner in which people should be elected, but the functions which the Council had to perform. As a legislative body it was done. The first thing that must be looked for in another substituting body was to strike out the word "Legislative".

The Council was intended to be a revisory body, and also a body into which measures could be initiated.[2] They had lost the ability to retain the Constitution Act.[3] The hon. Councillor's whole appeal was to see that the sovereignty of New Zealand, which used to reside in the two Houses of Parliament and in the electorate, should not reside in one House of Parliament but in the electrate.[4]

The hon. and learned Councillor, in conclusion said that there was no problem that had ever presented itself in constitutional government that had not admitted of solution.[5]

[1] 1950 *Parl. Hans.*, No. 12, 1396. [2] *Ib.* 1397. [3] *Ib.* 1399.
[4] *Ib.* 1400. [5] *Ib.* 1401.

Upon debate on the subject being resumed on August 15, Councillor the Hon. J. T. Paul said that never before in the history of New Zealand had a proposal made by any Government been so trenchantly condemned by the Press.[1] Every first step towards totalitarianism began by tinkering with the Constitution. The hon. and learned Councillor had been a delegate to a great many Labour Conferences of various sorts, and on not one occasion had he heard a discussion on the merits of the bicameral, or unicameral, system of government.[2] The best second Chamber could be obtained by the House of Representatives acting as an electoral college.[3]

In practice, continued the hon. and learned Councillor, the proposals could be narrowed down to something like the following:

(*a*) A House with a maximum membership of, perhaps, 40 (half the number of the Lower House being a usual limit for an Upper House), one-fourth of the members to retire each time the Lower House is dissolved; members to be appointed or elected for the term of the current Parliament and the three succeeding Parliaments and to be eligible for reappointment; such members either to be appointed by the Government as at present or to be elected by the Lower House on a system of proportional representation.

(*b*) A legislature commission, of, say, 11 members with a President or Chairman and two permanent full-time members, and eight other sessional members, all to be appointed by the Government; two " Sessional " members to retire at the end of each Parliament.

In each case it would have to be provided that the Upper House would possess no power to reject or delay purely " money " Bills, and that its power to delay other legislation would be limited. In such a form a Legislative Council or Commission could fulfil a useful and indeed a necessary function.[4]

The hon. Councillor, continuing said he would much rather that the consideration of the Bill be held in abeyance while the Joint Committee was finding an alternative. The abolition proposal was unsound and unwise.[5] [*The hon. Councillor Martin, during the course of his speech, quoted from New Zealand Press Articles on the subject.*[6]]

The Minister without Portfolio and Leader of the Legislative Council (Councillor the Hon. W. J. Polson) stated that the plans provided by the Prime Minister were that when the Bill went through there should be set up in the two Houses a Committee which should be a Joint Committee to work through the remainder of the Session, and, if it had not finished its work by the end of the Session, it could be so constituted that it could continue its work until it had arrived at a solution, which should be implemented as soon as reasonably possible into legislation.[7]

In regard to the Staff of the Legislative Council, the Minister said he was empowered to say that nothing would happen of disadvantage to them. As to the Councillors, the Minister stated that, as to their compensation on abolition of office, the Government was cognizant of that and would do what was just and reasonable, not by way of a

[1] *Ib.* 1427. [2] *Ib.* 1431. [3] *Ib.* 1432. [4] *Ib.* 1433-34 [5] *Ib.* 1435.
[6] *Ib.* 1447. [7] *Ib.* 1456.

means test but as a fair and equitable thing towards everybody. When the Bill goes through, a Committee would be appointed in this Council and the Lower House would also appoint a Committee; and these Committees would then act as a Joint Committee.[1]

The Council then divided on the question: "That the words proposed to be struck out stand part of the question." Ayes, 27; Noes, 20. Pairs, For, 1; Against, 1.

The amendment was, therefore, negatived and the Bill passed 2 *R.*[2]

On August 16,[3] the Council went into Committee on the Bill.

Clause 1. (*Short title and commencement*) considered.

The Hon. Councillor W. Grounds moved to add the following proviso to sub-clause (2):

Provided that prior to that date the proposal to abolish the Legislative Council has been submitted to the electors by way of referendum and approved by a majority vote of the electors.

The Committee divided on the question: "That the words proposed to be added be added." Ayes, 18; Noes, 29.

Amendment negatived.

The Hon. Sir William Perry moved in sub-clause (2) to strike out all words after the word "the" and to substitute, "this Sixth day of June, nineteen hundred and fifty-two".

The Committee divided on the question: "That the words proposed to be struck out stand part of the sub-clause." Ayes, 28; Noes, 18.

Progress reported.[4]

On August 17,[5] Committee resumed.

Clause 2. (*Abolition of Legislative Council.*)

Councillor the Hon. W. Grounds moved to strike out sub-clause (2).

The Committee divided on the question: "That sub-clause (2) stand part of the Clause." Ayes, 27; Noes, 13. Pairs, 2.

Amendment negatived.

Councillor the Hon. J. Roberts moved to strike out sub-clause (7).

Whereupon the Leader of the Council moved: "That the question be now put" which Motion the Chairman said he was unable to accept.

The Leader of the Council then moved: "That the Chairman's Ruling be disagreed with and that the hon. the Speaker be asked to rule upon the Chairman's Ruling.

Progress reported.

Council resumed.

The Chairman then reported that during the proceedings of the Committee the Leader of the Council rose and moved that a division

[1] *Ib.* 1458. [2] *Ib.* 1459. [3] *Ib.*, No. 13. [4] *Ib.* 1522. [5] *Ib.* 1573.

be now taken, which Motion the Chairman refused to accept on the grounds that at the same time as the Leader rose to speak he (the Chairman) saw several other hon. members, who had not yet spoken in the debate, rise to their feet.[1]

The Chairman quoted from S.O. 150 which reads:

If an objection is made in Committee to a decision or ruling of the Chairman on a point or question of order, such objection shall be made and stated in writing by a Member at once, and the Chairman may, and shall if the Committee on motion without notice and without amendment or debate so orders, forthwith leave the Chair and report thereon to the Council and request the decision of the Speaker.

The Chairman said that he did not take the feeling of the Committee as to whether he should request Mr. Speaker's Ruling but asked Mr. Speaker to give his decision.

The Leader of the Council said he understood that his objection had to be in writing, which he had done. They had very fully debated the question for several days. This evening, while the debate was a serious one, he had no objection to it, but latterly it became frivolous and he considered it derogatory to the dignity of the the Council. He therefore thought it his duty to move that the Committee now divide.[1]

Mr. Speaker asked the Chairman to say whether an hon. member was speaking at the time, to which the Chairman replied that the Hon. Sir William Perry was speaking and had just resumed his seat when the Leader of the Council rose and, at the same time, the Chairman saw several other members, who had not yet spoken in debate, rise.

The Hon. Sir William Perry said: "Sir, may I speak to a point of Order?" to which Mr. Speaker replied:

It is, I think, in order for the hon. member to speak to a point of order. It is not in order for a member to speak to the Motion that the Committee do now divide, but I should like to hear what the hon. member has to say.

The Hon. Sir William Perry said that as the Leader of the Council remarked, he would not have moved his Motion unless he had thought the debate to be quite frivolous. "That reference was directed at me." There was some point in it but the frivolity of what he said was far outweighed by the seriousness of the question.

Mr. Speaker: The Standing Orders appear to be perfectly clear. No. 165 states:

165. When a question has been proposed from the Chair in the Council or Committee upon—

(*a*) The second or third reading of a Bill;
(*b*) A Motion or amendment; or
(*c*) A clause, schedule or preamble of a Bill,

a member who is entitled to speak to such question may move without notice "That the Council [or Committee] do now divide".

Standing Order 166 reads:

[1] *Ib.* 1574.

166. Neither the mover nor the seconder of the Motion, nor any other member, may speak to the Motion.

Standing Order 167 reads:

167. If it appears to the Speaker or Chairman that the Motion is an abuse of the Standing Orders or an infringement of the rights of the minority, he may decline to propose a Motion thereon; otherwise a question shall forthwith be proposed thereon and put without amendment or debate.

In this instance, the Motion before the Committee having been debated at considerable length, I must rule that the Leader was entitled to propose the Motion which he did propose so long as no member was actually speaking at that time; and I so rule, notwithstanding the fact that there were honourable members who had not yet spoken on the particular question then before the Committee. I declare the Council again in Committee on the Bill.[1]

In Committee.

The Committee divided on the question: "That the question be now put": Ayes, 27; Noes, 16. Pairs, 2.

Motion agreed to.

The Committee divided on the question: "That sub-clause (7) stand part of Clause 2": Ayes, 2; Noes, 18. Pairs, 2.

Amendment negatived and clause agreed to.

Councillor the Hon. J. T. Paul moved to strike out of the Schedule the following items:

1914, No. 59—
The Legislative Council Act, 1914. (Reprint of *Statutes*, Vol. VI, p. 583.)
1914, No. 65—
The Legislature Amendment Act, 1914 (No. 2). (Reprint of *Statutes*, Vol. VI, p. 468.)
1918, No. 15—
The Legislative Council Amendment Act, 1918. (Reprint of *Statutes*, Vol. Vol. VI, p. 607.)
1920, No. 32—
The Legislative Council Amendment Act, 1920. (Reprint of *Statutes*, Vol. VI, p. 608.)

Amendment negatived and Schedule agreed to.

Bill reported.[2]

On the Question: "That this Bill be now read the third time" debate arose as to the taking of this stage that day, whereupon the debate was adjourned.[3]

On August 18, debate on the third reading of the Bill was resumed. The Hon. J. T. Paul said the hon. members had evidently come there under a pledge to vote out the Legislative Council and it mattered not what arguments or developments took place. Now they had to tell the people that they had deprived them, for at least 2 years, of two-Chamber government; that they were searching for an

[1] *Ib.* 1574-5. [2] *Ib.* 1575. [3] *Ib.* 1576.

alternative and he hoped the Joint Committee would be successful in finding a workable one.[1]

Councillor the Hon. T. Bloodworth said that every one of the old Councillors were pledged by the actions taken in the Joint Constitutional Reform Committee to advocate and support reform of the Council. They thought it could be reformed without being abolished.

There were in the old Council 24 members and included in this number were 5 pledged Nationalists, 15 pledged Labour supporters and 2 Independents. Twenty-nine new members had now been appointed. It would then follow that a new Government would have to appoint 20 new members to assure itself an equality of votes. That would make a Council of 72. In the hon. Councillor's opinion, by so increasing the membership of the Council the Government had reduced the continuance of the Council to an absurdity.[2] If there was to be a second Chamber in future, it must be one that not only could act, but one that would act.[3]

Councillor the Hon. T. F. O'Byrne observed that there were 16 or more microphones in the Lower House broadcasting speeches and not one in the Council. The hon. Councillor believed that if the people had been able to hear the debates in the Council during the last 3 weeks they would not have supported its abolition.

The Council divided on the question: "That this Bill be now read the third time": Ayes, 26; Noes, 16. Pairs, 2.

Bill read the third time.

On August 18, the Speaker of the House of Representatives announced that he had received a message from the Legislative Council as follows:

The Legislative Council has passed the Bill intituled the Legislative Council Abolition Act, 1950, without amendment.

The Prime Minister here remarked, that he was interested in the procedure adopted on this occasion. He had been in the House quite a few years but had never seen the Bar of the House in position before and he had also never seen a Bill presented in that way. He would be interested to know the reason.

Mr. Speaker: It is a revival of an old custom which has not been used very often. The Clerk of the Legislative Council has the right, if he so desires, to present any Bill that has been consented to by the Legislative Council at the Bar of this House. In this particular instance he exercised that right. In a formal way he knocks at the door and is admitted, comes to the Bar of the House, presents the Bill to the Serjeant-at-Arms, who brings the Bill to the Clerk of the House, who hands it to the Speaker, who receives the message from the Legislative Council.[4]

The Royal Assent was given to the Bill on August 18, 1950, and it duly became Act No. 4 of 1950.

On December 1, 1950 (the last day of the 1950 Session) the House ordered:

[1] *Ib.* 1616. [2] *Ib.* 1621. [3] *Ib.* 1622. [4] *Ib.*, No. 14, 1649.

That the Constitutional Reform Committee have power to sit during the Recess and for 28 days after the commencement of the next Session at such times as it may see fit and to report to this House within 28 days after the commencement of the next ensuing Session; that subject to the direction of the Committee, the proceedings during the taking of evidence be open to accredited representatives of the Press; and that as from January 1, 1951, the members appointed to the Legislative Council, to a similar Committee, be deemed to have been co-opted to the Committee appointed by this House.

This Committee held some of its meetings and its life was extended until 14 days after the commencement of the next Session in 1951. The Committee, however, had not reported to the House by the time the Session ended July 13, 1951. The New Zealand Government then unexpectedly decided to dissolve Parliament and appeal to the Country before the expiry of its term of office. On the last day of that short Session, the time in which the Committee was required to report was extended to within 14 days of the commencement of the next Session. The last mentioned Session commenced on September 25, 1951, and on October 3, the time was further extended to November 30, 1951.

[*Any further developments will therefore be reported in our next Volume (XX) of the* JOURNAL.]

XII. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE UNION HOUSE OF ASSEMBLY, 1950

By J. M. Hugo, B.A., LL.B., J.P.
Clerk of the House of Assembly.

The following unusual points of procedure arose during 1950.

Adjournment of Debate and of House.—On January 31, there was a series of incidents when a member after seconding an amendment moved the adjournment of the debate. On Mr. Speaker pointing out that having seconded he was precluded from moving the adjournment, another member moved the adjournment of the debate which was negatived on a division. The seconder of the amendment then proceeding to continue his speech, Mr. Speaker indicated that he had lost his right to do so except with the leave of the House which was thereupon granted.

Subsequently, a Motion for the adjournment of the House was moved and negatived to allow a further Motion for the adjournment of the debate to be put and agreed to. The House was thereafter adjourned.[1]

Adjournment on matter of urgent public importance.—On May 2, a member moved the adjournment of the House on a definite matter of urgent public importance. Although Mr. Speaker was prepared

[1] 70 *Assem. Hans.* 465-487.

to accept this Motion as one contemplated by S.O. 33, as fewer than the requisite 15 members rose to signify their support of the Motion, Mr. Speaker stated that under the above rule he was not able to put it to the House.[1]

Consolidation of Private Acts.—During the Recess following the 1949 Session, representatives of the Rand Water Board sought advice regarding the procedure to be followed as it was their intention to ask for leave to introduce a Private Bill to consolidate the 13 Private Statutes under which the Board was functioning. Although a number of public Consolidation Bills had been placed on the Statute Book this was the first occasion on which a Private Bill seeking to consolidate a number of Private Acts would be introduced. The representatives of the Board were advised that they would have to comply with the rules relating to Private Bills up to the 1 *R.* stage of the Bill when Mr. Speaker would make a statement in the House regarding the subsequent procedure. The Promoters acted upon this advice and when the Rand Water Board Statutes (Private) Bill was read 1 *R.* Mr. Speaker outlined the subsequent procedure which he considered should be followed. The Bill was accordingly referred to a Select Committee before 2 *R.* for inquiry and report as to whether it in any way alters the existing law (petitions in *opposition* seeking to amend the Bill not to be referred to the Committee).

The Committee having subsequently reported that the Bill merely consolidated and clarified without altering the existing law, it passed all remaining stages under Public Bill procedure.[2]

Revival of Bill.—On January 30, a Motion was introduced to revive the Rents Bill, submitted by a Select Committee in 1949 and which had lapsed at the end of the 1949 Session. The debate on this Motion, which covered a wide range, was resumed on 3 later days and in the end an entirely new Bill was introduced and passed. The order for the adjourned debate on the revival Motion dropped at the end of the Session.[3]

Petition for leave to be heard at Bar of House.—On June 20, Mr. Speaker informed the House that a petition from V. C. H. Brown and 3 others of Johannesburg, praying for leave to be heard at the Bar of the House in opposition to the Suppression of Communism Bill, had been submitted for presentation to the House but that he had been unable to pass the petition as the Bill was one of public policy affecting all sections of the community.[4]

Whips furnishing names of Members to Speaker.—On April 24, Mr. Speaker dealt fully with the practice of Whips furnishing the Presiding Officer with names of members who are to speak. He indicated that, although not bound by definite rules, the Chair does at times discriminate between members if considered advisable, and on

[1] 1950 VOTES, 484.
[2] *Ib.* 42 and S.C. 4-'50.
[3] *Ib.* 68, 120, 137, 206, 347 and 921; *see also* JOURNAL, Vols. XV. 198; XVI. 172.
[4] *Ib.* 188; *see also* JOURNAL, Vols. I. 30; V. 89; XI-XII. 218; XV. 180.

what merits, and that it had become a well-established practice in important debates for lists of names to be submitted by Whips on behalf of their Parties. These lists, while not binding upon the Presiding Officer, serve as a useful indication of the members who are anxious to take part in a debate.

In conclusion, Mr. Speaker emphasized that unfettered discretion must, however, rest with the Speaker to be exercised in the interest of full and fair debate, and that no fixed order of recognition could be imposed on him.[1]

Questions put to Speaker.—Mr. Speaker having been notified by a member of a question on the practice referred to in the preceding paragraph, disallowed the question as such on the grounds given by May, XI Edition, which lays down that no written or public notice of questions to the Speaker are permissible.[2]

Members crossing floor for Divisions.—On May 15, Mr. Speaker, having drawn attention to the uncertainty existing in regard to the point up to which members may cross the floor of the House for a division and the possibility of one member's vote affecting the result, stated that after the tellers on either side had been appointed, members may cross the floor of the House for a division and the possibility of one member's vote affecting the result, stated that after the tellers on either side had been appointed, members would be obliged to remain on that side of the House on which they were when the last 2 tellers had been appointed. He added that tellers would only be appointed when members have had sufficient time to cross over.[3]

Error in Division list affecting Speaker's Casting Vote.—On May 10, the result of a division on the Report Stage of the Population Registration Bill showing an equality of votes, Mr. Speaker gave his casting vote in favour of the "Ayes" in order to retain certain words contained in the Bill.

When his attention was subsequently drawn to an error in the division lists in that an absent member's name had been marked for the "Ayes", Mr. Speaker directed that his casting vote be withdrawn and announced that the words were omitted by the vote of the House.

When the substitution of other words was thereupon negatived, the Bill was recommitted for further consideration of the particular clause. The clause, after consideration in Committee, was reported with an amendment which was agreed to.[4]

Appeal to Speaker from Chairman's decision.—An appeal having been made to Mr. Speaker from a decision by the Deputy-Chairman, Mr. Speaker drew attention to rulings given by Speaker Jansen and Speaker van Coller to the effect that the maintenance of order in Committee of the Whole House was in the hands of the Chairman and

[1] *Ib.* 445-6; *see also* JOURNAL, Vol. IV. 18. [2] 1950 VOTES, 445. [3] *Ib.* 630.
[4] *Ib.* 597, 605, 609.

that there should be no appeal to the Speaker. He expressed his agreement with this view and left the Chair.[1]

Affidavit in regard to proceedings on Suppression of Communism Act.—In the case of Sam Kahn vs. The Liquidator[2] and the Minister of Justice the Clerk of the House was called upon by the Government Attorney to testify by affidavit to the proceedings in the House in connection with the Unlawful Organizations Bill and the Suppression of Communism Act. This affidavit was furnished under the provision of S. 24 of the Powers and Privileges of Parliament Act.[3]

Delegated Legislation.—The Special Schools Act, 1948, empowers the Minister to amend a schedule to the Act by laying upon the Tables of both Houses a notice of his intention, which can be disapproved by Resolution of either House within 30 days. On April 20 the Minister laid upon the Table a notice of his intention so to amend the Schedule.[4]

Absence of member from Select Committee on *opposed* Private Bill.[5]—In terms of S.O. 59 (2) (Private Bills) no member of a Select Committee on an *opposed* Private Bill shall absent himself from his duties thereon except in the case of sickness or by order of the House. At the first meeting of the Select Committee on the Southern Suburbs of Cape Town Water Supply Act Amendment (Private) Bill, an *opposed* measure, attention was drawn to the fact that one of the members had absented himself without leave and the fact was duly reported to the House in a Special Report. After an explanation by the Chief Whip of the Party to which the member belonged, indulgence was granted and the member was ordered to attend the next meeting of the Committee.[6]

Proceedings on *opposed* Private Bill suspended.—The Southern Suburbs of Cape Town Water Supply Act Amendment (Private) Bill was *opposed* by 3 public bodies, viz., the Paarl Municipality, the Paarl Divisional Council and the Wellington Municipality as well as by a group of farmers in the Berg River Valley. The Committee, after hearing the evidence produced by the Promoters and by the Opponents, deemed it necessary to hear evidence regarding water supply schemes other than the one contemplated by the Bill. To afford the Promoters an opportunity of investigating certain alternative schemes which were suggested in reply to a question by the Chairman of the Committee by an expert witness called by the opponents, 2 adjournments of approximately one month's duration each were, with the consent of the parties to the Bill, agreed to and specially reported to the House. When the Committee met after the second adjournment, the Promoters again intimated that they would require a further extension of time in which to complete their investi-

[1] *Ib.* 574; *see also* JOURNAL, Vol. XV. 200.
[2] Appointed under the Act.—[ED.] [3] No. 19 of 1911. [4] 1950 VOTES, 434.
[5] *See also* JOURNAL, Vol. XIV. 189. [6] 1950 VOTES, 228.

gations. As the Session had already reached an advanced stage, the Committee decided to report to the House that it would not be able to complete its enquiry and in terms of S.O. 75 (Private Bills) recommended that the House grant leave for the proceedings to be suspended and resumed in the next Session at the stage then reached. This recommendation was adopted by the House.[1]

Opponents to Private Bills limited to grounds set forth in Petitions in *opposition*.—S.O. 46 (Private Bills) provides—

> . . . and the petitioners shall be heard by the Committee only upon the grounds set forth in such petition.

Upon Counsel for the opponents to the Southern Suburbs of Cape Town Water Supply Act Amendment (Private) Bill seeking to cross-examine a witness produced by the promoters regarding alternative water supply schemes the Chairman ruled that the question could not be put as the petitions in *opposition* made no reference to alternative water supply schemes being available to the promoters.[2]

Right of members of Select Committee on *opposed* Private Bills to examine witnesses regarding alternative schemes.[3]—During the proceedings of the Select Committee on the Southern Suburbs of Cape Town Water Supply Act Amendment (Private) Bill objection was raised by Counsel for the promoters to the Chairman of the Committee putting a question to a witness produced by the opponents regarding alternative water supply schemes. Mr. Speaker, on being consulted, ruled that the members of the Committee were entitled to put questions to witnesses who were competent to express views on water supply schemes other than the one contemplated by the Bill.[4]

Rescinding of a Resolution previously adopted.[5]—In order to rescind a resolution previously adopted a Select Committee has to obtain the unanimous consent of all its members to such a step being taken. During the proceedings of the Select Committee on Pensions, Grants and Gratuities a request was made that a decision which had been arrived at in regard to a certain petition should be rescinded and the case re-opened. As one of the members of the Committee was absent from Cape Town at the time and as the Select Committee had to present its report during the course of the week so that it could be considered by both Houses and the necessary legislation introduced before Parliament was prorogued, his consent was obtained by telephone.

Proposal to omit Clause for purpose of substituting other Clause.—Reference was made to the practice in 1930-32 which had grown up on Select Committees of moving to "omit" a clause which is before it for the purpose of substituting another clause. It was then pointed out that the proper procedure in such a case is, of course, to negative the question: That the Clause stand part of the Bill, and afterwards to bring up a new clause. In Committee of the Whole House the

[1] *Ib.* 631. [2] S.S. 5-'50, pp. x-xi. [3] *See also* JOURNAL, Vol. XI-XII. 216.
[4] S.C. 5-'50, pp. xvii-xix. [5] *See also* JOURNAL, Vol. III. 43.

terms of the clause proposed to be substituted for an existing clause may be ascertained from both the Order Paper and the official debates, but if a Select Committee decides that a Clause should stand part of the Bill, there would ordinarily be no means of discovering the terms of the alternative clause. To overcome this difficulty it was arranged that when a member desires to substitute one clause for another and the Select Committee decides that the clause before it shall stand part of the Bill a note, printed in parentheses, shall be made in the Minutes of the Committee's proceedings that a member proposed to negative the clause before the Committee for the purpose of substituting another clause as set forth.

During the proceedings on the Select Committee on the subject of the Unlawful Organizations Bill a member intimated that it was his intention to substitute other clauses for certain clauses in the draft Bill under consideration. The procedure outlined above was followed, but it was not deemed necessary to print the alternative clauses in full as they already appeared in the draft Bill submitted by the member concerned which was printed *in extenso* in the report of the Select Committee's proceedings, and reference was merely made to the numbers of the clauses concerned.

XIII. CONSTITUTION FOR GIBRALTAR: CITY AND GARRISON

By the Editor

It is many years since the writer of this Article sailed the Straits of Gibraltar in a 1,750-ton vessel on his first deep-sea voyage. He little thought when she had passed into the calm waters of the blue Mediterranean and had to lay to, for repairs to her propeller shaft after a stormy crossing of the Bay of Biscay in the teeth of a howling south-westerly gale, that he would one day be writing this report on the establishment of the first Legislative Council of Gibraltar.

As far back as December 30, 1944, the public was informed by announcement, of certain proposals for constitutional development, including the establishment of an Advisory Council and the reconstitution of the City Council with extended functions and a larger elected majority.

These proposals formed the subject of subsequent correspondence with representative bodies comprising the Gibraltar Chamber of Commerce, the Exchange and Commercial Library, the Transport and General Workers' Union and the Association for the Advancement of Civil Rights, as a result of which certain proposals put forward by those bodies for modification in the constitution of the City Council were adopted and put into effect.

The proposal for the establishment of an Advisory Council, however, was held in abeyance pending consideration of representations

made by the representative bodies for the establishment of a Legislative Council.

A new Constitution was then authorized by the Imperial Government by the publication of the following documents: [1]

(*a*) The Gibraltar (Legislative Council) Order in Council, 1950.
(*b*) Letters Patent passed under the Great Seal of the Realm constituting the Office of Governor and Commander-in-Chief of Gibraltar and making certain provisions for the Government thereof, dated 28th February, 1950.
(*c*) Instructions passed under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief of the City and Garrison of Gibraltar dated 28th February, 1950.

—to come into force on an appointed day.

Electoral Laws.

In order to prepare the way for the inauguration of the partly elected Legislative Council, the following Ordinances were enacted "by the Governor of the City and Garrison of Gibraltar":

The Elections Ordinance (No. 15 of) 1950 and the Election Rules thereunder;[2]
The Elections (Amendment) Rules 1950;[3] and
The Elections (Amendment) Ordinance (No. 20 of) 1950.[4]

These Laws and Regulations provided for the registration of persons entitled to vote at Elections of members of the Legislative Council (and members of the City Council); to regulate the procedure at such elections and for purposes connected therewith. The elections of the 5 M.L.C.s were conducted according to P.R. with the single transferable vote, an example of the method of counting being given in the Appendix to the Election Rules.

Polling day was on November 7, and there were 9 candidates for the 5 elected seats on the Legislative Council.

Franchise.—The qualifications for voting at elections for the Legislative Council are:[5] adult British subjecthood or citizens of the Eire Republic; ordinarily resident in Gibraltar continuously for 12 months ending on and including the qualifying date; or if not so resident, has ordinarily resided during the qualifying period either partly in Gibraltar and partly in Spannish Territory within the Consular districts of H.M. Vice-Consulates at La Linea or Algeciras, or wholly within the said districts and if ordinarily resident in Spain as aforesaid, on the qualifying date is regstered at one of the said Consulates and either:

(*a*) is in regular employment in Gibraltar and is registered at the Central Employment Exchange as being so regularly employed; or
(*b*) is self-employed and Gibraltar is his normal place of business.

In regard to the qualifying period no account is taken of any absence if in pursuance of any evacuation plan under any Ordinance or regulation. The qualifying date means December 31 in the year

[1] *Gibraltar Gazette Extraordinary*, March 30, 1950. [2] *Supplement to Gibraltar Gazette*, July 21, 1950. [3] *Ib.*, September 8, 1950. [4] *Ib.*, October 6, 1950. [5] Ord. No. 15 of 1950, s. 2.

preceding that in which a voters' roll is prepared. Disqualifications for the franchise are: foreign allegiance; imprisonment for more than 12 months without free pardon; insanity; electoral offence; serving in Gibraltar in H.M.'s armed forces, other than the Gibraltar Defence Force.

Constitution.

It is not proposed to set out all the provisions of the 3 legal Instruments above quoted, but only to describe those provisions particularly applicable to Gibraltar, those more commonly contained in such documents being familiar to our readers.

The Order in Council[1]—The Gibraltar (Legislative Council) Order in Council of 1950 constituting a Legislative Council is dated February 3, 1950, and consists of 34 sections.

Gibraltar is defined as the City and Garrison of Gibraltar.

Office of Emolument.—" Public Office " means any office of emolument (commonly described under Parliamentary Government as " Offices of Profit " or " Offices and Places of Profit ") under the Crown in Gibraltar or under the City Council thereof.

This office, however, does not include:

a pensioner under the Crown in Gibraltar, or City Council; or a person in receipt of employment-remuneration from such Council at intervals of more than one week; or, the holder of an office of emolument (other than a member of the regular armed forces) who immediately upon his election ceases to hold such office; or, an office declared by law of Gibraltar as one of emolument.[2]

Legislative Council.—This consists of: the Governor as President; the Colonial Secretary, Attorney-General and Financial Secretary as *ex officio* members; 2 members nominated by the Governor and 5 members elected by popular vote, and, unless sooner dissolved, is appointed for 3 years.[3]

At least one of the nominated M.L.C.s may not hold public office.

The Governor may also summon to the Legislative Council as extraordinary member any person holding " public office ", when in the Governor's opinion the presence therein of such person is deemed desirable, but such member shall only have vote-less voice.[4]

Nominated M.L.C.s hold their seats during H.M. Pleasure and both nominated and elected members cease to be M.L.C.s at the next dissolution. The Governor may discharge any nominated M.L.C. on the ground of incapability or suspend him, reporting thereupon to the Secretary of State.[5]

Casual vacancies are filled by ordinary system of election.

The qualification for nominated or elected membership is adult British subjecthood.[6]

Disqualifications.—For both nominated and elected membership

[1] *Gibraltar Gazette Extraordinary*, No. 69 of March 30, 1950. [2] Order, S. 1.
[3] Ss. 4 and 5. [4] Ss. 6, 7 and 27. [5] S. 9. [6] S. 10.

these are: allegiance to a foreign Power; member of the regular armed forces of His Majesty; minister of religion; disqualified from legal or medical practice in any part of His Majesty's Dominions; undischarged bankrupt; sentenced to death or imprisonment for longer than 12 months without free pardon; unsound mind; unable to speak, read or write the English language (unless by blindness or any other physical cause) sufficiently to take active part in the proceedings of the Council; if an elected M.L.C. holds or is acting in any public office or is not a registered elector, or disqualified for election by holding an office in connection with elections; or disqualified for membership by law relating to offences under the electoral law.[1]

Government Contracts.—Further disqualifications for nominated or elected membership are, if a nominated M.L.C., not being the holder of "public office":

> if a party to, or a partner in a firm, or a director or manager of a company, which is a party to any contract with the Government of Gibraltar for or on account of the public service and has not disclosed to the Governor the nature of such contract and his interest, or the interest of such firm or company therein,

or, if as an elected M.L.C., is such a party and has not published within one month before the day of election in the *Gazette* and in the *Gibraltar Chronicle* a notice setting out the nature of such contract and of his interest, or the interest of such firm or company therein.[2]

Vacation of Seat.—The seat of any nominated or elected M.L.C. becomes vacant: on death; absence from 2 consecutive meetings of the Council without leave of the Governor; allegiance to a foreign Power; resignation; party to a Government Contract (*see above*); if an elected M.L.C. the holder of a "public office"; or, if a nominated member not on his appointment as such the holder of a "public office" has been appointed permanently to such office; if, a nominated member he has become an elected M.L.C.; or, if an elected M.L.C., he has ceased to be a registered elector; or, if otherwise, he ceases to be qualified for election or appointment under this Order.

Should a nominated M.L.C., not on appointment the holder of a "public office", be temporarily appointed thereto, he may neither sit nor vote in the Council so long as he is such holder.

All questions as to the right of any nominated M.L.C. so to remain are decided by the Governor in Council and such questions in respect of elected M.L.C.s are determined by the Supreme Court.[3]

Provision is made for the appointment by the Governor of Temporary M.L.C.s in the event of vacancies occurring among the *ex officio* or nominated members.[4]

Section 15 provides for the precedence of M.L.C.s and by S. 16 for the filling of vacancies in the Council, among Nominated M.L.C.s by the Governor and among the elected M.L.C.s by a fresh election in accordance with this Order.

[1] S. 11. [2] S. 11 (*i*) (i), (ii). [3] S. 12. [4] S. 13.

Legislation.—The Governor, with the advice and consent of the Council, has power to make laws "for the peace, order and good government of Gibraltar".

Governor's Emergency Powers.—The legislative powers reserved to the Governor in cases of emergency are laid down in S. 21 as follows:

21.—(1) If the Governor shall consider that it is expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of Gibraltar as a component part of the British Commonwealth of Nations, all matters pertaining to defence and all matters pertaining to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer or officers) that any Bill introduced, or any motion proposed, in the Council should have effect, then, if the Council fail to pass such Bill or motion within such time and in such a form as the Governor may think reasonable and expedient, the Governor, at any time in his discretion, may, notwithstanding any provisions of this Order or of any Standing Rules and Orders of the Council, declare that such Bill or motion shall have effect as if it had been passed by the Council, either in the form in which it was so introduced or proposed or with such amendments as the Governor shall think fit which have been moved or proposed in the Council or in any Committee thereof; and thereupon the said Bill or motion shall have effect as if it had been so passed, and, in the case of any such Bill, the provisions of this Order relating to assent to Bills and disallowance of laws shall apply accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he shall make any such declaration and the reasons therefor.

(3) If any Member of the Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such Member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any such declaration relating to a motion may be revoked by a Secretary of State, and the Governor shall cause notice of such revocation to be published in the *Gazette*; and from the date of such publication any motion which shall have had effect by virtue of the declaration revoked shall cease to have effect; and the provisions of subsection (2) of S. 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.[1]

Sessions.—"Sessions" and "sittings" are defined.[2] The sittings of the Council are held at such times and places as the Governor may appoint by Proclamation in the *Gazette*. At least one Session must be held every year.[3]

The Governor may at any time, by Proclamation in the *Gazette*, prorogue or dissolve the Council. On dissolution all members thereof vacate their seats but the Council must be re-constituted within 3 months thereafter. The Governor must dissolve the Council at the expiration of 3 years from the date of report to him of the return of the first writ at the preceding General Election.[4]

President.—The Governor presides at meetings of the Council or in his absence, such M.L.C. as he may in writing appoint. In event of

[1] 52 & 53 Vict. c. 63. [2] Order S. 1. [3] *Ib.* S. 25. [4] *Ib.* S. 27.

no such appointment being made the member first in the order of precedence shall preside.[1]

Procedure.—A quorum is 4, excluding the Governor or Presiding Member, and except that of adjournment, no business may be transacted if objection is taken by any member present that there is no quorum.[2]

Subject to the approval of the Governor, the Council has power to frame Standing Rules and Orders for the conduct of its proceedings.[3]

Members may introduce Bills or Motions, or present Petitions; Provided that, except with the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, Motion or Petition which, in the opinion of the Governor or other Presiding Member, would—

(*a*) dispose of or charge any public revenue or public funds of Gibraltar or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty;
(*b*) suspend the Standing Rules and Orders of the Council or any of them.

Voting.—All Questions proposed for decision in the Council shall be determined by a majority of the members "present and voting".

In case of an equality of votes, the Governor has only a casting vote[4] but in the absence of the Governor the Presiding Member has both an original vote and in event of equality of votes, also a casting vote.

The penalty for an unqualified person sitting or voting is not more than £20 for every day upon which he sits or votes.[5]

S. 28 (2) of the Order provides that:

28(2). The Minutes of the proceedings of the Council, when duly confirmed, shall be recognized in all Courts of Gibraltar as an authentic record, and shall be admissible as evidence of the matters regularly recorded therein.

Oath or Affirmation of Allegiance.—This is in the usual form and must be taken by every member of the Council before he may sit or vote therein or in any Committee thereof.[6]

Miscellaneous.—Part IV deals with Electoral Laws: transitional provisions; removal of difficulties and Powers reserved to His Majesty.[7]

Governor's Letters Patent.

These constitute the office of Governor and Commander-in-Chief and establish an Executive Council of the Colony (*see below*).[8]

In the absence or incapacity of the Governor, the senior member of the Executive Council "then in Gibraltar and so capable" discharges the duties of Governor, but in case of short absence or illness then he may appoint a Deputy to act for him.[9]

The Governor is vested with the power of pardon.[10] The Letters

[1] S. 14. [2] S. 20. [3] S. 26. [4] S. 19. [5] S. 32. [6] S. 29. [7] Ss. 30-34.
[8] *Gibraltar Gazette Extraordinary*, March 30, 1950. [9] Art. 7. [10] *Ib.* 12.

Patent also include the usual powers vested in the office as well as the Oaths of Allegiance and office to be taken by members of the Executive Council.

Royal Instructions.

Executive Council.—The Royal Instructions provide for an Executive Council of the 3 *ex officio* members sitting in the Legislative Council (*see above*) and the Deputy Fortress Commander,[1] together with 3 unofficial members not holding "public office" or, as appointed by the Governor as temporary members.

Every unofficial M.E.C. vacates his seat at the end of 3 years after his appointment, unless he, in the meantime, resigns his seat; is appointed permanently to any "public office", or is absent from Gibraltar without leave of the Governor. Should such a member be appointed temporarily to any such office he may not sit as, or take part in, the proceedings of the Executive Council so long as he holds such office. The Governor also has power to discharge any unofficial M.E.C. not capable of performing his functions in the Executive Council, or suspend him. Provision is made for the appointment of temporary or extraordinary members.

The Executive Council may only be summoned by the authority of the Governor, who presides at its meetings, or in his absence, such member of the Executive Council as he may appoint; if no such appointment be made then the senior M.E.C. present presides.[2]

The Governor is required to consult with the Executive Council unless "Our service would sustain material prejudice" or the matters are too unimportant or too urgent to admit of delay. In such last-mentioned case, the Governor is required to report to the Executive, the steps he has taken, with the reasons therefor.[3]

The Governor alone, is entitled to submit questions to the Executive Council. Should he so decline when requested in writing by any members, such member may require the matter to be recorded on the Minutes together with the Governor's answer thereto.[4]

The Governor may, however, act in opposition to the advice given him by the Executive Council, and report such matter to the Secretary of State together with the reasons therefor "at the first convenient opportunity". In these cases any member of the Executive Council may require any advice or opinion he may give to be recorded upon the Minutes, with the reasons therefor.[5]

Among the other clauses is provision for liberty of conscience and freedom of worship, which reads:

23. It being Our intention that all persons inhabiting Gibraltar should have full liberty of conscience and the free exercise of their respective modes of religious worship. We do hereby require the Governor to permit all persons within Gibraltar to have such liberty, and to exercise such modes of religious worship, provided they be content with the quiet and peaceable enjoyment of the same, not giving offence or scandal to the Government.

[1] Clause 3. [2] *Ib.* 8 and 9. [3] *Ib.* 10. [4] *Ib.* 11. [5] *Ib.* 12.

By Clause 16 of the Royal Instruction (*see below*) Bills dealing with the following subjects must be reserved: divorce, land or money grants to the Governor, currency, banking, differential duties, discipline of the fighting services, trade and religion, except in cases of urgency when report is made to the Imperial Government.[1]

Private Bills.—Clause 17 reads:

17.—(1) Every Bill (not being a Government measure) intended to affect or benefit some particular person, association or corporate body, shall contain a clause saving the 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.

(2) No such Bill shall be introduced into the Legislative Council until due notice has been given by not less than three successive publications of the Bill in the *Gazette*; and the Governor shall not assent thereto in Our name unless it has been so published. A certificate under the hand of the Governor signifying that such publication has been made shall be transmitted to Us with the Bill or Ordinance.

Royal Opening of the First Legislative Council by H.R.H. the Duke of Edinburgh.—After the administration of the Oath of Allegiance to members of the Legislative Council by the Governor on the previous day, the Royal Opening took place at 11 a.m. on November 23, 1950.

One can imagine the 21-gun Royal Salute from the guns of the Fortress, the beflagged narrow streets, the people assembled in the City's only open square to see the inspection of the Guard of Honour, supplied by the Gibraltar Defence Force, by H.R.H. the Duke of Edinburgh.

One can hear the Fanfare of Trumpets as His Royal Highness enters the new Legislative Council Chamber, in Naval Uniform and wearing the blue riband of the Order of the Garter and then the playing of the Royal Anthem.

After the reading by the Governor of the King's Commission to open the Legislative Council, His Royal Highness delivered the following Address:

Your Excellency and Members of the Legislative Council:

It is a great honour for me to represent The King at the Opening Ceremony of the first Legislative Council of this historic Fortress-City. It is also a great personal pleasure for me, as a Naval Officer, to be able to pay tribute to this Colony, which has played such a vital part in the history of the Commonwealth and Empire as a base and a home from home for the Navy for so many years. The Royal Navy has a great affection for the Rock, and we all rejoice with you on this happy occasion.

It has been a long and difficult process to produce the new Constitution, and all who had a hand in it, including the Gibraltar representative bodies, are to be congratulated on their hard work and

[1] *Ib.* 16.

good sense in its creation. The free and democratic Institutions which flourish under the Crown are a great bulwark of world peace to-day. You are taking a most important step in your Constitutional history and it places a heavy responsibility upon the members of this Council for the welfare of the people of Gibraltar. Yours is a great privilege. May God guide you in your work.

Your Excellency, I pray that together with the Legislative Council and Executive Council you will be able to usher in a new era of peace, prosperity and happiness for Gibraltar.

I declare open the First Session of the Legislative Council of Gibraltar.

On December 14, 1950, the Governor delivered his Opening Address and another Ship of State set out upon her voyage.

XIV. AN ACCOUNT OF THE CONSTITUTION OF THE SUDAN

By M. F. A. Keen, B.A.(Cantab.)
Clerk of the Legislative Assembly.

I. Background.

Historical.—The occupation of the Sudan by Egypt, herself then under the suzerainty of Turkey, began in 1821 when Mohammed Ali Pasha invaded the country and ended in January, 1885, with the fall of Khartoum to the Mahdi's rebellion and the death of General Gordon, who had hurriedly been reappointed Governor-General and sent to try and extricate all non-Sudanese elements from what had already become a hopeless position.

The reoccupation by a force under Lord Kitchener consisting of units of the British Army and a rehabilitated Egyptian Army trained and led by British Officers, began in 1896 and was completed after the battle of Omdurman in 1898.

In view of the joint nature of this reoccupation, and in recognition of the responsibility thereby assumed by the British Government to ensure that the reoccupation would not result in a reversion to the misrule and the spread of the slave trade which had marked the previous Turco-Egyptian regime, a government under a condominium of Great Britain and Egypt was set up under the Anglo-Egyptian "Agreement for the Administration of the Sudan" of January 19, 1899.

Under the terms of this agreement the supreme military and civil command is vested in the Governor-General, who is appointed by decree of the King of Egypt (then the Kedive) on the recommendation of His Britannic Majesty's Government and is removable only by such decree with the consent of His Britannic Majesty's Government.

Complete legislative and executive authority is vested in him. Egyptian law does not apply and no Egyptian or British Court has any jurisdiction in the country. A customs union with Egypt is provided for, and Article XI prohibits the slave trade.

In 1910, under the Governor-General's Council Ordinance a Council was set up presided over by the Governor-General and composed of the Civil, Financial, and Legal Secretaries and the Kaid (General Officer Commanding, Troops) as *ex officio* members, with not less than 2 or more than 5 additional members appointed by the Governor-General. Such additional members were in fact always officials. Thereafter all ordinances were enacted by "the Governor-General in Council".

The attainment by Egypt of her independence after the first World War led to a demand by her for the termination of the Condominium on the grounds that Egypt and the Sudan were one country. A violent anti-British movement amongst the Egyptians during the Anglo-Egyptian negotiations for an inclusive treaty in 1924 led to the assassination of the Governor-General in the streets of Cairo and to a mutiny amongst the Sudanese battalions of the Egyptian Army. As a result, all Egyptian administrative officials were removed, the purely Egyptian battalions of the Army returned to Egypt and a separate "Sudan Defence Force" was formed out of the Sudanese battalions and the negotiations were broken off. The constitutional position remained unchanged.

In the sphere of local government the nineteen twenties saw increased powers and responsibilities laid upon the shoulders of the native tribal authorities. In the nineteen thirties attention was directed to the establishment of local government bodies of a more modern type, and in the later nineteen forties the policy of establishing effective local government institutions on the British model was accepted and considerable progress made.

Province Councils at an intermediate level between central and local government were set up in 1943, but it remains to be seen if their usefulness is more than transitory.

In 1936 a treaty was finally concluded between Great Britain and Egypt, of which Article 11 referred to the Sudan. It made no difference in the constitutional status but it embodied the principle that the primary aim of the administration of the Sudan was the welfare of the Sudanese. It provided that appointments in the government service for which qualified Sudanese were not available might be of British or Egyptian nationality, that Egyptian troops should again provide part of the garrison of the Sudan, as well as the Sudan Defence Force and the British troops.

In 1944 an Advisory Council for the Northern Sudan (*i.e.*, excluding the 3 Southern Provinces) was set up, consisting of 18 members, 3 from each of the 6 Northern Provinces, elected by the Province Councils from amongst their members, 2 members elected by the

Chamber of Commerce, and 8 nominees of the Governor-General to represent the professional classes. The 3 Secretaries were Vice-Presidents and the Governor-General President. Apart from the President and Vice-Presidents there was only one non-Sudanese on this Council. It sat normally for about 4 or 5 days twice a year. Its constitution provided that fresh elections and nominations should be held after 3 years, but constitutional development was going too fast and the life of the first council was prolonged beyond its 3 years only long enough for it to consider constitutional machinery of very much wider scope.

In 1946 an Administration Conference with a large majority of Sudanese members was set up which reported in 1947, advocating the establishment of a Legislative Assembly and Executive Council. An ordinance embodying these proposals, and in several respects going beyond them, was drafted and, with slight modifications, accepted by the Advisory Council early in 1948. The draft was then submitted to the British and Egyptian Governments. The former accepted it as it stood. After a few minor amendments had been made, it received the approval of the Egyptian Foreign Minister, but his Government did not support him, and the Governor-General in Council passed the ordinance in June, 1948, without the blessing of one of the Co-domini.

Elections were held in the autumn, a building with a chamber laid out on the lines of the House of Commons was completed in time for the first meeting on December 15, 1948.

Physical.—The Sudan comprises an area of just under one million square miles of country ranging from desert in the North to permanent swamp and tropical forest in the South, with a rainfall gradually increasing from nil on the Northern to sixty inches on the Southern border.

The population is now estimated at about 8 million of which over 2 million live in the 3 Southern Provinces.

II. The Present Constitution.

As a result of the passing of the Executive Council and Legislative Assembly Ordinance 1948, the Governor-General's Council instituted in 1910; and the Advisory Council instituted in 1943, ceased to exist[1] and there were set up in their place an Executive Council and a Legislative Assembly, and executive and legislative powers were delegated to them.

Ministers and Under-Secretaries.—The Assembly from amongst its members elects its own leader, who, in accordance with S. 5, must be appointed a Minister by the Governor-General, either with or without a departmental portfolio. Thereafter the Governor-General may appoint other Ministers, after taking into consideration the views of

[1] The Executive Council and Legislative Assembly Ordinance, No. 9 of 1948, s. 4.

the Leader of the Assembly, each Minister to be responsible to the Governor-General for the department or departments to which he is appointed. A Minister must be a Sudanese and may not be a Government civil servant, but except in the case of the Leader of the Assembly, need not, prior to his appointment, be a member of the Assembly.

The Governor-General, again after taking into consideration the views of the Leader, may appoint not more than 12 Under-Secretaries, to serve in one or more departments, either under the Minister or, if there is no Minister responsible for that department, "in association with the Director . . . with power to represent such department . . . in the Assembly".[1] An Under-Secretary must be a Sudanese but need not, prior to his appointment, be a member of the Assembly. By an order of the Governor-General[2] he may be a Government servant, but in practice vacates whatever post he holds for the period of his service as Under-Secretary.

Ministers and Under-Secretaries are subject to dismissal by the Governor-General at his discretion. They vacate their offices at the beginning of each new Assembly but are eligible for re-appointment.[3] Any Minister or Under-Secretary who is not already a member of the Assembly becomes a member *ex officio* on appointment.[4]

The Executive Council.—The Council is responsible to the Governor-General for the executive and administrative functions of Government.[5] As they are all members of the Assembly they are also answerable in these matters, individually and collectively, to the Assembly.

The Council, of not less than 12 and not more than 18 members appointed by the Governor-General, is composed of the Leader of the Assembly and the other Ministers. In addition the Governor-General may, at his discretion, appoint:

(*a*) not more than 4 official members by office from amongst the Civil, Financial and Legal Secretaries and the Kaid,

(*b*) not more than 3 Councillors without portfolio and

(*c*) such Under-Secretaries as he may think fit after taking into consideration the views of the Leader.

Only the 3 Secretaries and the Kaid and the Councillors without portfolio may be other than Sudanese, and the number of Sudanese in the Council may never be less than half.[6] When the Council was first appointed there were 6 Sudanese and 6 British members but in May, 1950, a British Councillor without portfolio was replaced by a Sudanese, making a Sudanese majority of 7 to 5.

The 3 Secretaries and Kaid are, and the Councillors without portfolio may be, serving Government officials, but the latter may not at the same time hold certain posts, *e.g.* judges, governors, District Commissioners, etc. Members of the Police and military forces are

[1] S. 6 (2). [2] S. 11 (*a*) (ii). [3] *Ib.* S. 8. [4] *Ib.* s. 25 (3).
[5] *Ib.* s. 9. [6] S. 10.

also ineligible. Other disqualifications (which apply also to membership of the Assembly) are illiteracy, bankruptcy, unsoundness of mind, a prison sentence of 2 years or more within the last seven.

Government Contracts.—An undisclosed contract with the Government disqualifies from membership of the Council but not of the Assembly.[1]

All members of the Council are *ex officio* members of the Legislative Assembly.[2]

A Minister or Under-Secretary who ceases to hold office as such automatically loses his seat on the Council. Councillors without portfolio may be dismissed by the Governor-General. Any member may resign if the Governor-General accepts his resignation.[3]

In the temporary absence of an official member, his deputy may sit in his place. The Director of a department may similarly deputize for his Minister or Under-Secretary, and the Governor-General may appoint anyone to deputize temporarily for a Councillor without portfolio.[4] The Ordinance is silent on the subject, but the principle has been accepted that such temporary membership of the Council does not carry with it temporary membership of the Assembly.

All members of the Council, including official members, retire from office at the commencement of the first session of each new Assembly but are eligible for re-appointment.[5]

President.—The Governor-General is President of the Council, and if present presides over its meetings. He may appoint a Councillor to preside in his absence, but in default of such appointment the senior official member presides. The Governor-General has a casting, but no original vote. Any other member presiding has an original but no casting vote. If in the absence of the Governor-General the votes are equally divided the Motion is deemed to be lost.[6]

The Governor-General may veto a majority decision of the Council and substitute his own decision. This must be recorded in the record of proceedings of the Council and notified to the Condominium Governments forthwith.[7]

Seven members exclusive of the Governor-General form a quorum.[8]

Section 20 lays down the principle of collective responsibility of the Council, and its deliberations are secret.[9] There is no provision in the Ordinance, but the Council in fact has a secretary (part time).

The Legislative Assembly.—The Assembly is composed of elected, nominated and *ex officio* members (*i.e.*, members of the Council and Under-Secretaries). The number of nominated members may not exceed 10.[10]

Elected Members.—The elected members (at present 65) are all returned for territorial constituencies set out in Part I of the Second Schedule. There is no communal representation.

[1] S. 11. [2] Ord. No. 9 of 1948; s. 25. [3] *Ib.* s. 12. [4] S. 13. [5] S. 15. [6] Ss. 16 and 17. [7] S. 18. This has not yet occurred (Feb., 1951).—[M. F. A. K.] [8] No. 9 of 1948, s. 19. [9] *Ib.* s. 21. [10] S. 25.

The methods of election laid down in Part II of the Second Schedule, vary widely; there is direct election by secret ballot in the 10 wholly urban constituencies, indirect (two-stage) election in the more sophisticated rural areas in which the primary stage may be either by vote or by acclamation. In the less sophisticated rural areas members are elected by the Local Government Body sitting as an electoral college (*i.e.*, the first stage is omitted, as the Local Government Body is itself elected). All the foregoing are single-member constituencies. The 3 Southern Provinces (which comprise the most backward part of the country) each returns 4 or 5 members elected by the Province Council. It is probable that these provinces will be split into individual constituencies before the elections for the Second Assembly.

Section 28 empowers the Governor-General by order to make rules for the regulation and conduct of the elections.

Nominated Members.—The nominated members are appointed by the Governor-General at his discretion from amongst persons qualified to be members of the Assembly.[1]

Elected and Nominated Members.—All persons are qualified for membership[2] who:

(*a*) are Sudanese; and
(*b*) are not less than 30 years of age; and
(*c*) are of sound mind; and
(*d*) in the case of elected members, having during the last 10 years been resident for not less than 2 years in the constituency for which they seek election.

The same disqualifications[3] as for the Council apply (except an undisclosed contract). Government Officials are disqualified except that the Governor-General may by order exempt Government servants from disqualification in the case of nominated members and those elected by Province Councils, and has in fact done so.

An elected or nominated member may resign, and an *ex officio* member's seat becomes vacant if he ceases to be a member of the Council or an Under-Secretary.[4]

Any question as to the eligibility of a member may be referred by the Speaker, if he considers that there is a *prima facie* case, to a Judge of the High Court for determination.

Franchise.—Part III of the Second Schedule defines the franchise: "1. A person shall be qualified to vote in the constituencies set forth in Part IA of this Schedule" (*i.e.*, those where direct elections are held) "if he:

(*a*) is Sudanese, and
(*b*) is male, and
(*c*) is not less than 25 years of age, and
(*d*) is of sound mind,

[1] S. 29. [2] S. 30. [3] S. 31. [4] S. 32.

(*e*) has been ordinarily resident in the constituency for a period of not less than one year before the closing of the election roll, and

(*f*) owns, or occupies as a tenant, premises within the constituency of which the annual rental value for the purposes of the local taxation Ordinance 1919 is assessed at not less than £E.3.600[1] milliemes; or if the premises are situated in a Native Lodging Area makes an inclusive annual payment of not less than 360 milliemes;[2] or pays in direct taxation or under the Traders' Licence and Taxation of Business Profits Ordinance 1929 a sum of not less than £E.1 a year.[3]

2. A person shall be qualified to vote as a primary elector in the constituencies set forth in Part IB of this Schedule if he:

(*a*) being resident in a warranted town or urban district council possesses the qualifications laid down in the preceding paragraph.

(*b*) being resident in any other part of a constituency:

(i) is Sudanese, and
(ii) is a male, and
(iii) is not less than 25 years of age, and
(iv) is of sound mind, and
(v) has been ordinarily resident in the constituency for a period of not less than one year before the closing of the electoral roll, and
(vi) has paid during that year a sum of not less than 250 milliemes[4] in direct taxation or of not less than £E.1[5] under the Traders' Licence and Taxation of Business Profits Ordinance 1929 or is a registered tenant of a recognized Government Agricultural Scheme."

Elections.—The conduct of elections is regulated by "The Legislative Assembly Electoral Rules 1948," issued by the Governor-General under S. 28. They also provide penal sanction for corrupt practices and electoral offences.

Sessions.—The Governor-General appoints the date of the opening of each Session which continues until prorogued by him[6] and he may dissolve the Assembly at any time.[6] Unless sooner dissolved, every Assembly continues for 3 years from the beginning of its first Session. On expiration or dissolution, the Governor-General orders fresh elections and when they are completed makes new nominations, as far as may be practicable to be completed within 4 months of the termination of the previous Assembly.

Members' remuneration is £E.360 p.a.[7]

Speaker.—The Assembly is presided over by a Speaker. The Speaker of the first Assembly is appointed by the Governor-General from amongst the elected or nominated members, but in subsequent Assemblies is elected by the Assembly from amongst its members, though his election is subject to the approval of the Governor-General.

[1] Approx. £3 13*s*. 6*d*. Br. stg. [2] Approx. 7*s*. 3*d*. [3] £E.1=£1 0*s*. 6*d*. Br. stg.
[4] Approx. 5*s*. [5] Ss. 35 and 36. [6] S. 37. [7] No. 9 of 1948, s. 40.

A Deputy Speaker is elected by the Assembly, also subject to the approval of the Governor-General.[1]

The Speaker has neither an original nor a casting vote, and if the votes are equal the Motion is deemed to be lost.[2] Thirty-five members form a quorum.[3]

The Leader.—At the first meeting of each Assembly it elects from its members the Leader of the Assembly.[4] At this meeting there are no Government members, since the Ministers and Under-Secretaries are only appointed by the Governor-General after he has consulted the Leader, and in fact the Official and "without portfolio" members are appointed at the same time as the others.

III. Procedure, Language[5] and Standing Orders.

The proceedings of the Assembly are conducted in Arabic but without prejudice to such use of English as may be convenient.[6] The Standing Orders provide that any speech made in English must be translated into Arabic, but that the Speaker may order any Arabic speech to be translated into English. All Bills, Notices, Minutes and Records, etc., are printed in both English and Arabic.

A member of the Assembly may, subject to the Standing Orders, address questions to the Council on any subject.[7] Such questions are not, therefore, addressed to any individual Councillor, but the Councillor or Under-Secretary concerned replies.

In the first instance the Governor-General prescribed Standing Orders for the Assembly, but thereafter the Assembly is empowered to amend or change them without reference to the Governor-General.

A set of Standing Orders, based on a draft prepared by Mr. E. A. Fellowes, then Second Clerk-Assistant at Westminster, was prepared and "prescribed" by the Governor-General under S. 50. These worked extremely well, but as was inevitable, a number of not very important amendments were found necessary and agreed to by the Assembly in the Second Session. Another lot of amendments is now under consideration by the Committee on Standing Orders.

In general they provide a procedure which, while much simplified, is basically the same as that of the House of Commons, and it is significant that nearly all the important amendments now under consideration are aimed at bringing the procedure more closely into line with that of the Commons where, in an attempt to over-simplify, an undue departure had been made.

Some features worthy of note are:

(1) The Speaker, the Leader of the Assembly and the Deputy Speaker, if more than one candidate is proposed and seconded, are elected by secret ballot using the single transferable vote method.

(2) Efforts to produce a verbatim report in Arabic proved unsuc-

[1] S. 41. [2] S. 43. [3] S. 44. [4] S. 42.
[5] For use of language other than English in other Assemblies *see* Index to this Volume.—[M. F. A. K.] [6] S. 45 [7] Ord. No. 9 of 1948; S. 48.

cessful for various reasons, and a summary only is now produced in English and Arabic under the direction of the Clerk. Machinery is on order to record the proceedings electrically, but the summaries will continue to be produced for the benefit of the public.

(3) The normal sitting hours are from 9.30 a.m. to 1 p.m., and if necessary from 5.30 p.m. to 7.30 p.m. Ordinary sitting days are Monday, Tuesday, Wednesday, Thursday and Saturday. On Mondays and Thursdays private members' business has precedence unless the Assembly otherwise orders.

(4) The procedure on amendments has not yet crystallized and 2 or more alternative amendments may be under discussion at the same time.

(5) When a division is challenged the bells are rung, and the Ayes and Noes rise successively in their places and are counted by the Speaker, the Clerk and the Interpreter (acting for the Clerk-Assistant). Provision is made that if a division by name is claimed the names of those so voting shall be recorded, but so far this provision has never been used.

(6) Government Bills may be presented but may if desired, and Private Members' Bills must, be introduced on a Motion. After introduction a Private Member's Bill is referred to the Government department concerned for a report.

(7) Owing to the great diversity of race, customs, and living conditions to be found within the Sudan, provision is made[1] that if a member of the Council or ten other members so request, any Bill which applies only to certain areas, or which appears "likely to affect local custom, organization or way of life in a particular area in a way different from that in which it would affect the rest of the country" is first considered by a Special Committee consisting of the Civil and Legal Secretaries, any member of the Council and Under-Secretaries departmentally concerned, and all the members from the area in question. No further proceedings may be taken till this Committee has reported. This procedure has not yet been used.

(8) The Assembly is divided into 2 Standing Committees A and B, the first presided over by the Speaker and the second by the Deputy Speaker. In fact, the Committee stage of nearly all Bills is taken in Committee of the Whole Assembly.

(9) The following Committees for Special Purposes are set up each Session, namely: of Selection; House; Standing Orders; Public Accounts; and on Public Petitions. A Committee of Privileges will be set up when the proposed Privileges Bill in preparation has been passed. There is a Chairmen's Panel of 4 elected or nominated members who are appointed by the Speaker.

(10) Financial procedure is reduced to the simplest form. There is no such thing as Committee of Supply or Committee of Ways and Means. The Bills (the Appropriation Bill, the Appropriation of

[1] S.O. 58.

Reserves Bill and the Finance Bill, if any) which comprise the Budget are presented in the same way, and pass through the same stages, as any Government Bill. The Committee Stage of the Appropriation Bill provides the widest general debate on policy of the year. In practice, owing to the form in which the estimates are presented, only token reduction in respect of specific points of policy can be moved, and have in one or two instances been carried.

As the Financial Secretary is a permanent official, and not a party office bearer, holding office only so long as he commands the confidence of the Assembly, the opportunity for members to put forward their suggestions for the framing of the following year's budget is provided on the presentation of the (unaudited) accounts of the previous year on a formal Motion "that the Assembly takes note of the Government Accounts for the year 19 . . ." The Financial Secretary does his best to comply with these suggestions, and in his budget speech will draw attention to the fact when this has been done, and give full reasons where he finds he has been unable to do so.

When the accounts for the year have been audited the report of the Auditor-General is laid upon the Table, and is referred, together with the accounts, to the Public Accounts Committee.

(11) No specific provision has yet been made for the submission to the Assembly of delegated legislation, and such legislation made under existing laws is only laid on the Table of the Assembly if the Member of Council responsible sees fit to do so. The best method of providing for this, whether by a separate Statutory Instruments Ordinance or by an addition to the Executive Council and Legislative Assembly Ordinance 1948 itself, is under consideration.

Privilege—Freedom of speech is guaranteed by S. 46, and S. 47 provides that the Assembly may debate and pass Resolutions on any subject, save that debates dealing with reserved matters require the prior consent of the Governor-General. Resolutions passed by the Assembly are sent to the Council for their consideration.

No mention is made for the privileges of the Assembly in the Ordinance (save the reference to freedom of speech in S. 46 and of debate in S. 47), but it has been held "that it enjoys all such inherent powers or privileges as are necessary to its existence, and to the proper exercise of the functions which it is intended to execute."

As it is clearly desirable that these should be defined, a Privileges Bill is now in course of preparation.

Clerk-at-the-Table.—The Clerk of the Assembly is only once, and then indirectly, mentioned in the Ordinance (S. 41 provides that whereas a member wishing to resign must hand his resignation to the Speaker, if the Speaker wishes to resign he hands it to the Clerk).

The first Clerk of the Assembly was a serving member of the Administration posted thereto in the same way as to any other appointment in the service, after an attachment of 3½ months to the office of the Clerk of the House of Commons.

It has since been recommended (and has been accepted in principle) that though for some time he will have to be drawn from the ranks of serving officials, he should be appointed by the Governor-General (after consultation with the Speaker) and should only be removable in the same way, and that he should remain in that position till he retires from the service and should not be liable to transfer back to any other Government post. The necessity for ensuring that the appointment never becomes a political one precludes his being removable on an Address of the Assembly to the Governor-General.

Provision in the estimates has been made for a Clerk-Assistant, but the post has not so far been filled.

Other Staff.—There is a Serjeant-at-Arms, Deputy Serjeant, Interpreter, Treasurer and Supervisor of Printing who hold purely Assembly appointments. The clerical staff of the Clerk of the Assembly are provided from the general Government cadre, the number being too small for the Assembly to have a cadre of its own.

IV. Legislation.

Government Bills are first passed by the Council before submission to the Assembly. In the Assembly they pass through the usual stages, as laid down in the Standing Orders. The Assembly may make any amendments, and if they have done so the Bill is submitted again to the Council. If the Council accepts the amendments it is submitted for the Governor-General's assent as amended. If the amendments are unacceptable the Council may either withdraw the Bill, or submit it to the Governor-General both in its original form (as amended by any amendments of the Assembly acceptable to the Council) and in the form in which it was passed by the Assembly, with a report on the views of the Council and the Assembly thereon. Whichever form of the Bill receives the Governor-General's assent becomes law. If a Bill is rejected by the Assembly the Council may either withdraw it or submit it to the Governor-General with a report on the views of the Assembly and Council thereon. If the Governor-General assents to it, it becomes law. The Governor-General may not, however, give his assent to a Bill in any form other than that in which it was passed by the Assembly until he shall have referred the matter to the Condominium Governments, and thereafter either:

(*a*) he shall have received notification of the agreement of the said Governments that he should assent to such Bill, or

(*b*) one month, or in the case of a Finance or Appropriation Bill, 15 days shall have elapsed since the date of his reference to the 2 Governments without his having received notification of their agreement that he should NOT assent to such Bill.

The Governor-General must furthermore record in writing and

transmit to the Assembly his reasons for assenting to any Bill in any form not passed by the Assembly.[1] This has not yet occurred.

Emergency Powers.—In cases of emergency when the Assembly is not in Session the Council may legislate by Provisional Order, which, on receipt of the assent of the Governor-General, has the force of law. Every such Order must be submitted to the Assembly as soon as may be after it next meets, and if confirmed by Resolution, thereupon becomes law as an Ordinance. If the Assembly refuses to confirm the Order the Council must either revoke it or resubmit it to the Assembly as a Bill. This has not yet occurred. If revoked (or if the Governor-General refuses his assent to the Bill) it ceases from that moment to have effect, but such cancellation is not retrospective.[2]

Reserved Bills.—A private member may initiate legislation by submission of a Bill to the Assembly[3] on any subject save reserved matters, but if the Bill deals with the defence of the Sudan, coinage and currency or the status of religious or racial minorities the prior consent of the Council must be obtained,[4] and if it involves taxation or the expenditure of public funds the prior consent of the Governor-General must be obtained.[5]

Reserved matters are dealt with by S. 54 as follows:

The following shall be reserved matters in respect of which the Assembly shall have no legislative powers:

(*a*) The provisions of this Ordinance,

(*b*) The relations between the Sudan Government and H.M. Government in the United Kingdom and the Royal Egyptian Government,

(*c*) The relations between the Sudan Government and foreign Governments,

(*d*) The nationality of the Sudanese.

Assent.—Section 57 provides that all Ordinances and Provisional Orders shall be notified to His Britannic Majesty's Ambassador in Cairo and to the President of the Council of Ministers of the Royal Egyptian Government. This had always been the practice in the past.

Finance—Budget, Money Bills.—The budget is dealt with by S. 58 as follows:

(1) The annual budget, which shall consist of estimates of revenue for the year and of estimates of expenditure to be charged to, and allocations to be made from, that revenue shall be prepared by the Financial Secretary and shall, when passed by the Council, be laid before the Assembly.

(2) The proposals of the Council for all such expenditure (other than expenditure hereinafter declared to be excepted expenditure) and for all such allocations shall be submitted to the vote of the Assembly by means of an Appropriation Bill which shall contain estimates under appropriate heads for the several services required.

(3) The following expenditure shall be excepted expenditure and shall not be submitted to the vote of the Assembly but shall be paid out of revenue under the authority of this Ordinance, namely:

(*a*) Debt service charges for which the Sudan Government is liable by virtue of obligations incurred by it before the appointed day.

[1] S. 51. [2] S. 52. [3] S. 53. [4] S. 55. [5] S. 64.

(*b*) The salaries payable to the members of the Judiciary set forth in item 1 and 2 of the First Schedule. Provided that neither the number of such members nor their scales of salary as established on the appointed day shall thereafter be varied save by Ordinance.

(*c*) The Governor-General's office.

(4) The decision of the Governor-General whether any proposed expenditure falls under any of the above heads shall be conclusive.

(5) The Assembly may assent or refuse its assent to any estimate or allocation included in the Appropriation Bill or may vote a lesser amount than that included therein, but it may not vote an increased amount or an alteration in its destination.

(6) Proposals for the imposition of new or the alteration of existing taxes shall be submitted to the vote of the Assembly by means of a Finance Bill. Provided that the Council may, where in the opinion of the Council the public interest so requires, provide by Order in Council that any proposed new tax or alteration in an existing tax shall come into operation on the day on which the Finance Bill is presented to the Assembly; but every such order shall be without prejudice to the right of the Assembly to vote in due course on any such item of revenue. An order made under this sub-section may be revoked by the Council, and unless sooner revoked, shall expire upon the coming into operation of the Finance Bill as an Ordinance, or the refusal by the Governor-General of his assent to the Finance Bill; but its revocation or expiration shall not have retrospective effect, and no revenue collected under such order shall in any event be repayable.

(7) The Assembly may not reject or reduce any item in the Finance Bill if a member of the Council certifies that such rejection or reduction would produce an estimated budgetary deficit. But a member of the Assembly may with the leave of the Governor-General move an amendment substituting for any such item another item to secure the same amount of revenue.

(8) The Finance Bill, if any, and the Appropriation Bill shall be voted upon by the Assembly within 21 days of their submission to the Assembly, and at the expiration of such period may, notwithstanding that they have not been so voted upon, be submitted by the Council to the Governor-General in accordance with the provisions of S. 51.

(9) The Governor-General may declare that, for reasons to be set forth in such declaration, any estimate of expenditure or allocation which has been rejected, or the amount which has been reduced by the Assembly, represents expenditure or an allocation which is essential to the discharge of his responsibilities; and thereupon such estimate shall be deemed for all purposes to have been voted without reduction by the Assembly.

Provision is also made for Advance Appropriation Bills, Supplementary Appropriation Bills and Supplementary Finance Bills, also for Appropriation of Reserved Bills.

The Final Accounts of the Government for the year, together with with the Auditor-General's Report thereon, are submitted to the Assembly. The Standing Orders provide that they are referred to a Public Accounts Committee, whose procedure is the same as that of the House of Commons. The Council must present a Bill to the Assembly to cover any excess expenditure that has been incurred, and the Standing Orders provide that any such Bill is not debated in the Assembly until the Public Accounts Committee has reported whether or not it should be allowed.

Emergency Powers of Governor-General.—Provision in case of failure of the constitutional machinery is provided by S. 65, which

empowers the Governor-General in such circumstances by proclamation to resume to himself all the powers delegated to the Council and Assembly, and to suspend in whole or in part the operation of the Ordinance. He may only do this after he has referred the proposed proclamation to the two Condominium Governments and thereafter has either received their agreement to it or one month has elapsed without notification of their agreemeent that he should NOT make it. He may however make an immediate proclamation in case of emergency, which shall only remain in force as long as the emergency continues.

Amendment of the Constitution.—Power to modify or vary the provisions of the Ordinance is vested in the Governor-General, who may do so by order after taking into consideration the views of the Assembly and of the Council. He may also by order make amendments at the instance of the Council or of the Assembly. He may only make such orders after he has referred them to the Condominium Governments and thereafter has either received their agreement or one month (and with respect to certain sections, 6 months) has elapsed without notification of their agreement that he should NOT do so.

V. Some Comments.

The aim of the framers of this Constitution was to provide for the gradual development, within the framework of the Anglo-Egyptian Agreement, of all the necessary political machinery of democratic self-government without the necessity for periodic revision of the Constitution, with all the concomitant upheavals, and probable disagreement between the Co-domini, which such revision would inevitably entail. It was realized that amendments and additions in the light of experience would be inevitable, but it was hoped that these could be effected piecemeal as and when the need for them arose, without the necessity of throwing the whole thing into the melting pot every few years, and that with these amendments the existing Ordinance would carry the country up to, but not through, the final stage when the Condominium would come to an end and their future status would be decided by the Sudanese themselves.

The conception of the elected Leader of the Assembly whom the Governor-General must appoint as a Minister in the Council, was designed in the first instance, until organized party government developed, to give the Assembly some say in the appointment of Ministers and Under-Secretaries and in the direction of policy in the Council. Until such a system developed, the Governor-General's wishes, with regard to these appointments, would carry the most weight, but later it is anticipated that the consultation would become more of a formality and approximate to the system elsewhere, where the Head of the State appoints the Ministers on the advice of the Prime-Minister. The proviso in S. 16 that the Governor-General may

appoint a member of the Council to preside in his absence would allow him so to appoint the Leader as and when he is really capable of shouldering the responsibilities of a Prime Minister, after which the Governor-General would be more and more frequently absent. The Governor-General is not bound to appoint any official member to the Council, or members without portfolio, so that no amendment is required for the Council to become in due course a Council of Ministers, all or any of whom would be compelled to resign if they lost the confidence of the Assembly.

The expedient of allowing a civil servant to represent a department in the Assembly as Under-Secretary is intended to be a temporary one only and is designed to tide over the period when career politicians with any administrative experience do not exist.

The inclusion in the Assembly of representatives of the pagan Southern Provinces, so different in race, language, religion and way of life from the Moslem Northern Provinces, and more backward in development, marked a bold step forward in the political unification of the country.

It is unfortunate that a section of the Moslem population comprising one of the two principal sectarian groups, have, in deference to the political views of some of their Leaders who followed the Egyptian line, decided to boycott the first Assembly elections and have refused to co-operate in the new Constitution. It is to be hoped that they will reconsider their decision before the elections for the second Assembly due to be held in the winter of 1951/52.

In April, 1951,[1] an all-Sudanese Commission under the chairmanship of a British Judge was set up, including representatives of most of those who had boycotted the Assembly, to recommend to the Governor-General the next steps to be taken in the constitutional advance to full self-government. It was anticipated that it would recommend amendments to the existing Ordinance, particularly in regard to the electoral provisions. In fact it decided to recommend a complete revision of the constitution, which would provide for a fully responsible all-Sudanese Cabinet and a Parliament of two Chambers, but still within the framework of the Condominium.

In October, before the Commission had finished its work or even started on the electoral provisions, Egypt made a unilateral declaration of abrogation of the 1899 agreements and of the 1936 treaty, passed laws declaring that Egypt and the Sudan were one country and the King of Egypt to be King of Egypt and the Sudan, and setting up a constitution for the Sudan. This last provided for a Constituent Assembly, an electoral law, a separate Council of Ministers and one or two Legislative Chambers. Matters concerning foreign

[1] This Article was written in February, 1951. By November of that year, events had moved swiftly, and the aims expressed in the first paragraph of S. IV became no longer practicable. Opportunity is therefore now taken as this issue of the JOURNAL is going to the printers of adding the following observations.—[M.F.A.K.]

affairs, the army and defence and currency to be vested in the King, who would also have the right to dismiss Sudanese Ministers and dissolve the Sudanese Parliament.

The abrogation of the 1899 agreements was welcomed by all articulate sections of the Sudanese as, in effect, dissolving the Condominium.

They fully appreciate the inherent disadvantages of a Condominium in which the Co-Domini do not see eye to eye. But the claim of sovereignty and the promulgation of a constitution by Egypt was repudiated by all but the most pro-Egyptian elements.

Faced with this situation a large minority (6 out of 13) of the Commission felt that it was necessary to invite the United Nations Organization to appoint a Commission to assume the sovereignty of the Sudan in place of the Condominium, which they regarded as defunct. The majority were prepared to accept a purely supervisory United Nations Organization Commission but wished to leave the question of sovereignty in abeyance in view of the declaration of the Foreign Secretary on November 15 that His Majesty's Government would guarantee to ensure the defence and security of the Sudan until, after an intervening period of self-government, the issue of self-determination could be settled. When outvoted on this issue, the minority refused to submit a minority report and resigned from the Commission. The remainder felt that as the Commission had thereby lost its all-party nature they could not continue their labours.

The Government has now promised to draft a self-governing constitution for submission to the Legislative Assembly as soon as possible, with a view to its implementation before the end of 1952, so that preparation for self-determination may be started immediately thereafter, but the parties represented by the resigning members have announced their intention of boycotting any such constitution.

In the meanwhile the life of the existing Assembly is being prolonged by an Order of the Governor-General for a further 6 months after December 23, 1951, when it would have come to an end, in order to cover the intervening period before elections for the new Legislature can be held.

*XV. MEMBERS OF PARLIAMENT AND PERSONAL PECUNIARY INTEREST

The *Questionnaire* for Volume XV contained the following item:

7. Please give instances in your House records of Members challenged or charged with "pecuniary interest", quoting VOTES and *Hansard*.[1]

The question of the exercise by a member of Parliament of his vote therein on a matter in which he has a direct pecuniary or personal interest is regulated by the Rules, Standing Orders or by Statute, in practically every Parliament and Legislature of our Commonwealth and Empire and the object of this Article is to show the varying forms in which such regulation is made, with, when possible, instances of its application.

The subject is dealt with under countries, taken in the order of constitutional status and seniority and, although the texts of some of the Standing Orders may correspond; wherever their wording may be capable of a different interpretation the *ipsissima verba* are given.

United Kingdom.

In both Houses of the Imperial Parliament personal interest affects the rights of members to vote in certain cases.[2]

House of Lords.—In 1796 a general resolution was proposed: "That no Peers shall vote who are interested in a question" which was not adopted as it was presumed that such a resolution was unnecessary. It was held that the personal honour of a Peer would prevent him from forwarding his own pecuniary interest by his votes in Parliament.[3]

By Private Bill, S.O. 96,[4] Lords are exempted from serving on the Committee of any Private Bill wherein they have an interest and Lords are excused from serving any special reason "to be approved of in each case by the House". On April 2, 1868, it was resolved that the absence of any Lord, except on sufficient reason, ought not to prevent the Committee of selection from calling for his services.[5]

House of Commons.—The voting by members on questions in which they are pecuniarily interested is governed by Rule 151 of the House of Commons Manual,[6] which reads:

A member may not vote on any question in which he has a direct pecuniary interest. If he votes on such a question his vote may, on Motion, be disallowed.

In the interpretation of this Rule, May states[7] that, in order to operate as a disqualification, this interest must be immediate and personal and not merely of a general or remote character.

The Rule was explained by Mr. Speaker Abbot (July 17, 1811) as follows:

[1] The question had already been the subject of item 6 of the *Questionnaire* for Vol. V.—[ED.] [2] May, XX. 418. [3] *Ib.* 411. [4] H.L. (31) (133) of 1946. [5] May, XV. 978 and *n.* [6] VIII., Ed. (1951), p. 102. [7] XV. 418 and *n.*

This interest must be a direct pecuniary interest and separately belonging to the persons whose votes were questioned, and not in common with the rest of His Majesty's subjects, or on a matter of state policy.

This opinion was given upon a Motion for disallowing the votes of the bank directors upon the Gold Coin Bill, which was afterwards negatived without a division.

In a Ruling given on December 16, 1946, by[1] Mr. Speaker Clifton Browne, of which the full text is given below, he directed particular attention to the concluding words of Mr. Speaker Abbott's Ruling, "on a matter of State policy". "These are the essential words," said Mr. Speaker Clifton Brown, "and they explain the great difference in the treatment by the House of questions of personal interest in Private Bills and in Public Bills and matters respectively."

The procedure of the House of Commons in regard to interested members on Select Committees on Private Bills is laid down, in Private Bill S.O.s 120[2] and 133 in respect of *opposed* and *unopposed* Private Bills, respectively, which read:

120 (*Declaration by members*).—Each member of a Committee on an opposed Private Bill, or group of Private Bills, shall, before he is entitled to attend and vote in such Committee, sign the following declaration:

> I, having been selected by the Committee of Selection to serve as a member of the Committee on Group of Private Bills, hereby declare, that my constituents have no local interest, and that I have no personal interest in any Bill included in the said Group, and that, in the event of any Bill being added to the said group in which my constituents or I have any such interest, I will disclose the fact; and that I will never vote on any question which may arise without having duly heard and attended to the evidence relating thereto.

And no such Committee shall proceed to business until the said declaration has been so signed by each of such members.

133 (*Member if interested not to vote*).—No member of a Committee on any unopposed Private Bill in which he is locally or otherwise interested shall have a vote on any question that may arise, but every such member shall be entitled to attend and take part in the proceedings of the Committee.[3]

Objections overrruled by Chair.—On occasions when the objection of personal interest in a vote has been raised, which came obviously within the exemption from the application of the rule, defined by Mr. Speaker Abbot, the Speaker or the Chairman has overruled the objection, or has decided that a Motion to disallow the vote would be out of order.[4]

Instances.—The following examples of Speaker's Rulings to this effect are given in May, the authorities for which are shewn in the footnotes to the pages quoted:

Members of a corporation, petitioners against a Bill, moving an instruction for the protection of that corporation; Minister voting against reduction of his official salary; owners of land in Ireland on clause providing for payment out of public money of landlord's share of rates, Local Government Ireland Bill; and members who were landowners or farmers, Corn Production Bill.

[1] 431 *Com. Hans.* 5, s. 1614. [2] H.C. 30 of 1945, 88. [3] *Ib.* 89.
[4] May, XV. 418.

Instances of Chairman's Rulings to such effect are: votes of officers on full pay in Committee on Army Regulation Bill on clause giving compensation to officers holding saleable commissions; votes of members interested in licensed property on proposals for giving compensation for extinction of licences; votes of members who were solicitors on amendment to clause of Justices of the Peace (No. 2) Bill making solicitors eligible to the commission of the peace; voting of salaries of members; and vote of member, professionally retained by a private client in an inquiry, on the vote in Committee of Supply which included provision for the cost of the inquiry.[1]

Personal interest in votes on questions of public policy.—The only instance to be found in the Commons Journal, says May, in which the vote of a member has been disallowed upon a question of public policy is the case of the votes of 3 members given in Session 1892 in favour of the grant in aid of a preliminary survey for a railway from the coast to Lake Victoria Nyanza, which had been undertaken on behalf of the Government by the British East Africa Company, of which 2 of the members in question were directors and the third was a shareholder.[1]

Instances.—The following are the examples given in May with authorities in the footnotes:

On June 1, 1797,[2] however, Mr. Manning submitted to the Speaker whether he might vote, consistently with the rules of the House, upon the proposition of Mr. Pitt for granting compensation to the subscribers to the Loyalty Loan, he being himself a subscriber. The Speaker explained generally the rule of the House and Mr. Manning declined to vote. After the division, the votes of 2 other members were objected to as being subscribers, but one stated that he had parted with his subscription and the other that he had determined not to derive any benefit to himself; upon which questions for disallowing their votes were severally negatived; upon a division taking place on "a Bill for repealing so much of an Act (6 Geo. I) as restrains any other corporations than those in the Act named, and any societies or partnerships, from effecting marine insurances and lending money on bottomry".

An entry in the Journal in the form of a memorandum states that an objection was made to the numbers declared by the tellers, that certain members who voted with the ayes were personally interested in the passing of the Bill, as being concerned in the Alliance Insurance Company; but it was decided that they were not so interested as to preclude their voting for the repeal of a public act; on the question for hearing counsel against a Bill for suspending certain actions for penalties under the gaming laws, objections were taken to the votes of members who were dependants, but one stated that it was not his intention to take advantage of the provisions of the Bill and plead the same in bar of such action, and the other that he had not been served with any process. Motions for disallowing their votes were, therefore, withdrawn.[3]

[1] *Ib.* [2] *Ib.* 419. [3] *Ib.* 419 and *n.*

On July 11, 1844, the vote of a member upon the second reading of a Public Bill relating to railways was objected to on the ground that he had a direct pecuniary interest as the proprietor of railway shares, but a Motion for disallowing his vote was withdrawn.

On June 16, 1939,[1] in the House of Commons while in *Com.* of Supply—Post Office Vote, the temporary Chairman ruled that a financially interested person was quite entitled to address the Committee on the question—the Broadcast Relay Services Ltd., in which the hon. member was interested as a director, but when it came to a question of voting an entirely different situation arose.

On June 19, 1940,[2] Mr. Speaker ruled that it had always been the practice in this House that members could bring cases of local or individual personal interest to the notice of the House at Question time.

On July 20, 1944,[3] the question arose of an hon. member (Mr. Watkins), who was formerly President of the Railway Clerks' Association (unpaid), being challenged by certain hon. members to disclose his interest in the Association, to which Mr. Speaker replied that everyone knew of Mr. Watkins' interest in the Association. "Moreover, no financial interest was involved in this case."

On December 16, 1946,[4] in the House of Commons, an hon. member rose to ask for Mr. Speaker's guidance in regard to some hon. members who were known to their colleagues to have a personal interest in a Public Bill.[5]

In his Ruling Mr. Speaker said:

The question whether an hon. member's interest in the matter on which a division takes place, is of such a kind that he should refrain from voting on a question of which the member is, in the first instance, the judge. It can also be raised on a Motion to disallow the vote of a member immediately after the figures of a division in which he voted are declared, and then it is a question for the House to decide. Unless, however, the grounds on which the vote is objected to fall within the recognized principle which governs this subject, the Chair is entitled to over-rule the objection and declare the Motion for disallowance is out of order. The precedents dealing with this question are well understood. They are based upon a Ruling by Mr. Speaker Abbott in 1811 (which Mr. Speaker quoted at length: *see above*).

I would particularly direct attention to the concluding words of the Ruling, "on a matter of State policy". These are the essential words, and they explain the great difference in the treatment by the House of questions of personal interest in Private Bills and in Public Bills and matters respectively. Whereas there have been many disallowances of votes on Private Bills, there is no case on record of a disallowance of a vote on a public bill, and only one on a public matter—namely, a Grant in Supply in aid of a survey for the construction of a railway in East Africa (*see above*). The grounds for this distinction are so obvious that it is hardly necessary to argue them. If they were not admitted, it would follow that a Minister could not vote against a

[1] 348 *Com. Hans.* 5, s. 1720-1. [2] 362 *ib.* 152. [3] 402 *ib.* 423.
[4] 431 *ib.* 1614. [5] Probably the Transport Bill—to nationalize railways, canals, docks and inland transport which was going to compensate directors who come under the definition "officers."—[ED.]

motion for the reduction of his salary in Committee of Supply nor any member of the House for the establishment or increase of members' salaries.

The hon. Baronet has taken the proper course in making a full disclosure to the House of the nature and extent of his interests which are affected by the Transport Bill. In reply to his inquiry, I have no hesitation in saying that they are not of a nature which, according to the principles and precedents which I have just mentioned, could lead to any question being raised as to the propriety of his voting on the Bill.

Nothing that I have just said must, of course, be taken as limiting the discretion of the Chairman, if the question of the disallowance of a vote on these grounds should be raised in Committee. So far as a Committee of the Whole House is concerned, the precedents show that this question would have to be decided in Committee immediately after the division to which it related and could not be referred to myself or to the House.

In reply to a question as to whether the Ruling applied to speeches made in the House or only to votes given in the House, Mr. Speaker said "Both".

In reply to another question by the hon. member who was the Chairman of the Standing Committee to which the Transport Bill was likely to be referred, Mr. Speaker said that a question of pecuniary interest arising in a Standing Committee could not arise on a substantive Motion in Committee. It would be challenged at once and before the next amendment was called. Mr. Speaker could not overrule Committees. They were responsible for themselves. There was no precedent for a case occurring in a Standing Committee. It had, however, occurred in Committee of the Whole House and the Committtee had dealt with it straightaway, without a substantive Motion. It was a matter for the Committee and they dealt with it themselves.

In reply to a further question, Mr. Speaker said that it was always desirable for an hon. member who had an interest to declare it. "That is our custom and I think it desirable."

On April 22, 1948,[1] a point of Order was raised as to whether a certain member (Mr. Helton), who had an interest in the manufacture of electric components and lamps, should not declare his interest. The Deputy Speaker ruled, that it was purely at the option of the rt. hon. gentleman to make such a declaration. "The rule only affects the voting."

Personal interest in votes on Private Bills.—May gives the following instances where the votes of members—which have frequently been disallowed—who were subscribers to undertakings proposed to be sanctioned by a Private Bill or who were otherwise situated in a Private Bill[2]:

In 1800, the votes of 3 members were disallowed, as having a direct interest in a Bill for incorporating a company for the manufacture of flour, wheat and bread. On May 20, 1825, notice was taken that a member, who had voted with the Ayes on the report of the Leith Docks Bill, had a direct pecuniary interest in passing the bill; he was heard in his place and stated that on that

[1] 449 *Com. Hans.* 5, s. 2112

[2] May, XV. 420 and *n*.

account he had not voted in the committee on the bill, and that he had voted in this instance, through inadvertence. His vote was ordered to be disallowed. Motions to disallow the votes of shareholders in the company which was promoting the Bill on which the division was taken, have been negatived. On the second reading of the Birmingham and Gloucester Railway Bill, May 15, 1845, objection was taken to one of the tellers for the Noes, as being a landholder whose property would be injured by the proposed line; while in the second reading of the London and North Western Railway Bill, April 14, 1896, objection was taken to the vote of a member on the ground that he was a director of the company. In both cases the Motion for disallowing the vote was withdrawn. On July 15, 1872, objection was taken to two of the tellers of a division, which had been taken against the Birmingham Sewerage Bill, on the ground of personal pecuniary interest; but the Speaker stated that they had no such pecuniary interest in the Bill as would disqualify them from voting against it.[1]

Personal interest in votes on competing Bills.—May states[2] that the extent to which the rule of personal interest in a vote given by a member against a Private Bill, which would create a project intended to compete with an undertaking in which he has a pecuniary interest is as yet undecided. The Speaker stated on May 12, 1885, that there was no rule of the House on the subject and recommended that each member should be guided by his own feelings in the matter and should vote, or abstain from voting, as he thought fit, though he added that members should be aware that they ran the risk of having their votes disallowed by the subsequent action of the House.

The following instances are given:[3]

On February 22, 1825, a member voted against a Bill for establishing the London and Westminster Oil Gas Company and notice was taken that he was a proprietor in the Imperial Gas Light and Coke Company, and thereby had a pecuniary interest in the opposing Bill. A Motion was made that his vote be disallowed: but after he had been heard in his place, it was withdrawn.

On June 16, 1846, objection was taken to the vote of a member who had voted with the Noes, because, as director and shareholder in the Caledonian Railway Company, he had a direct pecuniary interest in the rejection of the Glasgow, Dumfries and Carlisle Railway Bill. Whereupon he stated that the sole direct interest that he had in the Caledonian Railway was as holder of 20 shares to qualify him to be a director in that undertaking: and that he voted against the Bill, conceiving the proposed Railway to be in direct competition with the Caledonian Railway, as decided by the Legislature in the last Session. A question for disallowing his vote on the ground of direct pecuniary interest was negatived.

On March 9, 1886, objection was taken to the votes of 2 members given in favour of committing the Manchester Ship Canal Bill to a Select Committee on the ground that, as directors of the London and North Western Railway Company, the receipts and dividends of which might be affected by the construction of a canal, they were

[1] *Ib.* 414 and *n.* [2] *Ib.* 420 and *n.* [3] *Ib.*

pecuniarily interested in the matter. The Motion for disallowing their votes was negatived.

Procedure.[1]—In regard to the time and manner for making Motions to disallow votes, an objection to a vote, on the ground of personal interest, cannot be raised except on a substantive Motion (which must be made as soon as the division is completed), that the vote given in a division be disallowed, and cannot be brought forward as a point of order.[1]

An objection on the same ground against a vote given in Committee of the Whole House must be determined by the committee upon a Motion made therein, that the vote be disallowed, and a Motion to report progress in order to bring such an objection before the House has not been permitted.

Owing to the interruption of business at ten minutes to seven o'clock, a Motion that certain votes be given in Committee of Supply on March 4, 1892, be disallowed, was made in the Committee on March 11. On August 14, 1911, being the last allotted day for Committee of Supply, objection was taken to a member's vote after ten o'clock notwithstanding the Standing Order, and the Chairman ruled upon the objection.

The member whose vote is under consideration, on the ground of personal interest, having been heard in his place, should withdraw immediately, and before the question founded thereon has been proposed.[1]

Although a member interested is disqualified from voting, he is not restrained by any existing rule of the House, from proposing a Motion or amendment, of which May gives the following instances:[2]

On July 26, 1859, Mr. Whalley moved an amendment to a clause added by the Lords to a Railway Bill, in which he admitted he was personally interested. In the debate, exception was taken to such an amendment having been proposed by a member having a pecuniary interest: but the Speaker ruled that, though it was a well-known rule of the House that a member under such circumstances could not be permitted to vote and though the course adopted was certainly most unusual, yet there was no rule by which the right of a member to make a Motion was restrained and he had been given to understand that Mr. Whalley did not intend to vote.

On June 15, 1904, Mr. Kerr formally moved the committal to a Joint Committee of the Leith Corporation Tramways Order Confirmation Bill without objection being taken to his action, although his personal interest in the Bill was stated to the House. He did not vote in the subsequent division. Objections that a member alleged to be personally interested could not give notice of opposition to a Bill and that a member, who moved an instruction to a committee on a Private Bill, was a member of a corporation which petitioned against the Bill, were overruled by the Speaker.

In regard to the procedure on breach of order during a division, the Speaker, upon his attention being called thereto, has directed

[1] *Ib.* 421. [2] *Ib.* 422 and *n.*

that the division should proceed and has dealt with the matter when the division was completed.[1]

Disallowance of a vote, says May, on the score of personal interest is restricted to cases of pecuniary interest and has not been extended to those occasions when the dictates of self-respect and of respect due to the House might demand that a member should refrain from taking part in a division.

Personal interest in votes in Private Bill Committees.—May states[2] that the principle of the rule which disqualifies an interested member from voting must always have been intended to apply as well to committees as to the House itself, but that it is undeniable that a contrary practice had very generally obtained in Committees on Private Bills, although it was not brought directly under the notice of the House until June 21, 1844, when the Middle Level Drainage Bill Committee instructed their Chairman to report that a member "had received intimation that he ought not to vote on questions arising thereon by reason of his interest in the said Bill"; and desired the decision of the House upon the following question: "Whether a member, having property, within the limits of an improvement Bill, which property may be affected by the passing of the Bill has such an interest as disqualifies him from voting thereon." The reply the House made to the application from the Committee was an instruction thereto: "That the rule of this House relating to the vote upon any question in the House, of a member having an interest in the matter upon which the vote is given, applies likewise to any vote of a member so interested, in a Committee." Since that time Committees on *opposed* Private Bills are constituted so as to exclude members locally or personally interested and in Committees on *unopposed* Bills such members are not entitled to vote. A member of a Committee on an *opposed* Private Bill or group of Bills will be discharged from further attendance, if it be discovered after his appointment that he has a direct pecuniary interest in the Bills.

With reference to the declarations required under the Private Bill Standing Orders (*see above*) to be signed by members, in the case of *opposed* Private Bills, if a member who has signed his declaration should subsequently discover that he has a direct pecuniary interest in a Bill, or in a company who are petitioners *against* a Bill, he will state the fact to the Committee and will be discharged by the House or by the Committee of Selection, from further attendance.[3]

Standing Order 116 provides that should a member neglect to return the declaration in a reasonable time or should he not send a sufficient excuse, the Committee of Selection will report his name to the House and he will be ordered to attend the Committee on the Bill, or to attend the House in his place, where, on offering sufficient apology for his neglect, he will be ordered to attend the Committee.[4]

[1] Duplicated above, May, XV. 423 and *n*.
[2] *Ib*. 421.
[3] *Ib*. 934 and *n*.
[4] *Ib*. 913 and *n*.

Northern Ireland.

Neither in the Senate nor in the House of Commons of Northern Ireland is there a Standing Order in regard to members and personal pecuniary interest, but in the Joint Standing Orders dealing with Local Bills Standing Orders, provision is made in L.B. S.O. 104 for each member of a Joint Committee on *opposed* bills to sign and return to the Speaker of the House of which he is a member, a Declaration that he has no private interest in any Bill or Order referred to such Committee, and no such Committee may proceed to business until such Declaration shall have been signed by each member; and by L.B. S.O. 105 the Speaker of such House is to report to the House the name of every member thereof from whom he has not received in due time such Declaration so filled up and signed, or, in lieu thereof, an excuse, which is deemed sufficient.

Canada.

Dominion Parliament.

Rule 53[1] of the Senate reads:

No Senator is entitled to vote upon any question in which he has any pecuniary interest whatsoever, not held in common with the rest of the Canadian subjects of the Crown; and the vote of any Senator so interested will be disallowed.

Standing Order 11 of the House of Commons of Canada, passed December 20, 1867, is almost *verbatim* Rule 151 of the House of Commons at Westminster and reads:

No member is entitled to vote upon any question in which he has a direct pecuniary interest, and the vote of any member so interested will be disallowed.

Mr. Speaker Bain of the Canadian House of Commons ruled on July 10, 1900, that the right of a member to vote on a question in which he was personally interested is one of those questions that the House does not entrust to the Speaker to decide but keepts it in its own hands and settles each particular question on its merits.

The Speaker then quoted the following ruling of Mr. Speaker Dennison at Westminster:

Any hon. member having a direct pecuniary interest in the question before the House is not entitled to vote. But it is the usual practice of the House to hear the hon. member whose vote is challenged, and then a Motion can be made—" That the vote be disallowed ". The question is one for the House to determine. The vote is challenged and the Motion made after the division.

Mr. Speaker Bain went on to remark that in looking at the English cases the English Parliament appear to have interpreted the question very broadly, because many members there are found to be interested in public enterprises as shareholders and contractors and it appears that the question there is treated in a very wide manner.[2]

[1] Beauchesne, II. 29-31; May, XII. 341, 343, and XIII. 374.
[2] Beauchesne, III. 826; *Com. Hans.* 1900, III. 9688.

Bourinot[1] quotes the decision of Mr. Speaker Wallbridge in the Legislative Assembly of Canada (*i.e.*, before Federation). A division having taken place upon a Bill respecting permanent building societies in Upper Canada (which had been introduced by Mr. Street) Mr. Scratcherd raised the point of order that under the rule of the House, the former had a direct pecuniary interest in the Bill and could not consequently vote for the same.

The Speaker said that the interest which disqualifies must be a direct pecuniary interest, separately belonging to the person whose vote is questioned and not in common with the rest of His Majesty's subjects, and that, in his opinion, as the Bill related to building societies in general, the hon. member was not precluded from voting.[2]

Bourinot quotes a number of references in respect of the House of Commons at Westminster, already referred to above.

Instances.—The Canadian case of 1854-5 is quoted, where the votes of Ministers on a Bill to amend an Act respecting the civil list and salaries was questioned, but it was replied that they looked upon the Bill as a general measure, appropriating a salary for the office and not for the individual, etc.; and on a division the House decided that they had the right to vote.[3]

Another instance was one in which members had an indirect interest upon a Bill to grant aid to the Grand Trunk Railway; but their votes when questioned have always been allowed.[4]

Votes have been allowed when members have stated that they had taken the necessary legal steps to retire from a company about to receive Government aid[5] or that their interests were only in common with those of Her Majesty's subjects in Canada.[6]

Members having been excused from voting on a question on the ground that they had been employed as counsel on behalf of the person whose conduct was arraigned before Parliament. In this case, says Bourinot, Sheriff Mercer, whose conduct was arraigned in the House, was declared to have acted upon the advice and opinion of his counsel, Dr. O'Connor, a member at the time. On the question being put as to conduct of the Sheriff, Dr. O'Connor was excused from voting.[7]

A member has also been excused from voting on a question because he was personally interested in the decisions of an election committee. One of the members for Quebec on this occasion asked to be excused and the House agreed to his request. But the two other sitting members voted and the Speaker ruled that they had a right to do so.[8]

On February 11, 1890, Mr. Corby did not vote because, as owner

[1] Bourinot, III, Ed. 509. [2] *Ib.* 510. [3] *Leg. Assem. J.* (1854-55), 1147.
[4] *Ib.* (1856) 662-679, 680. [5] *Leg. Assem. J.* (1857), 313-4. Cases of Mr. Gats and Mr. Holton, partners in the firm of C. S. Gzowski & Co., Contractors with the Grand Trunk RR. Bourinot, 511. [6] *Leg. Assem. J.* (1857), 311-4; Bourinot, 511. [7] Bourinot, 511. [8] *Ib.* III. 511 *n.*

of a distillery, he had an interest in the question of a rebate of duty on corn.[1]

When a Bill is of a public nature a Senator may properly vote if he wishes to do so.[2] In 1857 Senator Ryan asked if he could vote on a Public Bill respecting marine electric telegraphs as he was a shareholder in a company affected by that Bill. Mr. Speaker said there was no rule to prevent him voting on a Public Bill in which he had only an indirect personal or pecuniary interest and he voted accordingly. If it should be decided that a member has no right to sit or vote in the House, the votes he may have given during the period of his disqualification will be struck off the Journals.[3]

Canadian Provinces.

Ontario.—Legislative Assembly S.O. 16 *see* S.O. 11 Canadian Commons *above*.

Quebec.

Legislative Council—Rule 267 reads:

267. The vote of an interested member can be rejected only on a substantive Motion.

The Form of Motion (DD) is the same as Form 36 in the Legislative Assembly (*see below*).

Quebec.—Legislative Assembly Rule 310 reads:

310. The vote of an interested member can be rejected only after a substantive motion, after notice.

The Form (36) of a Motion to reject the vote of an interested member is:

That the vote of Mr. ——, member for ——, in favour of the motion . . . be rejected and the votes and proceedings altered accordingly.

Nova Scotia.—House of Assembly Rule 18 *see* Canada H.C., S.O. 11 *above*.

New Brunswick.—L.A. Rule 29
Manitoba.—L.A. Rule 9
British Columbia.—L.A. Rule 18
} *see* Canada H.C., S.O. 11 *above*.

Prince Edward Island.—The Legislature has no rule forbidding members voting on matters in which they have a pecuniary interest, but the practice is that members do not exercise their votes in such cases.

Saskatchewan.—L.A. Rule 9
Alberta.—L.A. Rule 572
Newfoundland.—Old H.A. Rule 120.
} *see* Canada H.C., S.O. 11 *above*.

Australia.

Federal.

Senate.—No Standing Order.

[1] *Ib.* 511 *n.*; *Hans.* 459. [2] Bourinot III. 513. [3] *Ib.* 514 and *n.*

House of Representatives.—S.O. 193 reads:

—193. No Member shall be entitled to vote in any division upon a question (not being a matter of public policy) in which he has a direct pecuniary interest not held in common with the rest of the subjects of the Crown. The vote of a Member may not be challenged except on a question of Privilege raised immediately after the vote is cast, and the vote of a Member determined to be so interested shall be disallowed.

Australian States.

New South Wales.

Legislative Council.—S.O. 126 reads:

126. No Member shall be entitled to vote in any Division upon a Question in which he has a direct pecuniary interest, not in common with the rest of His Majesty's subjects and on a matter of State policy, and the vote of any Member so interested shall be disallowed.

Legislative Council S.O. 238 provides in regard to Select Committees generally, that no member shall sit on a Select Committee who shall be pecuniarily interested in the inquiry before such Committee.

Legislative Assembly.—S.O. 204 is practically the same as the Imperial House of Commons Rule 151.

Legislative Assembly S.O. 348 provides that no member shall sit on a Select Committee who shall be personally interested in the inquiry before such Committee.

Instances in the Legislative Assembly.[1]—On September 22, 1909,[2] when in *C.W.H.* on the Fire Brigades Bill Clause 20 was under consideration, which dealt with the powers of the Board under the Bill, including authority to pay subsidies to volunteer fire brigades and emoluments to the members of any such brigade and to make payments for voluntary or special services rendered to the board or to any fire brigade and to pay gratuities and pensions in case of accident, etc., to any officer or employee of the board or member of a fire brigade.

Paragraph (*g*) of the Clause read:

(*g*) demand and recover any charges prescribed "for" attending any fire outside any such area or on any vessel and any other expenses thereby actually incurred.

Motion was made to insert in line 1 of such paragraph after the word "for" the words "services actually rendered when", and on the question that those words be there inserted the voting was: Ayes 24; Noes 34.

The hon. member for Darling Harbour (Mr. Norton) challenged the votes of the hon. member for St. George (Mr. Taylor) and the hon. member for The Lachlan (Mr. Kelly), both of whom voted with the "Noes", on the ground that they were interested parties, drawing salaries as members of the Fire Brigade's Force.

[1] Contributed by the Clerk of the Legislative Assembly.—[Ed.] [2] Weekly Report of Divisions (1909), No. 8.

The Chairman said that the decision as to the votes challenged would not affect the result of the division. He would have the hon. member's challenge recorded and would look up the matter, but his present impression was that the subject had to be referred to the House.

On the same day on Clause 22 of the same Bill, which dealt with charges recoverable by such Board, the hon. member for The Lachlan (Mr. Kelly), desiring the Chairman's opinion on the point raised by the hon. member for Darling Harbour, the Chairman quoted from the English *Hansard* (Vol. 145, p. 1233) to show that to disallow a vote, a Motion must be made which should be considered by the Committee itself, but that Motion could not be moved now.

On the question that the word proposed to be left out stand part of the Clause the voting was: Ayes 33; Noes 27. Mr. Norton then moved.—"That the votes of the hon. member for St. George, Mr. Taylor (Aye) and the hon. member for The Lachlan, Mr. Kelly (No) be disallowed, on the ground that they are pecuniarily interested in the matter dealt with in the Bill, inasmuch as their fees come in whole or in part, from the fees or payments allowed to be levied by the Board.

The Chairman ruled that the Motion was not in order. A vote could only be challenged on the ground that a member had a private pecuniary interest. The hon. members might have an interest in the existing Board but they could have no private pecuniary interest in a Board proposed to be established under this Bill.

On April 27, 1922,[1] upon a Closure Motion on 2 *R.* of the Parliamentary Allowances and Salaries Bill a division took place (Ayes 41; Noes 35) the following point of order was raised by Mr. McKell who:

submitted That as every Member of the House had a direct pecuniary interest in this Bill, and as Members were precluded by S.O. 204 from voting upon a question in which they had a direct pecuniary interest, the Bill was out of order.

Debate ensued.

Mr. Speaker said that he could not see that this Bill was a question in which Members had a direct pecuniary interest under S.O. 204. It was quite true that he had to interpret the Standing Orders as he found them, but he had always to take into consideration that he must not put such a construction upon the Standing Orders as would lead to an obvious absurdity when he had a doubt as to what they really meant. The direct consequence of putting the construction upon the Standing Order which he had been invited to do would mean that he would rule that this House had no right to pass any measure relating to the salaries of Members of Parliament. This was a conclusion so repugnant to common sense that any construction of the Standing Orders which would lead to such a ruling was one which he could not accept. He therefore ruled that Honourable Members in voting on this Bill had not the direct pecuniary interest which was contemplated by S.O. 204, and he could not sustain the Point of Order.

[1] 1922 VOTES, 15.

Victoria.

Legislative Council.—L.C. S.O. 155 (*see* Canada H.C., S.O. 11 *above*).

Legislative Council S.O. 319 provides that each member of a Select Committee on a Private Bill, before he shall be entitled to attend and vote thereon, shall sign a declation that he has no personal interest in the Bill, and that he will never vote on any question which may arise in the Committee without having duly heard and attended to the evidence relating thereto.

Legislative Council S.O. 316 exempts members from serving on the Committee on any Private Bill where they have any interest.

Legislative Assembly.—Legislative Assembly S.O. 121 (*see* Canada H.C., S.O. 11 and S.O. 122 *above*). This Rule is applied to Committee.

Instances.—The following instances[1] are given of challenges on pecuniary interest in the Assembly as well as in the Council:

There is no instance in the Council of a member's vote on a Public Bill being challenged on the ground of pecuniary interest and only two early instances[2] of such a challenge of a member's vote on a Private Bill. In the Assembly there were two very early cases[3] of challenges on the ground of pecuniary interest of members' votes on Public Bills affecting the rights and obligations of selectors of land (Titles under Certificates Bill 1857 and Crown Lands Bill 1857), but a Motion to expunge from the Division List the names of members said to be so interested was negatived after the Speaker had stated the relevant rules and practice of the House of Commons.

There have been no such challenges in recent years in either House, but there have been several instances where shareholders in companies affected by a Public Bill have stated their intention to refrain from voting or have asked for a ruling as to their right to vote. In 1933 and again in 1946 Presidential rulings[4] were given in the Council justifying the right of shareholders in gas companies to vote on Public Bills dealing with matters of public policy relating to such companies. The later of these rulings was given on December 11, 1946,[5] on 2 *R.* of a Gas Commission Bill and was raised by an hon. member who asked whether a member who is a shareholder in a gas company affected by this Bill would be in order in voting on the Bill.

Mr. President then gave the following Ruling, which will be given *verbatim* except when it repeats what has already appeared in this Article:

The point of order—for that is, in substance, what Sir William Angliss has raised—is whether a member who is a shareholder in a gas company affected

[1] Contributed by the Clerk of the Legislative Council and the Clerk of the Legislative Assembly.—[ED.] [2] *Vict. Hans.* (1857), 1036, and *ib.* (1863) 899-900.
[3] *Ib.* 375, 854, 875. [4] *Ib.* (1933) 2381; *ib.* (1946) 3991. [5] *Ib.* (1946) 399; 1946 L.C. MIN. 103.

by this Bill would be in order in voting on the measure. I take it that by that he means in voting on the second reading of the Bill, which is the question now before the House. The point of order raises a question of great parliamentary and public importance, and it depends upon the proper interpretation and application of S.O. 155 of this House, which reads as follows:

> No member shall be entitled to vote either in the Council or in any Committee thereof upon any question in which he has a direct pecuniary interest, and the vote of any member so interested shall be disallowed.

This Standing Order is in derogation of the duty of every member to attend the service of the House and to vote upon any question put to the House while he is in attendance. This duty is inherent in the parliamentary institution, and is specifically set out in S.O. 55 and S.O. 146. Standing Order 55 provides—

> 55. Every member is bound to attend the service of the Council unless leave of absence be given to him by the Council. . . .

and S.O. 146 reads—

> 146. Every member present in the Chamber when the question is put with the doors locked shall be required to vote.

Standing Order 155 must therefore be applied with great caution, and only to cases that clearly fall within the intendment of the Standing Order. The Standing Order reduces to written form a rule which was stated and explained by Mr. Speaker Abbott in the House of Commons in 1811, and which has been followed ever since in that House, and, I think, in all Parliaments based on the British parliamentary system.

In view of the great growth in recent times of incorporated companies registered under the Companies Acts for the carrying on of industrial and other enterprises, and in which the share capital is contributed or held frequently by a very large number of members of the public and of the fact that much present-day legislation closely affects these enterprises and the companies carrying them on, it is important to determine how far, if at all, a member of this House who is a shareholder in such a company is precluded from voting upon such legislation. The rule that the personal pecuniary interest of a member precludes him from voting upon a question in which he has such an interest was originated long before the modern and prolific growth of incorporated companies, and at a time when the introduction of legislation such as the Bill now before the House was very rare. It follows that the pecuniary interest which it may be alleged or suggested that members have in legislation brought before Parliament in more modern times may be thought to be largely extended.

But whatever be the application of the principle stated in S.O. 155 to particular interests, the principle must remain the same. The words of S.O. 155 are not, in my opinion, to be given a mere literal interpretation on the one hand or, on the other, a technical legal interpretation. In the interpretation of the Standing Order regard must be had to the character of parliamentary representation and to the duties of a member as a parliamentary representative, including his duty to his constituents as their elected representative. The Standing Order must also be interpreted in the light of its parliamentary history and of parliamentary practice. Further, as containing an exception from the right and duty of a member to vote upon all questions brought before the House, the Standing Order must be strictly construed so as not to bring within its operation any case that does not clearly fall within it. In my opinion the Standing Order must also be considered in relation to the character of the particular Bill or question in relation to which it may be suggested that the pecuniary interest of a member exists.

The Bill now before the House is a public Bill, and its title is " An Act to

constitute a Gas Commission, to provide for the Establishment, Acquisition and Operation of Gas Undertakings by the said Commission, and for other purposes". Its purpose is to provide for the public ownership and, for that purpose, the compulsory acquisition by a governmental authority, of gas undertakings in this State. The Minister in his speech said, and I think in words to which no one could take exception, that the question before the House was "whether this vital public utility should be owned and controlled by the community rather than by private enterprise". He further said that the question was an urgent one from the standpoint of the people of this State. The question therefore upon the second reading is one of high public policy far transcending the pecuniary interests of any particular company or of any of the shareholders of that company.

Having regard to all the considerations I have stated, I am of the opinion, and I rule, that S.O. 155 does not preclude a member of this House from voting upon the second reading of this Bill because of the fact that he is a shareholder of a gas company whose undertaking is authorized to be acquired by the Gas Commission under this Bill. All of the companies affected by this measure are public incorporated companies, and it appears from the official records that they all have a share capital of a considerable amount issued to and held by a large number of members of the public. The interest of a shareholder in any such company in the question raised by a Public Bill of this kind is, in my opinion, outside the purview of the Standing Order.

Present-day legislation is continually extending its ambit and is continually touching industry and companies engaged in industry, and directly or indirectly persons who have shares in those companies. The question raised is, therefore, one of considerable importance to this House and its members in the exercise of their legislative function. I think it might therefore be well if I support the views I have expressed by reference to one or two parliamentary authorities in the first place, and secondly to one or two judicial authorities so far as the legal decisions may afford any guidance.

Mr. President then quoted from May XIV, pp. 411 and 412 (*which see above*), drawing special attention to the words "or on a matter of state policy" in Speaker Abbott's Ruling.

Dealing with the Bill before the House Mr. President then continued his Ruling as follows:

The Bill by its provisions contains internal evidence that it touches a matter of state policy, and the Minister rightly and properly described the Bill as one raising an important public question. He said that it dealt with a matter vitally affecting the people of Victoria, and, without using his precise words, he said that from his point of view it was urgent from the standpoint of the people of the State that the Bill should be passed.

Continuing, Mr. President quoted the Lake Victoria Nyanza case (*which see above*) and said:

I have looked at that case, but it seems to be clearly distinguishable from the present case because, under the Bill there before Parliament, there was direct grant of money to the company concerned. It would appear on looking up further records that the members there in question were said to be personally liable for certain obligations of the company and that they would personally obtain some benefit from the grant. That is the only case to be found in the Journals in which a member's vote has been disallowed on a question of public policy, although the question has been raised on many occasions.

The question of disallowance of a member's vote on the ground of pecuniary interest arose very early in the parliamentary history of Victoria, when in 1857 the new Parliament established under the Constitution Act of 1855

was in its first Session. It arose in the Legislative Assembly when the Speaker, Mr., afterwards Sir, Francis Murphy, gave an opinion upon it. In that case there was a Crown Lands Bill which materially affected the rights and obligations of a class of men, called "squatters" in respect of land which they occupied. The Bill if passed into law would have had the effect of depriving them of certain rights and making them subject to further pecuniary obligations which, up to that time, they had not been called upon to bear. It appears that there were a number of "squatters", so-called, who were members of the Legislative Assembly. One of the members of that House raised the same question that has been raised tonight, and he brought forward a Motion, the substance of which was that certain members had no right to vote upon the Bill, and that their names should be removed from the Division List. Before putting the question upon that Motion the Speaker (as reported in *Victorian Hansard* for Sessions 1856-57, at p. 881) said this—

> The rule that a member pecuniarily interested in a question should not vote upon it was correctly laid down as a regulation of the House of Commons. But it had also been laid down on more than one occasion, that the rules must not be interpreted in their literal sense, but in the way in which it was the practice and usage of the House to deal with them. The usual practice had been stated correctly—that the rules referred to did not apply to questions of public policy, or to public questions at all. That had been distinctly stated on several occasions, and was laid down in *May* and *Hansard*. From these authorities the honourable gentleman proceeded to quote, to the effect that, generally speaking, the rule applied only in cases of private Bills or questions of a similar nature, and not to questions of public policy, or to questions of interest arising out of public measures. It therefore appeared to him (the Speaker) conclusive on the point as to all public questions.

The same question has frequently been raised in the House of Commons, and there is a useful collection of the cases in Volume 2 of the *Commons Papers of 1896*, appended to the Report of a Select Committee of the House appointed to consider the question. One of the decisions given in the House of Commons upon this question was upon a Bill closely resembling the present measure. In 1884 there was a Bill before the House authorizing the Corporation of London to take over the waterworks of eight companies which theretofore had carried on those works. It was held that a director, who was no doubt also a shareholder of one of those companies, was not precluded from voting on the Bill. Mr. Speaker Peel stated that although in form that Bill was a private Bill, it involved great questions of public policy; and he left it to the House to decide whether the vote of the member in question ought to be disallowed. The Motion for disallowance of the member's vote was thereupon negatived, 36 voting for the Motion and 235 against it.

The observations of Mr. Speaker Peel and the decision of the House of Commons in that case appear to me to be very much in point in the present case. It seems to me that if the rule were interpreted and applied otherwise than I have stated, parliamentary work could not be carried out effectively. Let us take a few Bills that have come before us in the present Session of this Parliament. Is a member of the legal profession to be precluded from voting on the Legal Profession Practice Bill because it places on him the obligation to pay a sum of money into a guarantee fund? No doubt, he has a direct pecuniary interest in such a matter, and the passage of the Bill will mulct him in a sum of money. Is a wheat farmer to be precluded from voting on the Wheat Industry Stabilization Bill because, if passed, it will affect his pecuniary interests as a wheat farmer? Is an industrialist to be prevented from voting on a Factories and Shops Bill which will increase the wages he has to pay to his employees? Are members who are shareholders in any type of company—and I presume most members own shares in companies of

some sort—to be precluded from voting on a Bill imposing a special tax on companies?

Instances could be multiplied. It seems to me that in the great modern development of industry and in the modern wide field of legislation that Parliament now enters upon, it is impossible to apply the words of the Standing Order literally to all cases. One has to look to its parliamentary history and interpret and apply it in the light of that history and of established parliamentary practice.

There is a great deal to be said for the view that, apart from the public character of this Bill, the interest in the Bill of a shareholder in a company affected by the measure is not a "direct" interest within the meaning of the Standing Order, and that, while the company itself has a direct interest, the interest of the shareholder is indirect, although this may be rather a technical legal view of the word. Support for that view is found in the case of Lapish *v.* Braithwaite, decided by the House of Lords and reported in *1926 Appeal Cases*, p. 275. The question there was whether a shareholder and managing director of companies having contracts with a borough council was disqualified from being an alderman as a person having a share or interest in a contract with the council. It was held he was not. The Lord Chancellor, Viscount Cave, said on p. 275—

> It may well be that as a shareholder he had an indirect interest in the contracts entered into by the four companies with the council. . . .

Viscount Cave would not have it that the man was disqualified as having a "share or interest" in the contract. Lord Atkinson, Lord Buckmaster, Lord Carson, and Lord Blanesburgh agreed with the Lord Chancellor. If the Standing Order were to be interpreted in a strict legal way, one perhaps need go no further than to say in the present case that a shareholder in a gas company has, as such shareholder, no "direct" pecuniary interest in the question raised by the Bill. I do not, however, base my ruling on that ground. I put my ruling on the broader ground that here is a Bill raising a question of high public policy, and that the separate personal interest of a shareholder in a company which comes within the purview of the Bill does not preclude him as a member of this House from voting on the Bill.

Queensland.[1]—Legislative Assembly S.O. 158 *see* Victoria L.C., S.O. 155.

Instances.—A Motion in regard to Payment of Members being before the Committee, an amendment was moved affirming that it was desirable to provide for the payment of certain travelling expenses. On division on the amendment objection was taken to votes of "Ayes" on grounds of pecuniary interest.

Mr. Speaker stated that there was nothing in the Resolution to show that any member had a pecuniary interest, but that if a Bill were brought in embodying the Resolution provided that it should come into effect during the present Session, or the duration of the present Parliament, he might allow the objection.[2]

On 3 *R.* of Payment of Member's Bill Mr. Speaker's ruling was invited upon the following: "Is it competent for members of the present Assembly to vote in favour of the Bill which comes into operation in the following year and that as members are thereby voting money to themselves their votes should be disallowed." Mr.

[1] Contributed by the Clerk of the Parliament.—[Ed.] [2] 1871 VOTES, I, Sess. 48; *Hans.* 128.

Speaker ruled that every member voting had a direct pecuniary interest and that therefore 3 *R.* could not be put. He also stated that if it was forced to a Division he would order the votes for the "Ayes" to be struck out.

Mr. Speaker's Ruling was, however, subsequently disagreed to and the Bill read 3 *R.*[1]

On a Motion in relation to the locking up of current accounts in banks and the introduction of a General Law on Banking, the question of pecuniary interest was raised, certain members voting having such accounts.

Mr. Speaker ruled that the matter was not one of direct personal application, but concerned the general welfare of the community and that therefore the right of any member to vote was not prejudiced.[2]

On a Division upon a Motion for the Payment of a Subsidy to a Steamship Company the votes of certain members were challenged on the ground that they were shareholders in the Company.

Mr. Speaker ruled that no shareholder in the Company could vote. Members whose names were objected to, withdrew. The votes of 5 other members were then challenged and they were asked by Mr. Speaker, whether or not, they were shareholders in the Company. All but one replied in the negative. The other member withdrew and the Division proceeded.[3]

Similar proceedings took place on a Motion for appointment of Select Committee *re* Moreton Bay Tramway Company. Six members were questioned. One answered in the affirmative and withdrew before Division took place, which resulted in an equality of votes. Mr. Speaker recorded his casting vote with the Noes.[4]

On a Motion for granting a Land Order Bonus for the growth of cotton objection was taken to the vote of a certain member on the ground of direct personal interest. On the member being questioned, he replied in the negative and his vote was allowed.[5]

In Committee of Supply on the vote for Payment of Members, question was raised that members had direct personal interest and could not vote.

Both the Chairman and Mr. Speaker ruled that as the question was one of State policy it was competent for members to vote.[6]

The following are instances of votes being challenged, members disavowing interest and votes being allowed:

Motion for appointment of Select Committee to inquire into certain Petition:[7]

Albert River, Burketown and Lilydale Tramway Bill.[8]
Mount Garnet Freehold Mining Company's Tramway Bill.[9]
Appointment of Select Committee on certain allegations.[10]

[1] 1874 VOTES, 140; *Hans.* 247. [2] 1843 VOTES, 44; *Hans.* 96.
[3] 1865 VOTES, 59; *Hans.* 135. [4] 1863 VOTES 2, Sess. 30. [5] 1865 VOTES, 225 *Hans.* 526. [6] 1885 VOTES, 142; *Hans.* 817; 1918 *Ib.* 561; *Hans.* 3217.
[7] 1886 VOTES, 196; *Hans.* 1139. [8] 1918 VOTES, 538; *Hans.* 2552.
[9] 1900 VOTES, 516; *Hans.* 2512. [10] 1861 VOTES, 173.

A member presented a Petition alleging that the handing over of the Mount Morgan auriferous area to a Company injuriously affected the interests of petitioner and others. Motion was then made by the same member to refer to the Petition to Select Committee for Report. Upon objection being taken to the member's vote on account of personal interest, Mr. Speaker asked him if he had direct pecuniary interest, to which the member answered in the negative.[1]

On Motion to grant £1,000 to Dr. Lang for services in promoting separation, objection was taken in the Division to the vote of a member on ground of personal interest. Mr. Speaker then asked the member if he had a direct pecuniary interest, to which he replied that he was unable to understand the question but the Division proceeded.

Motion was then moved, "That the vote of the member be disallowed on ground of pecuniary interest." Mr. Speaker again asked the member if he had a direct pecuniary interest in the question. The member, however, still alleged his inability to comprehend the question asked. Another member thereupon asked Mr. Speaker to put the following question to the member concerned—"Has the member advanced any money on account of the Address of 1864 for funds in recognition of the services of Dr. Lang, or become security for him in any way in connection with any prospective payment in such behalf?"

To this question the member answered in the negative and the vote was allowed.[2]

On a Payment of Members' Bill, question was raised that votes for "Ayes" should be disallowed on ground of direct pecuniary interest.

Mr. Speaker said that it appeared to him to be a question of propriety rather than one of order or privilege, and that he therefore did not feel justified in disallowing any votes, but any member could test the feeling of the House by moving that any vote or votes be disallowed.[3]

In Committee on the Pastoral Leases Bill the question of pecuniary interest had been raised and a member questioning the right of the Chairman to ask him whether he had such interest, refused to reply. On report to the House, Mr. Speaker said the measure was one of public policy and that therefore he should not have considered it to be his duty to put such a question: but that the Chairman could use his own discretion.[4]

A Motion—"That the votes of certain members be disallowed on ground of pecuniary interest in The Conterminous Selections Bill," was negatived on Division.[5]

In Committee of Supply, on the vote for payment of members, question was raised that members had direct personal interest and

[1] 1886 VOTES, 196; *Hans.* 1139.
[2] 1894 VOTES, 296; *Hans.* 1087.
[3] 1865 VOTES, 277; *Hans.* 361.
[4] 1867 VOTES, 2, *Sess.* 401; *Hans.* 819.
[5] 1882 VOTES, 122; *Hans.* 569.

could not vote. The Chairman and Mr. Speaker ruled that the question was one of State policy and it was competent for members to vote.[1]

On the Callide Railway Bill, the member whose vote had been challenged declared that he had no pecuniary interest. The Chairman stated that the vote should be allowed and declined to put the question that the vote be disallowed.[2]

At a later stage of this Bill the same member's vote was challenged and he again declared that he had no direct pecuniary interest in the passing of the Bill. Motion was however made that the vote be disallowed, which was negatived on Division.[3]

Upon a member's vote being challenged on the Mount Garnet Tramway Bill, he disclaimed any direct pecuniary interest and his vote was allowed.[4]

A member's vote was challenged on the Albert River Burketown, etc., Tramway Bill, whereupon he disclaimed personal pecuniary interest and the vote was allowed.[5]

In Committee of Supply—Supplementary Estimates—the votes of 5 members were challenged on the ground that such members had been on Royal Commissions, the expenses of which were being voted.

The stand taken was that the question was not one of voting money to be paid for services rendered, or to be rendered and that the money had already been paid to every individual on these Commissions.

Question was put that the votes be disallowed and negatived on Division.[6]

The votes of 7 members were challenged on the Queensland National Bank Agreement Bill on the ground of direct pecuniary interest, the members being shareholders in the Bank. Question was put that their votes be disallowed, which was negatived on Division.[7]

On the Motion for appointment of a Select Committee on certain allegations the votes of 2 members were challenged. They disclaimed pecuniary interest and the votes were allowed.

In Committee on the Picture Theatres and Films Bill a member's vote was challenged on the ground that he had interests as an exhibitor in the picture industry, and the Chairman was requested to ask whether the member had a pecuniary interest in the Bill. The Chairman therefore questioned the member, who, having admitted that he held some shares in a picture company, the Chairman ruled that that constituted a direct pecuniary interest and therefore he would be debarred from voting.

At the next Sitting of the House this matter was again raised and Mr. Speaker gave it as his opinion that a direct pecuniary interest must be of a private and particular and not of a public and general

[1] 1885 VOTES, 142; *Hans.* 817; 1918 VOTES, 561; *Hans.* 3217. [2] 1900 VOTES, 269; *Hans.* 1411. [3] 1900 VOTES, 279; *Hans.* 1434. [4] 1900 VOTES, 516; *Hans.* 2512. [5] 1900 VOTES, 538; *Hans.* 2552. [6] 1900 VOTES, 601; *Hans.* 2855. [7] 1896 VOTES, 365; *Hans.* 1643.

nature. If the question was of a public and general nature and it involved the pecuniary interest of a class which included members, they were not prevented by the rule from voting. "Direct pecuniary interest" could only apply to an interest of a private personal pecuniary character separate to the member, or the member and a definite number of others, associated with him for a definite purpose.[1]

South Australia.[2]

The Standing Orders of the two Houses of Parliament on this subject read:

Legislative Council.

In House.—228. No member shall be entitled to vote upon any question in which he has a direct pecuniary interest not held in common with the rest of the subjects of the Crown, and the vote of any member so interested may, on Motion be disallowed by the Council, but this Order shall not apply to Motions or Public Bills which involve questions of State policy.

In Select Committee.—366. Any question of personal interest as affecting a member's vote, arising in the Committee, shall be determined by the Committee.

383. No member shall sit on a Committee who has a direct pecuniary interest in the inquiry before such Committee not held in common with the rest of the subjects of the Crown; and any question of interest arising in Committee may be determined by the Committee.

House of Assembly.

In House.—212. No member shall be entitled to vote in any division upon a question in which he has a direct pecuniary interest and the vote of any member so interested shall be disallowed.

In Select Committee.—374. No member shall sit on a Select Committee who shall be personally interested in the inquiry before such Committee.

Instances.—On October 21, 1862, Motion was made for disallowing the votes of 3 members who had voted on the Mineral Leases Bill, on the grounds that they had an interest in a mine whose value would be greatly enhanced by the Bill. But, after debate, the President pointed out that the Bill was one for the interest of the public, and the Motion was negatived without division.[3]

On October 12, 1864, on a Question of an Address to the Governor to withhold confirmation of the valuations of pastoral leases, a similar Motion was made, but withdrawn after debate.[4]

House of Assembly.—S.O. 212: *see* Canada H.C., S.O. 11.

(While not so specific as the Council Order, S.O. 212 is interpreted in consonance with Mr. Speaker Abbott's Ruling.)

For S.O. 374 *see* N.S.W. Legislative Assembly S.O. 348.

[1] 1946 *ib.* 341, 347; *Hans.* 2010, 2016. [2] Contributed by the Clerk of the House of Assembly and Clerk of the Parliaments.—[ED.]
[3] 1862 MIN. 115; *Hans.* 1132-5. [4] 1864 MIN. 91, 93.

Instances.—On October 11, 1864, on the Assessment on Stock Bill, a member's vote was challenged, on the grounds that he had a direct personal interest in the passing of the Bill. The question was adjourned until the next day, when the House decided, by a majority of 16 to 10, that the vote be allowed—the ground being taken that it was a question of public interest and State policy; and this was the view which the Speaker had expressed on the point being raised.

A similar question came up again on December 21, 1865, in Committee on certain Resolutions in regard to the Waste Lands Leases, when the right of certain members to vote was challenged. The House resumed, whereupon Mr. Speaker ruled that the votes, on the Resolutions, might be struck off, on the ground that, as it was contemplated to give pecuniary advantage to some of the pastoral leases, those members having an interest therein had such a pecuniary interest as disentitled them to vote. The votes of 2 members were thereupon struck off the Division List on one of the Resolutions.

On January 30, 1866, when the Bill giving effect to the Resolutions in Committee was before the House, Mr. Strangeways again appealed to Mr. Speaker as to the right of members interested in leases named in the schedule of the Bill to vote on any stages thereof. Mr. Speaker took the same view as on the former occasion, whereupon a Motion was made disagreeing with the Ruling. The matter was fully debated and on February 6 the House, by 20 votes to 12, reversed Mr. Speaker's Ruling, on the ground that it was a public measure dealing with public policy.

Meanwhile, on February 2, 1866, in *C.W.H.* on the question of free distillation, Mr. Speaker was appealed to as to the votes of members who would be benefited by free distillation, and Motion was made to strike off certain names. The Question "That this question, being one relating to taxation, all members may vote upon it," being put, the Motion was only carried on division by Mr. Speaker's casting vote.

On October 9, 1867, Mr. Speaker's attention was called to a vote of the House relative to free passes to members, and it was asked if they were competent to vote on that question, they having a direct pecuniary interest therein. Mr. Speaker ruled that in this case no matter of State policy was involved, nor had the rest of Her Majesty's subjects an interest in common with members, and the votes might be disallowed. A Motion to that effect was debated on October 11 and 16 but negatived: Ayes 4; Noes 22.

On November 23, 1870, a Motion was before the House for making provision in future mail contracts to provide free passes to members, available during the sitting of Parliament, on the most direct road to and from the member's residence and the city of Adelaide. The votes of 5 members were challenged on the grounds of direct personal and pecuniary interest. The vote of the first member named was disallowed on division, and the votes of 2 other members allowed on

division. In 2 of these Divisions the member interested voted against the question and his name was struck off by Mr. Speaker, but the result was not affected thereby. On another Division Mr. Speaker gave a casting vote in favour of disallowing the member's vote. The numbers of the original Division on the Resolution, which had been 10 to 8, were now, by the disallowance of 2 votes, rendered equal, whereupon Mr. Speaker gave a casting vote against the Resolution.

Private Bills.—In the matter of a Private Bill there can be no question of doubt.

Legislative Council.—On August 19, 1863, the name of a member was struck off the Division List of the Noes in Committee on the National Bank Act Amendment (Private) Bill, he being a shareholder.[1]

But interesting circumstances surrounded the first of two votes which, in 1900, were challenged at different stages of the Adelaide and Suburban Tramways Electric Traction (Private) Bill. On October 31, during the debate on the Motion for the adoption of the report of the Select Committee on the Bill, it was moved "That the Council do now divide", and there being an equality of votes the President gave a casting vote with the Noes. Attention was then drawn to the presence in the Chamber of a member who was not recorded as voting. On being called to the Table, this member, who refrained from voting at any other stage of the Bill, said he would vote for the Ayes, which made: Ayes 8; Noes 7. Motion was then made that his vote be disallowed on the ground of direct pecuniary interest. After the member had spoken in explanation and withdrawn (he stated that he was affected to the extent that one provision of the Bill was for taking over of certain tramways in which he was interested, but claimed the right to vote on the question just put), the Motion for disallowance was negatived on division.[2]

On November 14, the question "That the Bill do now pass" was carried on a division, and the vote of another member was challenged, but the Motion was withdrawn after he had explained that he was not a shareholder.

House of Assembly.—On October 11, 1871, the votes of 3 members were struck off the division list without Motion, on a clause in Committee on the Adelaide, Glenelg and Suburban Railway Bill, they having stated they were shareholders in the company.

Private Bills.—The following provision is made in Joint Private Bills S.O. 82:

> 82. Every Select Committee on a Private Bill shall consist of 5 members, who shall have no direct pecuniary interest in the Bill.

If the right of a member to vote is questioned, the vote is usually challenged after the Division, and Motion is made for the disallowance thereof. If a doubt is entertained whether a vote should be dis-

[1] MIN. (1863) 89, 90.

[2] *Hans.* (1900), pp. 331-4.

allowed, the member concerned may be heard in his place, after which he should retire till the point is settled.

The law of Parliament aims at guarding members from all undue influences, direct or indirect, which might bias or prejudice their judgment or votes. Thus, apart from the question of direct interest, a member—

(*a*) cannot present a Petition from himself;
(*b*) cannot practise as counsel before the House or any Committee;
(*c*) is debarred from advising as counsel upon any Private Bill or other proceeding in Parliament; nor should he be engaged either by himself or any partner, in the management of Private Bills, before either House, for pecuniary reward.

Although the letter and spirit of the law of Parliament prohibit a member voting on any question wherein he has a personal interest, there is no rule whereby a member is restrained from making a Motion or discussing a question on which he would not be entitled to vote, and members in both Houses, while abstaining from voting, have spoken on 2 *R.* of a Bill and in Committee.

Western Australia.

Legislative Council.—S.O. 271 provides that no member shall sit on a Select Committee who is personally interested in the inquiry before such Committee.

Legislative Assembly.—S.O. 196 *see* Victoria L.A. S.O. 121. L.A. S.O. 338 *see* New South Wales L.A. 348.

Joint Private Bill S.O. 42 provides that no member, locally or otherwise interested, of a Committee on any *unopposed* Private Bill shall have a vote on any question that may arise, but every such member shall be entitled to attend and take part in the proceedings of the Committee.

Tasmania.

Legislative Council.—S.O. 192 reads:

192. A member shall not be entitled to vote, either in the Council or in Committee, on any Question in which he has a direct pecuniary interest, such interest being of an immediate and personal, and not merely of a general or remote character; and the vote of any member so interested shall be disallowed; but any member shall not be precluded from proposing any Motion or amendment relating to such Question.

House of Assembly.—S.O. 208 is almost *verbatim* the above-mentioned S.O. 192 of the Legislative Council.

H.A. S.O. 209 reads:

209. The vote of any member who is supposed to have a direct pecuniary interest in a matter under the consideration of the House may be taken notice of by a Motion that the vote be disallowed and, after the member whose vote has been challenged has been heard in his place, his vote may be allowed or disallowed by the House.

There is no provision in the Private Bill Standing Orders of either House in regard to declarations by members.

Instances.

Legislative Council.[1]—On February 7, 1867,[2] objection was taken to the vote given by the President on Tuesday, February 5 (the numbers being equal), on the ground that his personal interest was concerned in the Bill then under consideration, and the President having been desired to state his opinion in reference thereto, spoke as follows:

> A question of Order has been raised as to the propriety of my giving a casting vote on the Officers of Parliament Salaries Bill. My casting vote was with the Ayes for the Second Reading of that Bill in which my own salary as President of this Council was reduced from £500 to £200.
>
> I am of opinion that I had a right to give my casting vote in that manner.
>
> In the House of Commons there is a case in which it is stated as follows (*May*, p. 355): "After the division the votes of two members were objected to as being subscribers to the Loyalty Loan, but one stated that he had given up his subscription, the other that he had determined not to derive any advantage to himself; upon which questions for disallowing their votes were severally negatived." I could derive no benefit from my vote on this occasion, and I submit that it should therefore, as in the instance which I have cited, be permitted to stand.

On objection being taken to the said decision of the President it was proposed—"That the question be referred to a Select Committee (Mr. Abbott), and on the question being put: The Council Divided—Ayes 5; Noes 8.

Motion was then made—"That the Ruling of the honourable the President is contrary to usage, as laid down by Parliamentary Authorities" (Mr. Abbott), Ayes 4; Noes 8.

On October 2, 1867, during the debate on an amendment proposed to the question for 2 *R.* of the Launceston and Western Railway Act Amendment Bill—"A question was raised.—'Whether Mr. Innes, being a Commissioner under the Launceston and Western Railway Act, is entitled to vote in reference to the said question?'" (Mr. Whyte.)

And the President having stated his opinion that Mr. Innes' interest in the Bill was not such as to disqualify him from voting on the question; it was Resolved "that, in order to give the President further time for consideration, this Council do adjourn for a quarter of an hour."

When the Council re-assembled the President stated that, after further consideration, he adhered to the opinion he had already expressed. On October 3, 1867—The Order of the Day being read for the adjourned debate on the Question of the President's Ruling as to the personal interest of certain members in the Launceston and Western Railway Act Amendment Bill—the President spoke as follows:

[1] Contributed by the Clerk of the Legislative Council.—[ED.]

[2] Leg. Co. MIN. 1867, Feb. 7.

In reference to my Ruling that Messrs. Archer and Sherwin had a right, although shareholders in the Launceston and Deloraine Railway, to vote for this Bill, I think it right to state I held that Ruling to be in strict conformity with the case cited in *Cushing*, page 717, in which Mr. Winthrop decided that members who were stockholders in the Western Railroad Corporation could not be excluded from voting in favour of the Bill for granting the credit of the State in aid of the enterprise in which that Corporation was engaged in an elaborate opinion which was sustained by the House on Appeal that the Votes of such shareholders could not be excluded.

Upon the Question being again proposed—That the ruling of the President with reference to the right of the honourable members for Tamar and Longford to vote is opposed to the usage and practice of Parliament, inasmuch as they are Shareholders and Directors in the Launceston and Western Railroad Corporation, and have therefore a direct pecuniary interest in this Bill. The Council resumed the adjourned Debate.

A Point of Order being raised, "Whether the members so interested[1] may vote on the Question of the President's ruling, and whether they ought not to withdraw?" The President stated his opinion, that they ought not to vote on that Question, and that they ought to withdraw while it is under consideration.

And they withdrew accordingly.[2]

On September 4, 1868—"Objection being taken by Mr. Whyte to the vote of Mr. Archer and Mr. Sherwin, on the ground of their being shareholders in the Launceston and Western Railway Company, Limited; and the President being requested to state his opinion thereupon, spoke as follows:

There is no precise rule to determine the Question raised by the Honourable Member in the Standing Rules and Orders of this House; but it is provided that where these Rules are silent, the House shall be governed by the usage of the House of Commons. *May* is the recognized interpreter of its practice; but what he has expressed on this Question is not clearly intelligible without a reference to *Hansard* for the cases which he quotes. I require time, therefore, to enable me to give a satisfactory decision, and I ask of the House to grant that time. Meanwhile, as the Ayes are six, excluding the votes of the two Members whose votes are objected to, while the Noes are three, the Motion for the Third Reading of the Bill is carried. My decision on the point raised is only liable to affect the numbers on the division as finally entered on our Journals.

On the following day the President in a lengthy Ruling disallowed the votes of the two Members challenged.[3]

On October 28, 1873—a Resolution having been reported from a Committee of the whole Council disagreeing to a Resolution transmitted from the House of Assembly authorizing the purchase by the Government of the Mersey and Deloraine Tramway—

"A Motion being made, and the Question being put—That the

[1] VOTES (1866-7), L.C. 78. [2] *Leg. Co. J.* (1867), 69, 74, and Protests by members, p. 77.
[3] *Ib.* (1868) 53, 55.

said Resolution of the House of Assembly be recommitted to the Committee" (Mr. Chapman.)

The Council divided. Ayes 7; Noes 6.

Objection being taken to the vote of Mr. Foster, he having declined to vote in the Committee on account of Personal Interest, his vote was disallowed.

Whereupon the President announced the numbers to be—Ayes 6; Noes 6. The numbers being equal, the President said: "I vote with the Ayes, in order to give the Council an opportunity for further consideration."

So it was Resolved in the Affirmative.

The Council accordingly resolved itself into Committee and upon the Council being resumed, Mr. Whyte reported that the Committee had made progress in the matter to them referred, and that he was directed to move that the Committee may have leave to sit again.

Mr. Whyte also reported that Mr. Foster had voted in the Committee on the Question, "That certain words be left out of the Resolution in order to insert others providing for the appropriation of a sum of money for the purpose of having an Engineering Survey effected, and plans and estimates prepared showing the probable cost of completing the Tramway", and that he was directed to refer the matter for the President's decision.

The President stated it to be his opinion that Mr. Foster was precluded by his personal interest from voting on this as well as on the former Question.[1]

House of Assembly.[2]—No instance has been found of a member of the House of Assembly having been charged with "pecuniary interest", but there have been one or two occasions where Ministers have been charged with using their influence to assist companies in which they were financially interested. In 1899 a Select Committee of the House of Assembly[3] enquired into the circumstances connected with the Macquarie Harbour Bar Contract, the relations of the Strahan Marine Board in regard thereto, and all matters pertaining to the Constitution and working of that Board. Captain E. T. Miles was Master Warden of the Marine Board and also Minister for Lands and Works.

In 1905 a Select Committee of the House of Assembly[4] enquired into and reported upon the conduct of the Minister of Mines (Mr. C. L. Stewart) as far as it affected the proposed development of the Blue Tier District.

New Zealand.

House of Representatives.—S.O. 221 (*see* Victoria L.C. S.O. 155).

There is a Standing Order (No. 221) on this question, which directs that no member having direct pecuniary interest on any question

[1] *Ib.* (1873) 86-7. [2] Contributed by the Clerk of the House of Assembly.—[ED.]
[3] P.p. No. 61 of 1899. [4] *Ib.* No. 34 of 1905.

shall vote thereon and disallowing his vote if it happens to be recorded. There have been cases in which pecuniary interest has been brought up, but New Zealand follows the practice of the British House of Commons in this matter.

The Private Bill Standing Orders make no provision for members of *opposed* or *unopposed* Select Committees making declarations. The only provision being in regard to the relationship of members towards *unopposed* and Local Bills P.B. S.O. 62 reading:

62. In the case of an *unopposed* Bill, the Member who presented the Bill shall not be entitled to vote on any question arising in the course of the proceedings of the Committee, but except as aforesaid, every Member of the Committee shall be entitled to take part in all or any of the proceedings thereof.

Union of South Africa.

The Senate.—On March 6, 1951,[1] Senator Botha, on a point of order, asked Mr. President to what extent Senators who might have a direct pecuniary interest in the AVBOB Mutual Assurance Society Incorporation (Private) Bill could take part in the proceedings on the Bill.

Mr. President said:

The Honourable Senator raised this matter the other day and I am pleased he has done so again as there still appears to be some doubt in the minds of certain Senators on the point.

Our practice is governed by the following two provisions:

(i) Standing Order No. 171 which reads: "No Senator shall be entitled to vote in the House or in any Committee thereof upon any question in which he has a direct pecuniary interest not held in common with the rest of His Majesty's subjects, and the vote of any Senator so interested shall be disallowed."

(ii) Sub-sections (1) and (2) of section eleven of the Powers and Privileges of Parliament Act, 1911,[2] which read:
(1) "A member shall not in or before Parliament or any committee vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest."
(2) "Any member who acts in contravention of this section may be adjudged guilty of contempt by the House of which he is a member, and shall be liable to the penalties provided in this Act for such contempt."

I wish at once to emphasize that the interest which a Senator may have in proposed legislation must be a pecuniary interest and it must be a direct interest, that is, it must confer a financial benefit which is private and particular, not public and general. Senators will therefore realize that in the first instance it is the duty of each individual Senator to be the judge himself on the question of personal interest, and that it is only thereafter that the matter may become one for decision and censure by the House.

There is also another aspect of this matter which I particularly wish to stress, and in which I may say we differ from the practice of the House of Commons. In that House the member is likewise restrained from voting on a matter in which he has a direct pecuniary interest, but he is not prevented

[1] 1951 MIN. 68. [2] No. 19 of 1911.

from speaking to or even moving a motion or an amendment. Here S. 11 of the Powers and Privileges of Parliament Act expressly excludes a member even from taking part in the discussion of any matter in which he has an interest.

As both policy holders and shareholders under this Bill appear to derive direct pecuniary benefit from its provisions, it is my duty to point out that any Senator who is a policy holder or a shareholder and who participates in any of the proceedings on the Bill, either by taking part in the voting or in the debate, is placing himself in a position where the House may disallow his vote on the grounds of direct pecuniary interest and if necessary adjudge him guilty of contempt.[1]

House of Assembly.—S.O. 122 reads: [2]

122. (1) No Member shall in or before this House or any Committee of this House vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest.

(2) A Member shall be deemed to have a pecuniary interest in any contract or bargain from which any pecuniary interest or benefit is or may be derived by him or by any partnership of which he is a Member or by any company of which he is a director or under which he holds any office or employment.

(3) This Standing Order shall not apply to any vote or discussion concerning any remuneration or allowance to be received by Members in their capacity as such or to any interest which a Member may have in any matter in common with the public generally or with any class or section thereof, or, to any vote or discussion on a matter involving a question of public policy.[3]

The Private Bill Standing Orders of the two Houses make the following provision in regard to members and interest:

The Senate.

67. Every Senator appointed on a Committee on an *opposed* Private Bill shall, before taking any part in the proceedings sign a declaration in the following terms:

> I do hereby declare that I have no personal interest in the (*here insert short title*) Bill; and I shall never vote on any question which may arise without having duly heard and attended to the evidence relating thereto.

And no Committee on an *opposed* Private Bill shall proceed to business until the said declaration shall have been signed by each of the members present.

68. No Member of a Select Committee locally interested in any *unopposed* Private Bill shall vote an any question that may arise, but every such Member shall be entitled to attend and take part in the proceedings of the Committee.

69. Before any Member shall be entitled to attend and vote at any Select Committee on an *unopposed* Private Bill, he shall sign the following declaration: "I hereby declare that I have no financial interest in the (*here insert short title*) Bill."

House of Assembly.—The Private Bill Standing Orders of this House are on similar lines to those of the Senate, given above, the Assembly S.O. 56 being the same as Senate P.B. S.O. 69 (*above*).

Assembly P.B. S.O. 57 is similar to Senate P.B. S.O. 67 except that the Assembly declaration reads:

"I hereby declare that my constituents have no local interest and that I

[1] Contributed by the Clerk of the Senate.—[ED.] [2] Contributed by the Clerk of the House of Assembly.—[ED.] [3] This S.O. is almost *verbatim* S. 11 of the Powers & Privileges of Parliament Act (No. 19 of 1911).—[ED.]

have no personal interest in the (*here insert short title*) Bill; and that I will never vote on any question which may arise without having duly heard and attended to the evidence relating thereto."

Instances in the House of Assembly.—There have been several instances of members being challenged or charged with direct pecuniary interest and divergent views were expressed on the subject until in 1934[1] Mr. Speaker Jansen gave the following considered Ruling, which now guides the House:

The hon. member for Benoni asked me yesterady whether it was competent for members of the House directly connected with insurance companies to serve on a Select Committee which was considering the establishment of an insurance fund under the Workmen's Compensation Bill. The hon. member stated that the Committee was discussing the question as to whether a State Insurance Fund should be established or whether, alternatively, a fund should be established and controlled by an insurance company. In asking for my Ruling I presume the hon. member wishes to know whether the members in question can be said to have a " direct pecuniary interest " such as is contemplated by S.O. 122 and S. 11 of the Powers and Privileges of Parliament Act,[2] and as there seems to be some misapprehension as to the application of the Rule I would like, for the information of the House, to state my views on the subject generally.

In my opinion a member's interest is only direct when the measure or question before the House is actually (not possibly) to confer a personal pecuniary advantage or diminish a personal pecuniary loss; and I think that members are at liberty to vote on measures imposing pecuniary disadvantages upon them for in such a case no suggestion of improper motive could arise.

In coming to this conclusion I have been influenced by the fact that members are sent to Parliament to represent their constituents who must not be lightly disfranchised, and also by the fact that the House itself should not be unnecessarily deprived of the opinions of its members. On Private Bills, where the House acts in a semi-judicial capacity, the Rule is more strictly enforced, but I do not think it is necessary to go into that aspect now.

Applying these general principles to the point raised I do not think it can possibly be held that the members in question have a " direct pecuniary interest " in the question before the Committee, but I want to add that in my view it is for the House itself to disallow a member's vote and if necessary to adjudge him guilty of contempt under S. 11 (2) of the Powers and Privileges of Parliament Act. When doubts of this nature arise I think that, generally speaking, the duty of the Chair should be confined to drawing attention to the provisions of the Act to which I have referred and to S.O. 122. The matter should then be left in the hands of the members concerned who, I am confident, will always be guided by the dictates of honour and good taste; but in the present instance, as already stated, the question cannot arise as I am of opinion that the Rule cannot be held to apply.

In the Debate which took place in Committee of Supply on the Vote containing the salary of the Minister of Lands it was alleged that 2 members were endeavouring to defend the purchase from them by the Government, of land for stettlement purposes and the Chairman was asked whether, in view of their direct pecuniary interest in the transactions, they were not precluded from discussing the matter.

The Chairman ruled that as no provision was made in the Vote before the Committee for the purchase of land, the question of direct

[1] 1934 VOTES, 396, 402; 22 *Assem. Hans.* 1851, 1862. [2] Act No. 19 of 1911.

pecuniary interest did not arise and there was nothing to prevent the 2 members referred to from taking part in the discussion of the Vote.

Mr. Speaker on being appealed to upheld the Chairman's Ruling.[1]

On the Motion to go into Committee of Ways and Means attention was drawn to the fact that a member addressing the House was the Chairman of the Vereeniging Union Steel Corporation and Mr. Speaker was asked whether it was competent for this member to take part in the discussion on the proposal before the House to impose a duty on imported iron and steel with a view to protecting the Union industry.

Mr. Speaker after referring to the Ruling given by him in 1934, said "The question here is whether the hon. member has a direct pecuniary interest. That is to say, whether the proposal before the House is actually to confer a personal pecuniary advantage on him. I do not think that that is the case, and in addition, I want to remind the hon. member that this is a question of public policy as well, and the hon. member in those circumstances is entitled to take part in the Debate and to vote on this Motion."[2]

During a Division which took place in Committee of Supply on the Defence Vote a member asked the Chairman whether certain hon. members who were in receipt of military pay should not be debarred by direct pecuniary interest from taking part in the Division.

The Chairman drew attention to the considered Ruling given on March 28, 1934,[3] in the course of which Mr. Speaker Jansen had stated that "a member's interest is only *direct* when the measure or question before the House is actually (not possibly) to confer a personal pecuniary advantage or diminish a personal pecuniary loss".

The Chairman added that it seemed clear to him that in accordance with this decision the hon. members concerned were entitled to exercise their votes on the Defence Vote.[4]

During a Division in the committee stage of the Dental Mechanicians Bill on Clause 3, which dealt with the establishment of a dental mechanicians Board, a member asked the Chairman whether, in view of the provisions of S.O. 122, 3 members who practised the profession of dentistry were entitled to exercise their votes.

The Chairman held that the members were not debarred from voting.[5]

On May 8, 1946,[6] the Chairman of Committees and Mr. Speaker in applying the principles laid down by Mr. Speaker in 1934[7] Ruled that a member could not be held to have a direct pecuniary interest unless the question before the House was actually to confer upon him a personal pecuniary advantage or diminish his pecuniary loss. It was held in this case that on the vote containing the salary of the

[1] 1936 VOTES, 579, 580; 27 *Assem. Hans.* 3880-3894. [2] 27 *Assem. Hans.* 5296-7. [3] 1934 VOTES, 402 (*see above*); *see also* JOURNAL, Vol. III. 43.
[4] 1944 *ib.* 429; 48 *Assem Hans.* 3794-7. [5] 1945 *ib.* 565; 53 *Assem. Hans.* 5566.
[6] 1936 *ib.* 579; *see also* JOURNAL, Vol. V. 84. [7] *Ib.* III. 43.

Minister of Lands there was nothing to prevent members from defending the purchase of their land by the Government since the vote did not contain any provision for such purchase.

Union Provinces.

Cape of Good Hope.—In regard to pecuniary interest generally, Provincial Council S.O. 107 is similar to Commons Rule 151 (*above*) and in regard to members' declarations in respect of *opposed* and *unopposed* Private Draft Ordinances, the Cape S.O. 250 is the same as the Union Assembly Private Bill S.O. 57 and the Cape S.O.s 248 and 249 on all fours with the Union Assembly Private Bill S.O. 56.

Natal.—In respect of pecuniary interest generally, the Natal S.O. 72 is in the same terms as Senate S.O. 171 but with the addition of the words: "but upon all questions of public or State policy, all members shall be entitled to vote irrespective of any interest they may have therein."

In regard to members' declarations before *opposed* and *unopposed* Private Draft Ordinances the Natal Standing Orders include no provision, but S.O. 234 (*k*) provides that:

> (*k*) No members of the Council can for pecuniary reward act as counsel, attorney, or agent before a Select Committee on a private draft ordinance, or be permitted to engage in the management of private draft ordinances.

The Standing Orders on Private Draft Ordinances make no provision for declarations to be made by members.

Transvaal.—In regard to members and pecuniary interest generally, Transvaal S.O. 92 reads:

> 92. No member shall in or before the Council or any Committee thereof vote or take part in the discussion of any matter in which he has a direct pecuniary interest, except as provided in S. 12 of the Powers and Privileges of Provincial Councils Act (No. 16 of 1948) or any amendment thereof.

The Transvaal Private Draft Ordinance Rules 59 to 61 are the same as the Union Senate Private Bill S.O.s 67 to 69.

Orange Free State.—The Standing Order (139) in regard to pecuniary interest generally is the same as the Union H.A. S.O. 122.

The Standing Orders on Private Draft Ordinances make no provision for declarations to be made by members.

South-West Africa.—S.O. 49 reads:

> No member shall in or before this House or any committee of this House vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest, not held in common with the public generally, and the vote of any member so interested shall be disallowed.

India.

On February 13, 1950, when the Indian Tariff (Third Amendment) Bill, relating to the imposition of protective duty on starch Industry and on certain cotton textile machinery and parts, was to

be taken up for consideration in the Parliament of India the Honourable Shri K. C. Neogy, who was the Minister in charge of the Bill, made a statement that one of the industries that was proposed to be protected in the Bill was the Textile Machinery Industry and that as he and his wife owned companies engaged in that industry he felt that he should not be in charge of the Bill. With the permission of the Chair the Motion for consideration of the Bill was moved by another Minister.[1]

Southern Rhodesia.

Section 10 of the Powers and Privileges of Parliament Act[2] is the same as S. 11 of the Union Act (*see above*), except that in the Southern Rhodesian sub-section (2) the words "of which he is a member" appear after "House".

Of S. Rhodesian S.O. 123, sub-section (1) is the same as (1) of the Union House of Assembly 122 (*see above*) except that the words "or indirect" are included in the Southern Rhodesian Standing Order.

S.O. 123 (2) of the Southern Rhodesian Order, however, reads:

(2) A member shall be deemed to have a pecuniary interest in any contract or bargain with the Government of the Colony for or on account of the public service from which any pecuniary interest or benefit is or may be derived by him or by any partnership of which he is a member, or by any company of which he is a director or under which he holds any office or employment otherwise than as a member and in common with the other members of an incorporated company consisting of more than 25 persons.

Sub-section (3) is on all fours with the sub-section (3) of the Union Assembly Standing Order (*for which see above*).

Southern Rhodesia Private Bill S.O. 51 and 52 are the same as Union H.A. Private Bill S.O.s 56 and 57.

Bahamas.

The Manual of Procedure Rule 93 provides that a member may not vote . . . on any question in which he has a direct and personal pecuniary interest and that if he votes on such a question his vote may, on Motion, be disallowed.

Rule 186 thereof states that although there is no Rule of the House of Assembly dealing with the matter, yet any member personally or professionally interested in a Bill usually refrains from taking part in the proceedings thereon.

Rule 39 of the House of Assembly reads:

39. That upon any question of a grant of money to any member of the House or in which any member or members may have direct and personal interest such member or members shall withdraw from the House when the Speaker or Deputy Speaker or Chairman is about to put the question to the vote.

[1] *Parl. Hans.* (13.2.1950) 493.

[2] No. 4 of 1944.

Bermuda.

L.C. Rule 17 reads:

17. No member shall vote on any question in which he has a direct pecuniary interest, peculiar to such member as distinguished from the subject at large, and if the right of any such member to vote shall be challenged by any other member on this ground such member shall not be entitled to vote if the President, Member Presiding or Chairman shall determine that the member whose right to vote is in question, is disqualified by this rule from voting.

H.A. Rule 49 is the same as above except that the word "or" occurs after "direct" and the word "Speaker" in place of the words "President Member Presiding or Chairman".

East Africa High Commission.

Legislative Assembly S.O. 44 reads:

44. No member shall vote on any motion in which he may have a direct pecuniary interest.

Gold Coast. (See Jamaica L.C. S.O. 30 (7) and H.R. S.O. 32 (7) *below*.)

Jamaica.

S.O. 30 (7) of the Legislative Council and S.O. 32 (7) of the House of Representatives read:

7. A member shall not vote on any subject in which he has a direct personal pecuniary interest, but a Motion to disallow a member's vote on this ground shall be made only as soon as the numbers of the members voting on the Question shall have been declared. If the Motion for the disallowance of a member's vote shall be agreed to, the President/Speaker, or in Committee the Chairman, shall direct the Clerk to correct the numbers voting in the division accordingly. In deciding whether a Motion for the disallowance of a member's vote shall be proposed from the Chair, the President/Speaker, or, in any Committee of the Council/House, the Chairman, shall have regard to the character of the Question upon which the division was taken and to the consideration whether the interest therein of the member whose vote is challenged is direct and pecuniary and not an interest in common with the rest of His Majesty's subjects and whether his vote was given on a matter of state policy.

Kenya Colony & Protectorate.

S.O. 43 (XI) of the Legislative Council reads:

(XI). No member may speak on any matter in which he has a direct pecuniary interest without disclosing the extent of that interest.

Federation of Malaya.

S.O. 42 (XIV) reads:

(XIV). No member may speak on any matter in which he has a direct pecuniary interest without disclosing the extent of that interest.

Malta.

S.O. 94 of the Legislative Assembly reads:

94. No member shall be entitled to vote in the House or in Committee of the Whole House or appointed by the House upon any question in which he has a direct pecuniary interest.

On a Motion of which notice has been duly given it shall be lawful for the House to suspend any member who has voted upon any such question from attending its sittings for the rest of the Session.

Every member, however, shall be entitled to vote upon any question relating to personal emoluments or Parliamentary allowance to which he might be entitled.

Mauritius.

The following provision is made by Standing Order—

Member not to vote on matter in which he has a direct pecuniary interest.—37. A Member shall not vote on any matter in which he may have a direct personal pecuniary interest, but a Motion to disallow a Member's vote on this ground shall be made only as soon as the numbers of the Members voting on the question shall have been declared. If the Motion for the disallowance of a Member's vote shall be agreed to, the President or Chairman shall direct the Clerk to correct the numbers voting in the division accordingly. In deciding whether a Motion for the disallowance of a Member's vote shall be proposed from the Chair, the President, or, in any Committee of the Council, the Chairman, shall have regard to the character of the question upon which the division was taken and to the consideration whether the interest therein of the Member whose vote is challenged is direct and pecuniary and not an interest in common with the rest of His Majesty's subjects and whether his vote was given on a matter of state policy.

Northern Rhodesia.

S.O. 46 is the same as Mauritius S.O. 37 (*see above*).

Trinidad & Tobago.

S.O. 39 (5) reads:

(5). A Member shall not vote on any subject in which he has a direct personal pecuniary interest, but a Motion to disallow a Member's vote on this ground shall be made only as soon as the numbers of the Members voting on the question shall have been declared, and before the Speaker shall have declared the result of the division. If the Motion for the disallowance of a Member's vote shall be agreed to, the Speaker shall direct the Clerk to correct the numbers voting in the division accordingly. In deciding whether a Motion for the disallowance of a Member's vote shall be proposed from the Chair, the Speaker shall have regard to the character of the question upon which the division was taken, and to the consideration whether the interest therein of the Member whose vote is challenged is direct, personal and pecuniary, and not an interest in common with the rest of His Majesty's subjects, and whether his vote was given on a matter of public policy.

*XVI. THE OFFICE OF CLERK OF THE HOUSE

By the Editor

Rule 3 of the Constitution of our Society provides that one of its objects is:

> **(b). To foster a mutual interest in the duties, rights and privileges of Officers of Parliament;**

and the *Questionnaire* for Volume II, sent out to members of the Society in 1933, contained the following item:

Item :—XII.

- **(a) Method and authority of appointment ?**
- **(b) pension or superannuation and basis of ?**
- **(c) age limit ?**
- **(d) what contribution to pension ? [1]**
- **(e) pensioned or superannuated by Government or House ?**
- **(f) nature of fund therefor ?**
- **(g) how is such fund maintained ?**
- **(h) are sums or allowances in lieu of residence, or other perquisites counted for pension or superannuation purposes ?**
- **(i) are any of his duties defined by Statute, if so, please state them ?**
- **(j) does he receive to his private purse, any fees (stating them) paid under the Standing Orders ?**
- **(k) state his precedence at official functions in relation to other persons and officials in Territory ?**
- **(l) comparison of his salary with those of permanent[2] Heads of Ministerial Divisions ?**
- **(m) what principle is followed in regard to honours, on appointment or retirement, or both ?**
- **(n) how are appointments and promotions in the Parliamentary service governed, and what provision as to pension is made in regard to the Clerk's staff ?**

Unfortunately, however, the replies to this item of the *Questionnaire* were very slow in coming in, perhaps influenced by the proposal that the results of the inquiry were not to be published in the JOURNAL but circulated in roneo form when opportunity offered, for the private information of members.

Thus many years passed, during which the work of the Society and the duties of Editor took up more and more time, not to speak of the handicap of the war years (1939-1945) and so delay in the treatment of the subject continued.

During the years 1946-1948, however, members' interest revived, with the result that the *Questionnaire* item of 1936 was, in 1949, included in the *Questionnaire* for Volume XVIII and, at the same time, members were asked (by postal ballot) to express their opinion on the removal of the ban on the publication of the assembled information in the JOURNAL. To this there were only a few dissentients.

Such assembled information, therefore, under its various headings, will now be given under the respective countries.

[1] In this sub-item, the words " to pension " have been substituted for the word " thereto."—[Ed.] [2] " Permanent " better substituted for " other."—[Ed.]

(a) Method and Authority of Appointment?

United Kingdom.

The method and authority of appointment of the Clerk of the Parliaments is by the Sovereign under Letters Patent[1] as follows:

GEORGE THE SIXTH, BY THE GRACE OF GOD, OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS KING, DEFENDER OF THE FAITH; To all to whom these presents shall come greeting; Whereas the Office of Clerk of the Parliaments of Us, Our Heirs and Successors, has become vacant by the retirement of Our trusty and well-beloved (*here is given the name and titles of the retiring Officer*); Now know ye that We of Our especial grace do constitute and appoint Our trusty and well-beloved (*here is given the name and titles of the new incumbent*) to be Clerk of the Parliaments of Us, Our Heirs and Successors, in the place of the said (*here is given only the name of the retiring Officer*) to hold and exercise the said Office during his good behaviour therein until he shall have attained the age of seventy years, together with all privileges, profits, advantages and emoluments due and of right belonging thereto; and We do declare that the duties of the said Office shall be executed by the said (*here is given the name only of the new incumbent*) in person, and that he shall be removable by Us, Our Heirs and Successors, upon an Address of the House of Lords to Us, Our Heirs and Successors, for that purpose.

In witness whereof We have caused these Our Letters to be made patent.

Witness Ourself at Westminster, the . . . day of . . . in the . . . year of Our reign.

By Warrant under the King's Sign Manual.[2]

(*Signed here by the Clerk of the Crown.*)

In regard to the office of the Clerk of the House of Commons,[3] who is described as the "Under Clerk of the Parliaments", the authority for his appointment is also by Letters Patent, under the Great Seal and signed by the Clerk of the Crown, in the following form:

GEORGE THE SIXTH, BY THE GRACE OF GOD, OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS KING, DEFENDER OF THE FAITH; To all to whom these presents shall come greeting; Whereas the Office of Under Clerk of the Parliaments of Us, Our Heirs and Successors, has become vacant by the resignation of Our trusty and well-beloved (*here is given the name and titles of the retiring Officer*); Now know ye that We of Our especial grace do give and grant unto Our trusty and well-beloved (*here is given the name and titles of the new incumbent*) the Office of Under Clerk of the Parliaments of Us, Our Heirs and Successors, vacant by the resignation of the said (*here is given only the name of the retiring Officer*); And We will and grant that the said (*here is given only the name of the new incumbent*) may be the Under Clerk of the Parliaments and every of them of Us, Our Heirs and Successors, to attend upon the Commons of Our United Kingdom of Great Britain and Northern Ireland called and to be called to the Parliaments of Us, Our Heirs and Successors, to hold and exercise the said Office unto the said (*name of the new Clerk*) during his natural life; Together with all profits, privileges and advantages due and of right belonging thereto.

In Witness whereof We have caused these Our Letters to be made Patent.

[1] 5 Geo. IV. c. 82; *see also* JOURNAL, Vol. I. 15. [2] *See also* JOURNAL, Vol. XVII. 37. [3] *Ib.* II. 22.

Witness Ourself at Westminster the . . . day of . . . in the . . . year of Our reign.

By Warrant under the King's Sign Manual.
(Signed here by the Clerk of the Crown.)

(Great Seal affixed here.)

Northern Ireland.

In the Parliament of Northern Ireland, where the Clerk of the Parliaments officiates in both Houses, the appointment is by Royal Warrant of the Governor.

Channel Islands.

Jersey.—The Greffier of the States is appointed by the Bailiff of the Island subject to the approval of the States.

Guernsey.—H.M. Greffier of the States, who is also H.M. Greffier of the Royal Court, is appointed by Royal Warrant from H.M. the King, application being made through the Lieut.-Governor.

Alderney.—The Clerk of the States is appointed by the States with the approval of the Secretary of State for Home Affairs.

Canada.

The Clerk of the Parliaments is also Clerk of the Senate and Master in Chancery of the Dominion and the appointment is by Governor-General's Letters Patent under the Great Seal, the form of which has already appeared in the JOURNAL,[1] together with the procedure in connection with his assumption of office.

The Clerk of the House of Commons is appointed by the Crown under the Great Seal and the following is the Commission appointing the present holder of the office:

ALEXANDER OF TUNIS
(L.S.)

CANADA

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas KING, Defender of the Faith.

To LÉON JOSEPH RAYMOND, ESQUIRE, of Maniwaki, in the Province of Quebec,

GREETING:

KNOW YOU, that reposing special trust and confidence in your loyalty, integrity and ability, We have constituted and appointed, and We do hereby constitute and appoint you the said LÉON JOSEPH RAYMOND to be Clerk of the House of Commons.

TO HAVE, hold, exercise and enjoy the said office of Clerk of the House of Commons unto you the said LÉON JOSEPH RAYMOND with all and every the powers, rights, authority, privileges, profits, emoluments and advantages unto the said office of right and by Law appertaining during Our pleasure.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.

[1] *Ib.* VII. 44.

WITNESS;

F. P. VARCOE,
DEPUTY MINISTER
OF JUSTICE,
CANADA.

Our Right Trusty and Well-beloved Cousin, Harold Rupert Leofric George, Viscount Alexander of Tunis, Knight of Our Most Noble Order of the Garter, Knight Grand Cross of Our Most Honourable Order of the Bath, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Companion of Our Most Exalted Order of the Star of India, Companion of Our Distinguished Service Order, upon whom has been conferred the Decoration of the Military Cross, Field-Marshal in Our Army, Governor-General and Commander-in-Chief of Canada.

AT OUR GOVERNMENT HOUSE, in Our City of Ottawa, this fifth day of August in the year of our Lord One thousand nine hundred and fifty-one and in the thirteenth year of Our Reign.

By command,
C. STEIN
(Under Secretary of State.)

The following entry appears in the Commons Journals of September 15, 1949:

Mr. Speaker informed the House that the Governor in Council had appointed Léon J. Raymond, Esquire, O.B.E., as Clerk of the House of Commons, and Edward Russell Hopkins, Esquire, Clerk Assistant of the House of Commons, and the following are respectively by the Oath of Allegiance and the Oath of Office taken by the present holder:

I, Léon J. Raymond, do swear that I will be faithful and bear true allegiance to His Majesty King George the Fifth, his heirs and successors, according to law. So help me God.

I, Léon J. Raymond, solemnly and sincerely swear that I will faithfully and honestly fulfil the duties which devolve upon me by reason of my appointment as Clerk of the House of Commons of Canada, and that I will not, without due authority in that behalf, disclose or make known any matter which comes to my knowledge by reason of such appointment. So help me God.

Mr. Léon Raymond gives the following note in regard to earlier appointments to the office of Clerk:

In some cases since Confederation the appointment of Clerk has not been announced officially in the House and recorded in the Journals.

The appointment of Clerk Alfred Patrick does not appear in the Journals of 1872, the year of his appointment.

The appointment of Mr. Patrick's successor in 1880, Sir John George Bourinot, was only incidentally announced on December 9, 1880, as follows:

Mr. Speaker informed the House that he had appointed Jean Philippe Leprohon, Esquire, Clerk Assistant, in *lieu* and in place of John George Bourinot, Esquire, appointed the Clerk of this House.

The appointment of Mr. Thomas Barnard Flint, who succeeded Sir John G. Bourinot, was, however, formally announced to the House

by the Speaker at the opening of the Session of 1903, and recorded in the Journals as follows:

Mr. Speaker informed the House that Thomas Barnard Flint, Esquire, has been appointed Clerk of the House in the place of Sir John Bourinot, deceased.

The appointments of William Barton Northrup, who succeeded Mr. Flint, and that of Dr. Arthur Beauchesne, Mr. Raymond's predecessor, were also formally announced to the House by the Speaker and recorded in the Journals of the House in terms similar to those used concerning Mr. Flint.

In the Canadian Provinces the method and authority of the appointment of the Clerk of the Legislative (or House of) Assembly, as the case may be, is mostly by Royal Warrant of the Lieutenant-Governor on the recommendation of the Executive Council, the only exception being British Columbia, where the appointment is made by Resolution of the House under the Constitution Act.[1]

Australia.

In both Houses of the Commonwealth Parliament the appointment is by the Governor-General-in-Council, on the recommendation of the President of the Senate, or the Speaker of the House of Representatives,[2] as the case may be.

The practice in most of the States is for the Governor-in-Council to make the appointment on the recommendation of the Presiding Member of the respective House. In South Australia, under the Public Service Act of 1926, the Clerk of each House does not come either under such Act or the Public Service Commission, but in 1950 the offices of the Clerks and Clerks-Assistant, Librarians and certain other officials of the 2 Houses were by Proclamation brought under the Public Service Act for classification and fixation of salary only. This includes the right of appeal against the determination of the Classification and Efficiency Board, of which the Public Service Commissioner is Chairman. Each Clerk is only removable from office by Resolution of his House.

New Zealand.

The appointment of the Clerk of the House of Representatives is by Warrant from the Governor-General on the recommendation of the Speaker made to the Minister in charge of the Legislative Department, who is usually also the Prime Minister.

The Union of South Africa.

In the Union, the Clerk of each House is appointed by its own Resolution on the adoption of a Report; in the Senate, from the Sessional Committee on Internal Arrangements and in the House of Assembly on the adoption of a Report from the Committee on Stand-

[1] R.S. 1948, c. 65, s. 44. [2] Commonwealth Public Service Act, 1922-37, s. 9.

ing Rules and Orders, which Committees respectively deal with senior staff appointments.

The first appointments on the advent of Union in 1910 were made by Resolution of the House upon the nomination of the Prime Minister. Under S. 35 (2) of the Powers and Privileges of Parliament Act,[1] the Clerk of each House is only removable from office by Resolution of the House in which he is Clerk.

Previous to Union, the appointment of Clerk of the House of Assembly of the old Cape Colony was as follows:

The first Clerk of the House under Representative Government in the Cape Colony in 1854 (Mr. H. Le Sueur) was appointed on Motion made in the House.

The second Clerk of the Cape House (Mr. J. Noble) was elected by ballot in the House in May, 1865.

The third Clerk of the Cape House (Mr. E. F. Kilpin) was appointed in 1897 on a recommendation of the Select Committee on Internal Arrangements adopted by the House.

No officials of the Union Parliament are members of the Public Service.

In the 4 Provinces of the Union, the Clerks of the Provincial Councils, who are members of the Public Service, are appointed by the Administrator of the Province-in-Executive Committee, on the recommendation of the Public Service Commission. In addition to their duties as Clerk of the Council, these Clerks also act as Clerks of the Executive Committee, the meetings of which continue throughout the year.

South-West Africa.

In South-West Africa, the Clerk of the Legislative Assembly is a member of the Public Service seconded for service in the Territory.

Ceylon.

In Ceylon, the Clerk of each House is appointed by the Governor-General on the advice of the Prime Minister.

India.

Provision is made in the Constitution,[2] in respect of the Central Parliament for a Secretariat of Parliament (including the Secretaries to the 2 Houses, the equivalent officials to the "Clerks at the Table".) Each House has a separate secretarial staff. Provisionally, however, appointment to these posts was in the hands of the President of India, after consultation with the Presiding members of the 2 Houses. Thereafter, Parliament will, by law, regulate the recruitment and the conditions of service of persons appointed to the Secretarial staff of either House. Until such provision is made, the

[1] No. 19 of 1911. [2] Art. 98.

President may, after consultation with the Speaker of the House of the People, or the Chairman of the Council of States, as the case may be, make rules regulating such recruitment and conditions of service of persons appointed to the Secretariat of either House, and any rules so made have effect, subject to the provisions of any law made as above.

The appointment of Secretary, Parliament of India (*i.e.*, the House of the People) is made by the President after consultation with the Hon'ble the Speaker. With the exception of appointment by promotion from Deputy Secretary, the Secretary to Parliament is appointed from persons recommended as qualified for appointment to that post by the Union Public Service Commission, in accordance with the procedure laid down by the Union Public Service Commission in this behalf.

Posts common to both Houses may also be made under the same authority.

Similar provision is made by Article 187 of the Constitution in respect of the Secretariats of the Legislatures of the States (both uni- and bi-cameral) with the substitution of the Governor for the President.

In the meantime, however, in the State of Bihar the appointment of the Secretary and the other gazetted staff has been made by the Governor after consultation with the Presiding Member of the Chamber concerned from among candidates sent up by the Public Service Commission.

In Bombay the provisional procedure was the same as in Bihar except that recommendations by the Public Service Commission were either:

(i) by promotion;
(ii) by nomination, or
(iii) by transfer of a person from the Provincial or other Services.

The Secretary must be a B.L. or a Barrister, and when the appointment is made by nomination, he must have 7 years' standing as a Barrister and be not more than 40 years of age at the date of appointment. In either case, he is required to be particularly conversant with the practice and procedure of the Legislature and possess a good knowledge of constitutional law.

In the State of Madhya Pradesh (the old Central Provinces & Berar) the provisional appointment is made by the Provincial Government by selection from amongst the members belonging to the State or Judicial Service.

In Madras the provisional appointment was by the Governor on the recommendation of the Public Service Commission after consultation with the Presiding member.

Pakistan.

The Constitution of Pakistan has not yet been promulgated.

Southern Rhodesia.

The appointment of the Clerk of the Legislative Assembly is made by Resolution of the House on recommendation of the Committee on Standing Rules and Orders.

The Colonies.

In both Chambers of Bermuda the appointment is by the Governor with the concurrence of the Legislative Council or House of Assembly, as the case may be.

In regard to the Legislative Assembly of the East Africa High Commission, the Clerk is an officer of the Colonial Administrative Service acting as Clerk in addition to his administrative duties.

In Jamaica, the Clerk of the Legislature is appointed by the Secretary of State for the Colonies and is always a member of the legal profession and entitled to private practice.

In Malta the Clerk is selected from the Malta Civil Service and appointed by the Governor-in-Council but under S.O. 168 of the Legislative Assembly, he is only removable from office by Resolution of the House.[1]

In Mauritius the appointment is made by the Governor subject to the approval of the Secretary of State for the Colonies.

In Trinidad and Tobago, the Clerk of the Legislative Council is also a civil servant.

In many of the smaller Overseas Legislatures the Clerk of the Legislative Council is also an official engaged in other duties.

(b) Pension or superannuation and basis of? (c) age limit? (d) what contribution to pension? (e) pensioned or superannuated by Government or House? (f) nature of fund therefor? (g) how is such fund maintained? (h) are sums or allowances in lieu of residence, or other perquisites counted for pension or superannuation purposes? and (j) does he receive to his private purse any fees (stating them) paid under the Standing Orders?

United Kingdom.

The basis of the pension of the Clerk of the Parliaments is as provided for in the Pension & Additional Allowance under the Superannuation Acts 1834-1949. The pension, etc., is granted by the Crown in answer to an Address by the House of Lords. The nature of the Pensions Fund is the Superannuation and Retired Allowances (Class VIII. 4) and the sums are voted by Parliament in accordance with the Civil Estimates, Contributions for pensions to widows, children, etc., are provided for under the Superannuation Act 1949.

House allowance was included in the salary of the Clerk from July 1, 1942, *vide* House of Lords Officers Committee, Third Report, June 23, 1942.

[1] *The Malta (Office of Governor) Letters Patent*, 1947, s. 20.

The age limit of the Clerk of the Parliaments is 70, as provided by Letters Patent and as recommended by the House of Lords Officers Committee, Second Report, March 28, 1917.

The pension of the Clerk of the House of Commons is based on the retiring salary and amount of service at the House of Commons and (if any) in other Government Departments. Pensions are awarded by the Commissioners for regulating the Offices of the House of Commons, who can make any award they think fit, but normally make such pensions in conformity with the provisions of the Superannuation Acts.

These Acts provide that a pension of $\frac{1}{80}$ of the average annual emoluments over the last 3 years prior to retirement for each year of pensionable service, together with a lump sum retiring allowance of 3 times that pension. This formula is subject to 2 variations, namely, (1) if the date of entry was after July 14, 1949, the pension is reduced by the amount of the personal National Insurance pension at (present £1 6*s*. a week at the age of 65 years) and (2) had the Clerk refused to accept the provision of the Superannuation Act 1935 at that time, *and had not subsequently accepted the provisions of the Supperanuation Act* 1949, the pension would be calculated at $\frac{1}{80}$ the rate of actual salary at the date of retirement for every year of service, but the lump sum retiring allowance would be $\frac{1}{80}$ that formula.

Clerks have, since 1949, received the option of protecting their wives and families as under the Superannuation Act 1949, Part I. If they were serving in July, 1949, and they accepted the scheme, provision could be made by the payment of either the whole cost to be deducted from the lump sum retiring allowance or by deduction of $\frac{1}{80}$ from the salary since that date, with an adjusting deduction from the lump sum allowance in respect of every year of service prior to July, 1949.

There is a further provision which Clerks may make. Since 1935 they may accept a reduced pension which would enable their wives, if they survived them to receive a pension, or alternatively to allocate a part of their pension to their wives in their own right.

Except in regard to widows (*see above*) to which schemes new entrants enter compulsorily, when married, there is no contribution in respect of pension, which is awarded by the House. There is no fund, provision being taken in Vote of the House each year to cover the amount for the pension awarded. No sums, allowances, fees, residence or perquisites are attached to the office. There is no age limit either for appointment or termination.

Northern Ireland.

The pension of the Clerk of the Parliaments comes under the ordinary Civil Service scheme. No contribution is payable in respect of pension which is awarded by the House from a fund maintained

by the Government. No sums or allowances, private fees, residence or other perquisites are attached to the office.

Channel Islands.

Jersey.—No pension is specified for the Greffier. The last holder of the office was awarded a non-contributory pension payable from the General Revenue of the States equal to $\frac{2}{3}$ of his salary. There is no age limit. There are no residence or other perquisites and no fees are attached to the private purse of the Greffier.

Guernsey.—The pension awarded H.M. Greffier is $\frac{1}{60}$ the amount of the retiring salary by the number of years of service, or 40, whichever is the less, and so much of the result is reduced as exceeds £200 by 25%. The pension is awarded by the States of Guernsey and is budgetted for annually. There are no allowances in lieu of residence and no fees accruing to the Greffier's private purse. The age limit is 65 years.

Alderney.—The office of Clerk is not pensionable. No age limit has been established and no fees are due to the Clerk's private purse.

Canada.

In the Federal Parliament the scheme of pension is that after 10 years in the Public Service, on contributing annually 6% of salary, the Clerk may be superannuated by the Government from the Consolidated Revenue Fund, on the basis of $\frac{1}{80}$ his average salary for the past 10 years, for each year of service, the maximum pension being 70% of salary. No allowance, residence, private fees or other perquisites are attached to the office. There is also no age limit.

In the Province of Ontario, the Clerk of the Legislative Assembly is pensioned under the provisions of the Public Service Act of Ontario, which establishes superannuation allowances for Civil Servants on the basis of 4% the salary by the official and equal contribution by the Government.

In the Province of Quebec, the pension of the Clerk of either Chamber is granted by Government out of the Consolidated Revenue Fund and is made up from public revenue and special contributions (*i.e.*, 5% of the salary for 3 years and 3% afterwards) based upon as many fiftieths of the average of his salary during the last 3 years, but not more than $\frac{35}{50}$ in accordance with his years of service. Half the pension goes to the widow or children of less than 18 years of age. There is no age limit.

In the Province of Saskatchewan, the Clerk of the Legislative Assembly is pensioned by Government out of the Consolidated Revenue Fund under the Public Service Superannuation Acts 1931-1939. The pensioner's contribution is 4% of salary.

There are no sums or allowances in lieu of residence or other perquisites attached to the Clerk's office in Saskatchewan, but if he is granted an honorarium for services as Secretary to a Royal Com-

mission, no superannuation deduction is made therefor. The Clerk receives no fees to his private purse under the Standing Orders.

In British Columbia and several of the other Provinces of Canada, however, the office of Clerk is a part-time one, the Clerk receiving only Sessional indemnity, the office not being pensionable. In many instances the Clerks of the Provincial Legislatures are barristers, solicitors or accountants and are allowed to continue their practice, in some cases those who are lawyers appearing in Court even during Session. In Alberta, however, there is the restriction that if the Clerk is a member of the legal profession, he is not allowed to practise during the Session of the Legislature, so long as he is on the Government payroll. No private fees are paid to the Clerk under the Standing Orders.

Australia.

In Australia, the Clerks of the 2 Houses of the Commonwealth Parliament are pensioned under the Superannuation Act. The maximum pension payable under the Act is based on the amount contributed but is limited to £A.845 *p.a.* No allowances, residence, private fees or other perquisites are attached to the offices. The age limit is 65.

In the Australian States the position is as follows:

In New South Wales contributions to pension in respect of the Clerks of both Houses are the £A.1 for £A.1 principle on units of £A.32 10*s.*, according to the contributions, salary and age. The State Superannuation Fund is established by the Superannuation Act 1916 as amended. There are no private fees, but quarters, fuel and light are assessed at £A.75 *p.a.* for pension purposes. The age limit is 60, but the Clerk's services may be retained for such period as, with long service leave, would take the occupant up to 65 years of age.

In Victoria, the pension of the Clerk of either House is governed by the number of units of pension for which an officer may contribute and is limited by the amount of salary he receives. His contribution is determined by his age at the time he commences to contribute for each unit. The minimum and maximum pension is £A.65 *p.a.*, and £A.845 *p.a.* respectively.

The pension, which is awarded by Government, is paid under the Superannuation Act (No. 3782 of 1928). The Fund is maintained by officers' contributions and by payment into the Fund in respect of each pension, as it becomes payable, of an amount equal to $\frac{5}{8}$ of the amount of the pension. There are no sums or allowances in lieu of residence or other perquisites. The age limit is 65 years unless extended by Order-in-Council, or, on earlier retirement through ill-health. Widows and children are entitled to certain benefits.

In South Australia the pension of the 2 Clerks is made under the Superannuation Acts of 1926-1948, on completion of 10 years (unless retired on grounds of invalidity or physical or mental incapacity,

when the necessary service is 7 years). The officer is eligible for pension, to which contributions, for a certain number of units of pension, based on age at entry into the service and appropriate to salary groups, have been made. A unit of pension is £A.32 10*s. p.a.* with a maximum of 20 units. Contributions are deducted from fortnightly pay-sheets and are payable in the proportion of $\frac{5}{8}$ by the Government and $\frac{3}{8}$ by the officials.

In regard to sums, allowances or perquisites being counted for pension in lieu of residence, values for rents are included in the salary on which the pension is based.

The Clerk is allowed to collect to his private purse fees for the examination of petitions and Private Bills to a total amount of £A.6 6*s.* on each Bill introduced into the House (average of one a Session).

In Queensland the pension of the Clerk of the Parliament (unicameral) is payable by the Government under the Public Service Superannuation Act of 1912.[1] Pension depends upon age on joining and is only procurable by voluntary contribution to the Public Service Superannuation Fund, which is composed of contributions plus Government endowment to provide: (1) Assurance at death of £A.200 per unit; (2) annuity of £A.100 p.a., per unit from the age of 65; and (3) an incapacity allowance of £A.100 p.a. per unit up to the age of 65 (two compulsory units). The age limit is 65 but extensions, if desired, are usually granted on the recommendation of the Speaker. There are no allowances, residence, private fees or other perquisites attached to the office.

In Western Australia, the Family Benefits and Superannuation Act of 1938[1] applies to the Clerk and all other officers of Parliament under a contributory scheme for all employees of the Crown, to which the Government also contributes. Pensions are according to the individual desires of officers and are governed by their contributions. Pensions are extended to $\frac{1}{2}$ pensions for widows and small pensions to children under 16 years of age. No allowances, residence, private fees or other perquisites are attached to the office. There is no age limit.

In Tasmania the Clerks of the 2 Houses are included in the Public Service Superannuation Scheme (2 Geo. VI. No. 41), which provides for a maximum pension of £A.390 p.a. Equal contributions to this Fund are made both by the State and the officer concerned and the Fund is administered by a Board appointed under the Act which invests the funds in various trustee securities. Such contributions cease at the age of 65 and the pension becomes payable upon the retirement of the officer concerned.

There is no limit to the retiring age in respect of officers of Parliament. No allowances are made in lieu of residence or other perquisites or fees to the private purse of the Clerk of either House.

[1] 3 Geo. V, No. 28.

New Zealand.

The Clerk of the House of Representatives on retirement receives an annual pension based on a calculation of $\frac{1}{120}$ of his average salary over his last 5 years' service multiplied by the number of years of contributory service plus an amount equal thereto, the latter amount being subject to a maximum of £N.Z.300 p.a., and a minimum of £N.Z.3 15*s.* p.a., for each year of contributory service, such contributions ranging from 5% to 10%, according to age on joining the Fund. The only perquisite attached to the office is the issue of a free pass over the New Zealand Government Railways and road services system.

Union of South Africa.

The pension of the Clerk of the Senate and of the Clerk of the House of Assembly on retirement are fixed by the respective Houses on a previous recommendation in the case of the Senate, of the Sessional Committee on Internal Arrangements and of the House of Assembly by its Committee on Standing Orders. There is no contribution to a pension fund.

No residence or private fees are attached to the office of either Clerk but they are each granted a free pass over the Union (State) Railways.

No age limit is imposed for retirement in respect of these 2 Clerks.

In the 4 Provincial Councils of the Union, the Clerks are permanent members of the Union Public Service and, as such, subject to the Public Service and Pensions Acts (Nos. 27 of 1923 and 36 of 1936). The pension is paid by the Government out of State Funds to which both the official and the Government contribute. Except in the case of Natal, no allowances for residence private fees or other perquisites are attached to the office.

The Clerk of each Council, however, is granted a free railway pass in his Province. The contribution to the Public Service Pension Fund is 6½% to 8½% of salary depending on the age of the official at the date of admission to the Fund, which provides annuity plus gratuity on retirement. The retiring age is 60 years.

Under the Standing Orders the Clerk of the Natal Provincial Council receives £2 2*s.* in respect of each private draft ordinance introduced and the Clerk (or Clerk-Assistant) in charge of a private draft ordinance Select Committee receives 10*s.* 6*d.* for attendance at such committees at which no evidence is heard and £1 1*s.* for attendance when evidence is taken. These moneys are not paid into Revenue.

South-West Africa.

The pension of the Clerk of the Legislative Assembly is on the same scale as that of the Clerks of the Provincial Councils in the Union. In regard to perquisites, the Clerk also has a free railway pass for the

Territory. He is also entitled to the territorial allowance fixed by the Union Government for Union Public Servants in the Territory as well as special house rental, sanitation and water supply allowance.

Ceylon.

The Clerk of each House is entitled to pension if he retires after the age of 55 years and has more that 10 years' service. The rate of pension is calculated on the number of years of his service plus 5 years divided by $\frac{1}{60}$ of his retiring salary. He makes no contribution towards pension, which is under a Government scheme paid out of public revenue. No allowances, residence, private fees or other perquisites are attached to the office.

The age limit is 60 years.

India.

In the matter of pension the office of Secretary to the House of the People is governed by the special Rules for the time being applicable to the classes of Government servants specified in Article 547 (*a*) of the Civil Service Regulations.

In regard to superannuation the office of Secretary is governed by the Rules and Orders for the time being applicable to the classes of Government servants specified in sub-clause (iii) of clause (*c*) of Government of India Fundamental Rules, 56.

The Government has control of the pension scheme. There is no contribution or Fund, the expenditure being met from Government revenues. There are no sums or allowances in lieu of residence, or other perquisites counted for pension purposes.

The Secretary does not receive to his private purse, any fees paid under the Standing Orders.

In Bihar, where the Secretary is a member of the Public Service, pension is allowed after attaining the age of superannuation. There is no contribution to the Pensions Fund, which is under the Government. Neither are there any allowances or other perquisites. The entrance age is 25 years except in the case of Government servants.

In Bombay the pension, age limit, etc., are governed by the Bombay General Provident Fund Rules.

The President and Speaker constitute a Board which has full control over the Staff and administration of the Legislative Department and may delegate their powers to the Secretary, who is both Secretary of the Legislative Council and the Legislative Assembly.

In Madhya Pradesh pension falls under the Civil Service and is granted by the Government out of State Revenue without any personal contribution. Allowances, residence and other perquisites amount to *Rs.* 250 p.m. There are no private fees. A member of the service retires at 55 years of age.

In Madras the Secretaries of the two Chambers are granted from Provincial Funds, a pension on retirement at the age of 55, under

the Civil Service Regulations. No allowances, residence, private fees or other perquisites are attached to the office.

The position in regard to the staffs of the State Legislatures, however, is likely to be revised by law made by the Legislatures as provided in Art. 187 of the Constitution of India.

Pakistan.

Until the new Constitution is promulgated no definite information is obtainable. The only exception is that of East Bengal, where the Secretary of the Legislative Assembly comes under the Civil Service Pension Scheme, to which the official makes no contribution, the pension being payable by the Government from public revenue. There are no perquisites and the age of retirement is 55 unless extended to 60 years.

Southern Rhodesia.

The Clerk of the Legislative Assembly is entitled to the same pension as in the case of members of the Public Service, which is on the basis of $\frac{1}{60}$ his salary at the date of retirement for each year of service, the contribution being at the rate of $6\frac{1}{4}\%$ of his salary. There are no perquisites of any kind. The normal age of retirement is 60 years.

The Colonies.

In Bermuda the Clerk of the Legislative Council is pensionable, as laid down for other officials of the Colonial Service, on the basis of the $1\frac{8}{100}$ of his average salary for the last 5 years of service for each completed month of Colonial Service: *e.g.* an official acquires 70% of retiring allowance after 35 years' service. The contribution is 5% of salary *p.a.*, and the pension is granted by the Bermuda Government under the Pensions Act of Bermuda 1938. The age limit is 65. Fees may be granted by the Governor for the compilation of Blue Book Statistics, but private fees are not permissible.

The pension of the Clerk of the House of Assembly, awarded by the Government, is based on 2% of the average salary over the last 5 years, for each completed year of service. The contribution, since 1943, has been at the rate of 5% *p.a.* Otherwise, the position is the same as in regard to the Clerk of the Legislative Council, except that the retiring age is 70 years.

In regard to the East Africa High Commission Legislative Assembly the Clerk, as an officer of the Colonial Administrative Service, also performs the functions of the Clerk in addition to his other duties. No perquisites or private fees are attached to the office.

In Jamaica, the Clerk of the Legislature is pensionable by the Government out of General Revenue on a basis of $\frac{1}{30}$ of salary for every year of service. With the exception of a commuted travelling

allowance of £60 *p.a.*, no allowance, residence or other perquisites are attached to the office.

The age limit is 60, but retirement is optional at 55.

In Malta the Clerk of the Legislative Assembly is granted a pension, or a pension and gratuity as he may elect, on reaching the age of 60 years. He makes no contribution towards his pension, which is paid out of the Consolidated Revenue Fund of the Malta Government. There are no allowances, residence, private fees or other perquisites.

In Mauritius, the Clerk of the Legislative Council (who is also Assistant Secretary to the Secretariat) is, at 55 years of age, pensionable by Government. He receives, under S.O. 54, a fee of *Rs.* 50 (approximately £3 7*s.* 6*d.*) from promoters of Private Bills on the latter being lodged with the Clerk prior to introduction.

In Trinidad & Tobago, the Clerk of the Legislative Council is entitled to a pension as a Civil Servant with the status of an Assistant Secretary, his duties being additional to those connected with the House. The rate of pension is $\frac{1}{600}$ of pensionable emoluments for each complete month of service from the age of 20, subject to a maximum of $\frac{2}{3}$ pensionable emoluments. The pension is commuted to give a lump sum gratuity equal to $\frac{1}{4}$ of the pension for 10 years and a correspondingly reduced pension. The Clerk makes no contribution towards his pension. No private fees or perquisites are attached to the office.

The age limit is 55 (optional) and 60 (compulsory).

(i) Are any of his duties defined by Statute, if so, please state them?

United Kingdom.

The Clerk of the Parliaments makes a declaration under the Promissory Oaths Act 1868[1] at the Table, before the Lord Chancellor, to make true entries and records of the things done and passed in the Parliaments, and to keep secret all such matters as shall be treated therein and not to disclose the same before they shall be published, but to such as it ought to be disclosed unto.[2]

The duties of the Clerk of the Parliaments defined by Statute are:

1. (*a*) To carry out the duties of his office in person.
   (*b*) Appointment of his staff (other than Clerks-at-the-Table). } 5 Geo. IV. c. 82.
2. Return to the Treasury of fines imposed and recognizances estreated by the House of Lords—III & IV. Will. IV. c. 99, Ss. 23 & 24.
3. Duties as to reprinting certain Acts, e.g. Naval Discipline Act, 1884, which contains a " printing clause ".
4. Endorsement of date of Royal Assent on all Acts and Measures—33 Geo. III. c. 13 and 15 & 16 Geo. V. [No. 1], S. 6.
5. Power to insert cross-headings in Army Act or Air Force Act—22 & 23 Geo. V. c. 22, S. 15 (3) and (4).

The Clerk of the House of Commons makes a declaration under the

[1] 31 & 32 Vict. c. 72. [2] May, XIII. 197.

same Act, before the Lord Chancellor, on entering his office "to make true entries, remembrances, and journals of the things done and passed in the House of Commons."

Northern Ireland.

The statutory duties of the Clerk of the Parliaments consist of the publication of all Acts of Parliament.

Channel Islands.

Jersey.—In addition to being Greffier of the States of the Island, the Greffier is *ex officio* Secretary of Committees, sub-Committees and other delegations of the States and the present holder of the office of Greffier of the States is also Law Draftsman.

Guernsey.—H.M. Greffier of the States is also H.M. Greffier of the Royal Court; Clerk and Registrar of the States of Election; Registrar-General of Marriages (1919 Law), and of Births and Deaths (1935 Law); and Registrar of Companies (1908 Law), and Divorce Proceedings (1939 and 1946 Laws).

Alderney.—The duties of the Clerk of the States under the Government of Alderney Law 1948, are to prepare the electoral roll and conduct the elections; to attend People's meetings, to act as Clerk to the Court of Alderney; to be Secretary to all Committees of the States; to manage State property and to enter into contracts, etc., on behalf of the States; and to maintain a register of legislation and record the proceedings of the States.

Canada.

Under the Publication of States Act, 1927,[1] certain duties are imposed upon the Clerk of the Parliaments, who has the custody of all the original Acts passed by the Legislatures of the late Provinces of Upper or Lower Canada, which are deposited of record in the office of the Clerk of the Senate, and all original Acts of the Parliament of Canada. Reserved Bills assented to or disallowed, remain in the custody of the Clerk of the Senate "who shall be known and designated as the Clerk of the Parliaments".[2]

The Clerk of the Parliaments is given a seal of office which is affixed by him to certified copies of all Acts intended for the Governor-General or Registrar-General of Canada, or required to be produced in the Courts.[3] All such certified copies are held to be duplicate originals.[4]

The Clerk of the Parliaments is also required, after any Session, to deliver a certified copy of every Act passed thereat to the Governor-General and to one of His Majesty's Principal Secretaries of State (*vide* B.N.A. Act 1867) together with all Reserved Bills as well as a like copy in the English and French languages to the Registrar-General of Canada.[5]

[1] R.S.C., 1927, c. 2. [2] S. 1. [3] S. 4. [4] S. 5. [5] S. 6.

The Clerk of the Parliaments has also to furnish certified copies of Acts on application, for which he receives a fee of $2 in addition to the cost of the printed copy, as well as a fee of c. 10 for every 100 words in such non-printed copy.[1]

The Clerk of the Parliaments has to insert at the foot of every such copy so required to be certified, a written certificate, duly signed, and authenticated by him, to the effect that it is a true copy of the Act passed by the Parliament of Canada, or by the Legislature of the late Province of Canada or of Upper or Lower Canada (*as the case may be*) in the Session thereof held in the (*here insert year*) of His Majesty's reign and assented to in His Majesty's name by the Governor-General (*as the case may be*) on the . . . day of . . . , or reserved for the signification of His Majesty's pleasure thereon and assented to by His Majesty's Council on the . . . day of . . . [2]

In regard to the distribution of the Statutes, the Clerk of the Parliaments must furnish the King's Printer with a certified copy of every Act of Parliament of Canada as soon as it receives the Royal Assent.[3]

Any person wishing to obtain a Bill of a private or personal character must pay to the Clerk of the House in which such proposed legislation is first introduced, the charges prescribed by the Rules of the House.[4]

Under an Act of 1947[5] amending the Interpretation Act of 1927[6] the Clerk of the Parliaments is required to endorse on every Act after the title thereof, the day, month and year when the Act received Royal Asent; such endorsement is part of the Act and the date of assent is the date of the commencement of the Act, unless other provision is made therein.

Under the House of Commons Act,[7] the Clerk of that House has to administer the Oath of Allegiance to the Staff and prepare Estimates of Expenditure of the House during the fiscal year. Under the Civil Service Act and the Superannuation Act the Clerk is deputy head in respect of all appointments and retirements of members of the House Staff and under the Railway Act he signs cards which entitle M.P.s to free transportation on Railways in the Dominion.

In Quebec the Clerk of each House is authorized by Statute to administer the Oath of Allegiance to members of the Assembly Staff; to prepare estimates of the sums required for the payment of committees, salaries and contingent expenses; to register in the Journals the resignations of members verbally made in the House and, in the absence of the Speaker, to discharge certain of his duties in connection with the issue of new writs.

In British Columbia the Clerk of the Legislative Assembly is given certain duties under the Constitution Act.[8]

Should there be a vacancy in the office of Speaker during Recess,

[1] S. 7. [2] S. 8. [3] S. 9. [4] S. 15. [5] 11 Geo. VI. c. 64
[6] R.S., 1927, c. 1. [7] 50 & 51 Vict. c. 4. [8] R.S.B.C. 12 Geo. VI. c. 65.

the Clerk has to receive the Judge's certificate upon a seat becoming vacant following the determination of an Election Petition and authorizes the issue of a new writ.[1]

Under S. 55, the Clerk has to record in Journals, whenever an M.L.A. announces, from his place in the House, his resignation.

In regard to the indemnity to M.L.A.s, the Clerk is required to calculate and certifies the amounts due and accepts and has the custody of deduction thereunder.[2] The Clerk is by S. 72 required to pay to the Minister of Finance all fees payable to the Clerk under the Standing Orders. Provision is also made[3] for the Clerk to administer oaths, affirmations, declarations or affidavits to witnesses before Select Committees; he also announces the Royal Assent to Bills.

In Saskatchewan, the Clerk of the Legislative Assembly, under the Statute Act 1930,[4] has certain duties in connection with the time of the commencement of Acts, as well as their custody and certification. He also affixes the seal of the Province to certified copies required to be produced before the Courts of Justice and in all other cases which the Lieutenant-Governor in Council may direct. In addition, he provides certified copies of Acts to anyone applying for them upon payment of $1 for each Act of 10 ff. or less, and over 10 ff. at 3 cents a folio. In the case of Acts of the Province disallowed by the Governor-General in Council the Clerk has to certify the date when such took effect.

Under the Legislative Assembly Act 1930,[5] in the event of the unavoidable absence of the Speaker and Deputy Speaker the Clerk has to inform the House that it is lawful to elect a member to take the Chair and act as Speaker for that day.[6]

By S. 41 of such Act, a member may vacate his seat by openly, in his place in the Assembly, declaring his wish to vacate his seat as a member, and the Clerk is required to record the fact in the Journals whereupon the seat becomes vacant.

Under the Public Printing Act 1930,[7] the Clerk furnishes the King's Printer with a certified copy of every Act of the Legislature which has received the Assent, or, of any Bill which has been reserved, so soon as the Assent has been signified under the B.N.A. Act 1867. The Clerk has certain other duties under this Act in connection with the publication of the Journals and Sessional Papers.

In Newfoundland, duties are imposed on the Clerk by the Internal Economy Commission Act[8] in connection with the preparation of the House Estimates, payment of M.L.A.s and the promulgation of Statutes under the Promulgation of Statutes (Amendment) Act.[9]

Australia.

Under Ss. 9 and 10 of the Commonwealth Public Service Act, 1922-1937, the Clerk of the Senate and the Clerk of the House of

[1] Ss. 36, 39, 41. [2] S. 70. [3] S. 81. [4] R.S.S., 1930, c. 2. [5] *Ib.* c. 3.
[6] *Ib.* s. 21. [7] *Ib.* c. 32. [8] No. 46 of 1949. [9] No. 42 of 1949.

Representatives are each vested with the same authority over his Department as the Permanent Head or Chief Officer of a Ministerial Division, and by Ss. 25 and 26 of such Act, the 2 Clerks also head the list of Permanent Heads of Government Departments (*see also* paragraph (*n*) *below*).

In New South Wales, statutory duties are assigned to the Clerk of the Legislative Assembly under the Parliamentary Electorates and Elections Act 1912, as amended; the Constitution Further Amendment (Referendum) Act 1933; the Audit Act 1902; the Public Works Act 1912; the Parliamentary Evidence Act 1901 and the Constitution Amendment (Legislative Council Elections) Act, 1932-33.

In South Australia the Clerk of each House has certain statutory duties under the Electoral Act and in any civil or criminal proceedings in respect of the publication of any report, etc., of either House, he has power to issue a certificate stating that the matter in question was published by order, or under the authority of the respective House, together with an affidavit verifying such certificate.

Certain duties are laid down to be performed by the Clerk under the Criminal Code. In any civil or criminal proceedings in respect of the publication of any report, paper, notes, or proceedings of Parliament which either House of Parliament deems fit and necessary and has authorized to be published, the Clerk of the House issues a certificate stating that the matter in question was published by order or under the authority of the Legislative Council or the House of Assembly together with an affidavit verifying the said certificate.

In Queensland, the statutory duties of the Clerk of the Parliament are the monthly verification of the amounts due to members as salary and allowances; the custody of Election ballot papers and the transmission of certified copies of the Estimates as passed, to the Auditor-General and Clerk of the Executive Council.

In Tasmania, the Clerk is directed under the Custody of Acts Act 1858,[1] to transmit Acts to the Supreme Court within 7 days of receiving the Royal Assent. This Acts Interpretation Act 1931[2] requires the Clerk of the Legislative Council to publish in the *Gazette*, Notice of any Resolution passed by the Legislative Council for disallowance of Regulations.

New Zealand.

The Clerk of the House of Representatives, by Statute, has the care and ultimate destruction of election papers, certification of members' honoraria during Recess; the authorization of certain expenditure and duties in the matter of certificates as to action taken in the House. Apart from his professional duties, the Clerk, as permanent head of the Legislative Department, has a large body of administrative duties, including the responsibility for the maintenance

[1] 21 Vict. No. 55. [2] 22 Geo. V. c. 59.

of Parliament House and grounds and control of the Parliamentary staff.

Union of South Africa.

Under S. 67 of the South Africa Act 1909,[1] the Clerk of the House of Assembly is required to transmit to the Governor-General 2 fair copies of every law, one in English and one in Dutch (one of which shall be signed by the Governor-General) for enrolment in the office of the Registrar of the Appellate Division of the Supreme Court, which copies are conclusive evidence as to the provisions of such law, and in case of conflict between the 2 copies, thus deposited, that signed by the Governor-General prevails.

The Clerk of each House has certain duties under S. 18 of the Powers and Privileges of Parliament Act 1911,[2] in regard to the issue of summonses to witnesses by direction of the Presiding Member, and under S. 29 of such Act the Clerk (or Presiding Member) certifies as to Parliamentary documents being printed by authority. In the absence of the Presiding Member, the Clerk of each House has the certification of Parliamentary documents.

In the Provinces, the Clerks of the Provincial Councils have certain duties to perform under the Regulations (*vide* Ss. 25, 78 and 134 of the South Africa Act 1909) in connection with the election by P.R. of Senators to represent the 4 Provinces in regard to the election of members of the Executive Committee (by the same method) if contested.

India.

No duties of the Secretary to Parliament (at present the unicameral Central Parliament) are defined by Statute.[3]

Southern Rhodesia.

Certain duties are imposed upon the Clerk of the Legislative Assembly under the Electoral Act (c. 2); the Customs & Excise Management Act (c. 136); the Private Bill Procedure Act (c. 5) and the Powers and Privileges of Parliament Act (No. 4 of 1924).

(k) State his precedence at official functions in relation to other persons and officials in Territory.

United Kingdom.

The Clerk of the Parliaments and the Clerk of the House of Commons at official functions have no precedence as such, but are entitled to precedence as K.C.B. and also to the civil uniform, 1st class.

[1] 9 Edw. VII. c. 9. [2] No. 19 of 1911. [3] *See* JOURNAL, Vol. XVIII. 239.

Northern Ireland.

The Clerk of the Parliaments has precedence next after Permanent Secretaries, or, in own rank, if higher.

Channel Islands.

Nothing is laid down as to the precedence of the Greffiers of the States of Jersey or Guernsey or the Clerk of the States of Alderney.

Canada.

At official functions the Clerk of the Parliaments takes precedence immediately after the Clerk of the Privy Council, who is first on the list of Public Officers and the Clerk of the House of Commons takes precedence next after the Clerk of the Parliaments.

In Ontario, the Clerk of the Legislative Assembly takes precedence next after members of the Executive Council, and in Quebec the Clerks have precedence of all members of the Civil Service, each Clerk taking precedence next after the members of his House.

In Saskatchewan, the Clerk of the Legislative Assembly ranks with Deputy Ministers and other permanent Heads of Departments.

Australia.

The Clerks of the Commonwealth Senate and the House of Representatives are made Permanent Heads of the Government Department by S. 25 of Commonwealth Public Service Act, 1922-34 and rank senior to all other Permanent Heads.

The duties and authorities of the two Clerks and their authority are defined under S. 25 of this Act.

No precedence is laid down in the States of New South Wales and Victoria, but in South Australia the Clerks rank No. 24 on the Official Table of Precedence of such States, the Clerks of the Legislative Council following the Clerk of the Executive Council and the Clerk of the House of Assembly ranking immediately after the Clerk of the Legislative Council. All 3 Clerks rank next after the Heads of Ministerial Divisions.

In Queensland, the Clerk of the Parliament follows M.L.A.s and precedes other Civil Servants.

In Western Australia, the Clerks take precedence after members of Parliament and before members of the Bar and citizens.

In Tasmania, although no precedence is definitely laid down, the Clerk at official functions, usually accompanies his Presiding Member.

New Zealand.

At official functions, State Officials ranking above the Clerk of the House of Representatives are, the 3 Chiefs of Staff; Public Service Commissioners; Solicitor-General; Controller and Auditor-General;

Permanent Heads of Civil Departments of State; Clerk of the Executive Council and the Clerk of the Parliaments.[1]

Union of South Africa.

According to a revised Precedence List issued by the Prime Minister, January 1, 1950, the Clerk of the House of Assembly is ranked with Permanent Heads of Government Departments and the Clerk of the Senate (in order of seniority according to date of appointment) after the Chairman of the Public Service Commission and before Provincial Secretaries. The Clerk of each House, at official functions, usually accompanies his respective Presiding Member.

No official precedence is laid down in regard to the Clerks of the 4 Provincial Councils.

Ceylon.

The Clerks of the two Houses rank next before Permanent Secretaries and Heads of major Departments.

India.

The Secretary to Parliament (at present,the unicameral Central Parliament) ranks 29 in the Warrant of Precedence.

Pakistan.

No Warrant of Precedence at official functions has so far been laid down as in Article 56 of the old Warrant of Precedence of India.

Southern Rhodesia.

At official functions the Clerk of the Legislative Assembly ranks with the Permanent Heads of Divisions.[2]

Bermuda.

In the Order of Precedence the Clerk of the House of Assembly ranks last on the official list, and the Clerk of the Legislative Council immediately precedes him.

British Guiana.

The Clerk of the Legislative Council ranks as the head of a Junior Department.

Jamaica.

The Clerk of the Legislature ranks with Heads of Departments.

Malta.

The Clerk of the Legislative Assembly ranks with Heads of Departments and when the Legislative Assembly is represented as a body the Clerk accompanies the Speaker and members.

[1] There is now no Upper House.—[ED.]

[2] *Southern Rhodesia Government Gazette*, Feb. 18, 1949.

Mauritius.

The Clerk of the Legislative Council ranks as Assistant Secretary, of the Secretariat.

(l) Comparison of his salary with those of Permanent Heads of Ministerial Divisions.

United Kingdom.

In the Lords the salary of the Clerk of the Parliaments is identical with that of a Permanent Head of a major Government Department.

In the Commons, the present salary of the Clerk of the House was increased from £3,500 to £4,500 as a result of the Chorley Report, being implemented on October 1, 1950, as in the case of Permanent Heads of the Civil Service Departments except the Permanent Secretary to the Treasury (£5,000).

Northern Ireland.

The salary of the Clerk of the Parliaments is £1,320-£1,700, while a Permanent Head of a Government Department receives £2,250 and the Permanent Secretary to the Minister of Finance £2,500.

Channel Islands.

In Jersey the salary of the Greffier of the States is not necessarily fixed by reference to those of other permanent heads of Ministerial Divisions.

In Guernsey, the salary of H.M. Greffier is about 20% lower than that of Permanent Heads of Administrative divisions.

In Alderney, the States have no other Ministerial officer with the exception of the Treasurer.

Canada.

Both the Clerk of the Senate and the Clerk of the House of Commons receive $10,000, which is lower than that of some "Deputy Ministers" (the title given to Permanent Heads of Ministerial Divisions), which range from $10,000 to $17,500.

In Ontario, the salary of the Clerk of the Legislative Assembly is on the same basis as that of Heads of Departments.

In Quebec, the Clerk of the Legislative Assembly receives $1,000 less than the Clerk of the Legislative Council and Deputy Ministers.

In British Columbia and several other Provinces, the Clerk only receives a Sessional indemnity (*see* **(b)** hereof).

In Saskatchewan, the Clerk receives $2,200 p.a., and a Session averages 6 weeks. The salaries of senior and junior grades of Deputy Ministers are $5,200 and $4,750 respectively, but the present Clerk of the Legislative Assembly, with additional salary from the Executive Council and direct emolument from extra work and special assignments for Government, actually receives the equivalent salary of a junior Deputy Minister.

Australia.

The Clerk of each House of the Federal Parliament receives £A.1,800-£A.2,000 p.a. Other Permanent Heads receive £A.1,500 to £A. 3,500.

In New South Wales, the Clerk of the Parliaments receives £A.1,425 p.a. (*but see* (b) hereof). The salary of the Clerk of the Legislative Assembly is £A.1,750 the top range of a Permanent Head.

In Victoria, the salaries of the Clerk of the Legislative Council and of the Legislative Assembly have been advanced to £A.1,700 p.a., but Heads of other Departments vary from £A.1,800 to £A.2,000; that of the Director of Finance being now £A.2,500.

In South Australia, the Office of Clerk was in 1950 brought by Parliament under the Public Service Act for classification and fixation of salary only, which includes the right of appeal against the determination of the Classification and Efficiency Board, of which the Public Service Commissioner is Chairman. This Board recently recommended substantial increases of the salary all round and the salary of the Clerk now stands at £A.1,250 p.a., basic, plus £84 cost of (fluctuating) living allowance.

In Queensland the Clerk of the Parliament (unicameral) receives £A.1,075—£1,255 *p.a.*, plus basic wage adjustments which amount, at present, to £A.73 *p.a.* The salaries of Permanent Heads are £A.1,305-1,555 plus basic wage adjustments.

In Tasmania, the salaries of the Clerks of the two Houses are below those granted to Under Secretaries.

In Western Australia, the Clerk of the Legislative Assembly receives £A.1,065 *p.a.*, and "Under Secretaries" (as Permanent Heads are described) £A.1,000 to £A.1,300 *p.a.*

New Zealand.

The salary of the Clerk of the House of Representatives, which was increased (*w.e.f.* October 1, 1949) from £N.Z.1,075 to £N.Z.1,200, is paid, subject to the annual appropriation by S. 9 of the Finance Act (No. 2 of 1946), which repealed S. 22 (1) of the Civil List Act 1920, under which the salaries of the Clerks-at-the-Table were formerly paid. The salaries of other Heads of Departments, which are also voted annually, range from £N.Z.1,225 to £N.Z.2,075.

Union of South Africa.

The salary of the Clerk of the Senate and that of the Clerk of the House of Assembly is £2,100 (fixed) and is the same as that received by Permanent Heads of Ministerial Divisions.

In the Provinces, the Clerks of the 4 Provincial Councils do not have the same status as Permanent Heads of Provincial Departments, but are officers in charge of a section of the Provincial Administrator's Office. They also act as the Clerk of the Executive Committee

of the Province, the work of which Committees is carried on throughout the year.

The salaries of the Clerks of the Provincial Councils range from about £720 to £1,080 *p.a.*, and those of other Heads of Departments from £960-1,200, with the Provincial Secretary at £1,850 *p.a.* (fixed).

South-West Africa.

The salary of the Clerk of the Legislative Assembly is on the scale of £600-30-£840 *p.a.* (*see also* paragraphs (h) and (i) *hereof*).

Ceylon.

The Salaries of the 2 Clerks rank below those of Permanent Secretaries and Heads of Major Departments.

India.[1]

In the State of Bihar the Secretary of the Legislature at present receives *Rs.* 1,155 *p.m.*, including special pay of *Rs.* 250 in the grade *Rs.* 800-35-1,150 *p.m.* The salaries are lower than those for the gazetted staff of the same rank and position in the Secretariat.

In Bombay, the salary of the Secretary of the Legislature is on the scale *Rs.* 650-50-950 *p.m.*, plus *Rs.* 200 special pay, which is equal to the salary of a Deputy Secretary of the Secretariat Department, the Secretaries thereof receiving *Rs.* 3,000 *p.m.*

In Madras, the Secretary of the Legislature receives *Rs.* 550-50/2-900 *p.m.*, which is much lower than that of Deputy Secretaries to the Government.

Pakistan.[1]

In the State of East Bengal, the salary of the Secretary of the Legislative Assembly is on the scale *Rs.* 1,000-55/2-1,500 *p.m.*, whereas that of Heads of Ministerial Divisions ranges from *Rs.* 2,000 to *Rs.* 2,750 *p.m.*

Southern Rhodesia.

The salary of the Clerk of the Legislative Assembly is the same as that of the Permanent Heads of Ministerial Divisions, namely, £2,400 *p.a.*

Bermuda.

The salary of the Clerk of the Legislative Council is £700-20-800 *p.a.*, and that of the Clerk of the House of Assembly £800-40-1,200 *p.a.*, which is lower than Grade I of the Civil Service, namely—£1,500-60-1,800; II £1,260-88-1,500 and III £1,050-42-1,260.

Jamaica.

The salary of the Clerk of the Legislature is £800 *p.a.*, which is

[1] Full information not yet available.—[ED.]

not comparable with the salary of the other Permanent Heads (*but see* paragraph (a) *above*).

Malta.

The salary of the Clerk of the Legislative Assembly is £700 and those of other Permanent Heads range from £600 to £850 *p.a.*

Trinidad.

The salary of the Clerk of the Legislative Council, who is a Civil Servant, is £900-50-1,100 *p.a.*, with the status of an Assistant Secretary.

Nigeria.

The salary of the Clerk of the Legislative Council, who is also Assistant Secretary of the Nigeria Secretariat is £810 *p.a.* (*w.e.f.* January 20, 1951).

(m) What principle is followed in regard to honours on appointment or retirement, or both?

United Kingdom.

The Clerk of the Parliaments and the Clerk of the House of Commons both receive a K.C.B. soon after appointment. In exceptional cases a further honour is awarded on retirement. The last holder of the office of Clerk of the Parliaments was raised to the Peerage on retirement and the last holder of the office of Clerk of the House of Commons received a G.C.B. and was later also made a Peer. The Clerks-Assistant of the two Houses usually receive a C.B.

Northern Ireland.

No honours have been granted, either on appointment or retirement.

Channel Islands.

No provision is made in regard to honours.

Canada.

Honours are based on the Clerk's own merits. The former Clerk of the Parliaments was a C.M.G., as was also the former Clerk of the House of Commons. The present holder of the latter office is an O.B.E.

In the Provinces, it has not been the custom to award honours to Clerks of the Legislative Assemblies, whether during office or on retirement.

Australia.

It is the policy of the Labour Governments in Australia not to recommend honours, but several previous holders of the offices of Clerk of the Senate and Clerk of the House of Representatives have received a C.M.G.

The position in the States is as follows: In New South Wales the conferment of honours on the Clerk of either House of Parliament depends upon the Government of the Day. Several former holders of the office of Clerk of the Legislative Assembly have been awarded a C.M.G.

In Victoria, South Australia, Queensland and Tasmania no principle in regard to the granting of honours to the Clerk of either House has been established, but some previous holders of such appointments in Tasmania have been awarded a C.M.G. A former holder of the office of Clerk of the Parliaments in Western Australia received an I.S.O.

New Zealand.

No principle is laid down in regard to honours but several former Clerks have received the C.M.G.

Union of South Africa.

Since 1925[1] no honours have been granted to anyone (except for War Service) but former holders of the offices of Clerk of the Senate and Clerk of the House of Assembly received the C.M.G.

In the Provinces there is no such practice.

South-West Africa.

The Union practice prevails.

Ceylon.

No principle as to honours has been laid down but the present

[1] On May 15, 1923 (VOTES, 669) the following motion was moved in the Union House of Assembly:

> That in the opinion of this House an Address should be presented to His Most Excellent Majesty the King in the following words:
>
> To the King's most Excellent Majesty:
>
> Most Gracious Sovereign, we, Your Majesty's most dutiful and loyal subjects, the House of Assembly of the Union of South Africa in Parliament assembled, humbly approach Your Majesty, praying that Your Majesty hereafter may be pleased to refrain from conferring any titles upon your subjects domiciled or living in South Africa;

to which the previous Question was moved in the following form: "That the original Motion be not now put" which was agreed to: Ayes, 54; Noes, 42.

On February 24, 1925 (VOTES, 107) the same Motion was moved with the addition of the following words—"or the Mandated Territory of South-West Africa." To this Motion an amendment was moved: to omit "any titles" and to add at the end of the Motion, "any hereditary titles or other titles, except such as may be awarded in respect of public, literary, scientific or other similar sevices."

Upon resumption of the debate on February 26, it was moved: "That the debate be now adjourned" which was negatived: Ayes, 48; Noes, 72.

The amendment was put and negatived.

The original Motion was then put and agreed to: Ayes, 71; Noes, 47.

On July 7 (*Ib.* 907), the speaker of the House of Assembly read a letter to him from the Governor-General informing him that the Address of February 26, from the House of Assembly regarding the grant of titles to British subjects domiciled or living in the Union of South Africa or in South-West Africa had been laid before His Majesty the King, who was pleased to receive it very graciously.

holder of the office of Clerk of the House of Representatives is an M.B.E.

India & Pakistan.

The principle of awarding decorations to the Secretaries of the Legislative Assemblies, has not been accepted.

Southern Rhodesia.

There is no actual principle laid down in regard to honours in respect of the Clerk of the Legislative Assembly but 2 former holders of the office have received an O.B.E.

The Colonies.

It has not been the practice to award honours to retiring Clerks, many of whom are only part-time officers and perform other duties.

(n) How are appointments and promotions in the Parliamentary Service governed and what provision as to pension is made in regard to the Clerk's Staff?

United Kingdom.

Appointment of Clerk-Assistant of the Parliaments and other Clerks officiating at the Table of the House of Lords is vested in and exercised by the Lord Chancellor subject to approbation of the House of Lords. Other Parliament Office staff appointments and promotions are made by the Clerk of the Parliaments.[1] Salaries, etc., are authorized by the House of Lords Offices Committee.

The pensions, etc., of the House of Lords Officers (with the exception of the Clerk of the Parliaments) and officials are awarded by the House of Lords Offices Committee, usually upon the scale of the Superannuation Acts. The charge is borne on the House of Lords Vote.

In the House of Commons, the 2 Clerks-Assistant are appointed by the Crown, under the sign manual, on the recommendation of the Speaker and are removable only upon an Address from the House of Commons. Their appointment and tenure of office is regulated by the House of Commons Offices' Act 1856.[2]

The rest of the Staff are appointed by the Clerk from among candidates selected by him who have competed among each other at the examination for the Civil Service, Administrative Grade Class I. Candidates must be between 22 and 24 years of age. In the case of vacancies requiring to be promptly filled, the Clerk of the House reserves, but rarely exercises, the power of selecting persons who have done well in the examination for such Class I. The selection is almost invariably made from among those who, before the examination, have been nominated by the Clerk of the House. The pension system of the Clerk's staff is as given under paragraph (b) above.

[1] 5 Geo. IV. c. 82. [2] 19 & 20 Vict. c. 1.

Northern Ireland.

The appointment of officials on the Clerk's Staff, who act for both Houses, is made by the Civil Service Commissioners on the recommendation of the Speaker of the Senate or the Speaker of the House of Commons, as the case may be.

Channel Islands.

In Jersey the established staff is appointed by the Greffier subject to the approval of the Civil Service Board. The unestablished staff is appointed by the Greffier subject to the approval of the Finance Committee with regard to salary and conditions of appointment. The established staff is entitled to non-contributory pension.

In Guernsey H.M. Greffier appoints his own Deputies and staff, with the approval of the States Board of Administration, which governs the salaries.

Canada.

In the Senate, the appointments and promotion of the junior personnel on the Clerk's Staff are made by the Civil Service Commission and pensions are payable under the Superannuation Act. The Clerk-Assistant is appointed by the Senate, likewise the Law Clerk and Parliamentary Counsel. Black Rod is appointed by the Crown by Letters Patent.

In the House of Commons appointment and promotion is by the Civil Service Commission. Pensions also come under the Superannuation Act.

In the Canadian Provinces, appointments in Ontario are made by Mr. Speaker on a requisition by the Clerk and pension are as described under paragraph (b) above.

In Quebec appointments on the Staff of the Clerk of the Legislative Assembly are made by the Speaker, except in the case of the Clerk-Assistant and Serjeant-at-Arms, who are appointed by the Lieutenant-Governor-in-Council. Pensions of the Clerk's Staff are the same at for the Clerk (*see* paragraph (b) *above*).

In British Columbia, the appointments of permanent members of the Clerk's Staff are governed by the Constitution Act[1] and must be ratified by the House, or in the Recess, by the Lieutenant-Governor-in-Council subject to confirmation by the Legislative Assembly at its next Session. The appointment of all other officers and employees of the Staff is made by the Speaker, or, should he not be able to act, by the Provincial Secretary. There is no provision for pension.

In Saskatchewan the Public Service Act 1947[2] by S. 9 provides for an unclassified division of the Public Service, which includes: page boys, ushers and clerical employees of the Legislative Assembly; the Serjeant-at-Arms and such temporary secretarial and clerical assistants as may be provided for M.L.A.s.; persons employed in a

[1] R.S. 1948, c. 44, c. 65. [2] Chap. 4.

professional or scientific capacity to make or conduct a temporary and special inquiry, investigation or examination on behalf of the Legislative Assembly; or on the authority of the Lieutenant-Governor-in-Council. All permanent members of the Clerk's Staff are covered by the Public Service Superannuation Act.

Australia.

In both Houses of the Federal Parliament the appointment and promotion of officials on the Clerk's Staff are made by the Governor-General-in-Council on the recommendation of the President of the Senate or the Speaker of the House of Representatives, as the case may be. The appointments on the Joint Parliamentary Staff are made by the Governor-General-in-Council on the Joint Recommendation of the President and the Speaker.

Sections 9 & 10 of the Commonwealth Public Service Act 1922-37 deal with the officers of the Senate, the House of Representatives and the Joint Parliamentary Staff. Under these Sections, any actions taken by the President or Seaker or the President and the Speaker under the above-mentioned Act have the same authority as that of the Public Service Board of Commissioners under the Act. Likewise, the Clerk of each House, and in regard to the Parliamentary Library, its Librarian, or in respect of the Parliamentary Reporting Staff, the Principal Parliamentary Reporter or by the Secretary of the Joint House Department, each have the same authority under the Act as the Permanent Head or Chief Officer, of a Ministerial Division, and each one is regarded as being constituted a separate Department under the Act.

The President and Speaker are also clothed with the same authority in regard to the respective Parliamentary Staffs under the Act, as a Minister. The classification of officers and offices of Parliament are made by the President or the Speaker, or the President and the Speaker, as the case may be, unless they should delegate their powers to the Board under the Act.

The Governor-General-in-Council may also, on the recommendation of the President or Speaker, or the President and the Speaker, as the case may be, make, in relation to officers of Parliament, regulations prescribing all matters which the Board under the Act is authorized to do, and no regulations made by the Board under the Act apply to officers of Parliament without declaration by the President or Speaker, or the President and Speaker, as the case may be, that such regulation shall so apply.

In regard to the Australian States, the practice in the Legislative Council of New South Wales is the same as above described in respect of the Parliament of the Commonwealth. In the Legislative Assembly of that State the appointment, promotion and pension of officials of the Clerk's Staff is made by the Governor with the advice

of the Executive Council on the recommendation of the Speaker. Appointments to the Parliamentary Reporting Staff are also made by the Governor, with the advice of the Executive Council on the recommendation of the President and Speaker jointly. The Assembly attendants are appointed by the Speaker and the Joint (Refreshment Room) Staff by the President and Speaker. Pensions are payable under the Superannuation Acts 1916-1948. Neither the Clerk nor his Staff are subject to the Board controlling the Public Service.

In Victoria appointments to the Staff of the Clerk in both Houses are made by the Governor-in-Council from the Public Service on the nomination of the President or Speaker as the case may be. Promotions are made by the Governor-in-Council on the recommendation of the President or Speaker, as the case may be, under Part IX of the Constitution Act Amendment Act.[1] Pensions fall under the Superannuation Act.[2]

In South Australia, the members of the Staff of the Clerks of the two Houses are appointed by the Governor, on the recommendation of the President or Speaker, as the case may be. Messengers and other grades are appointed by the President or Speaker on the recommendation of the particular Clerk. Pensions fall under the Superannuation Acts 1926-1948.

During 1950 the offices of the Clerks, Clerks-Assistants, Librarians and certain other officials of the House were, by Proclamation, brought under the Public Service Act for classification and fixation of salary only.

This includes the right of appeal against the determination of the Classification and Efficiency Board, of which the Public Service Commissioner is Chairman.

This Board has recently recommended substantial increases all round, which were accepted by the Government and the Clerks' salaries now stand at £A.1,250 p.a. basic, plus £84 cost of living (fluctuating) allowance.

In Queensland the appointment of the Staff is on the recommendation of the Speaker to the Premier given effect to by the Executive Council Minute. There is no provision for pension.

In Tasmania, the Staffs of the Clerks of the two Houses are appointed in the same manner as in the case of the Clerks of the other States.

In Western Australia, the promotion of officials on the Staff of the Clerk of the Legislative Assembly is by seniority, if qualified. The Clerks-Assistant and the Serjeant-at-Arms are appointed by the Governor-in-Council on the recommendation of the Speaker and the other officers by the Speaker on the recommendation of the Clerk. The pensions of the members of the Clerk's Staff come under the same Act as that for the Clerk (*see* paragraph (b) above).

[1] No. 3660. [2] No. 3782.

New Zealand.

The appointment and promotion of officials on the Staff of the Clerk of the House of Representatives are governed by Standing Orders, which require the recommendation of the Speaker to the Minister in charge of the Legislative Department before appointments are made. Permanent officers contribute to the Pensions Fund.

Union of South Africa.

In the Senate and the House of Assembly the appointment and promotion of the House officers are made by the House on the recommendation, in the case of the Senate by the Internal Arrangements Committee and in the case of the House of Assembly by the Standing Rules and Orders Committee. The appointment and promotion of other officers on the Clerk's Staff are made by Mr. President and/or Mr. Speaker on the recommendation of the Clerk.

The members of the Staffs of the two Houses and of the Joint Parliamentary establishment[1] (excluding the Clerk of the Senate and the Clerk of the House of Assembly) come under a non-contributory pensions' scheme adopted in 1933, under which 10 years' service qualifies. If retired before 10 years, for any cause other than that of inefficiency or conduct involving dismissal, the official is entitled to one month's salary for each year of service.

Sixty is the retiring age and the rate is $\frac{1}{60}$ the salary at the date of retirement, for each year of Parliamentary service, together with any public service for which he received no pensionable benefits, the maximum pension being reached after 35 years' service.

Should an officer retire, on account of ill-health or disablement, earlier than 60 years of age or before having completed 35 years' service, his case is submitted by Mr. President to the Sessional Committee on Internal Arrangements or if a member of the House of Assembly Staff by Mr. Speaker to the Committee on Standing Rules and Orders or to the Internal Arrangements Select Committee or to the Conferring Select Committees of both Houses on Internal Arrangements, or on the Library of Parliament if the officer be a member of the staff of the Joint Parliamentary Establishment and the Committee or Conferring Committees to which the matter is referred may make such award in respect of such officer as is deemed fit.

On the death of an officer, whilst on service or during retirement, the question of relief to his widow or dependants is considered by the appropriate Committee, which may then make such award as they think fit.

Payments to widows and dependants are made out of the Consolidated Revenue Fund and provided for in the Annual Pensions (Supplementary) Bill, Mr. President and/or Mr. Speaker, as the case may

[1] Excluding the Joint Parliamentary Draftsman, who holds a part-time appointment.—[Ed.]

be, constituting the requisite authority for Treasury purposes. Six months' pay in lieu of leave is granted to the Clerk on retirement.

In the Provinces, the position in regard to the appointment and pension of the Clerk's Staff is the same as that of the Clerk. (*See* paragraph **(b)** *above*.)

South-West Africa.

Here, too, the position is the same as in respect of the Union Provinces.

Ceylon.

The appointments to the Staff of the two Houses are made by the respective Clerks, and their Staffs are also pensionable.

India.

The position in regard to the Staff of the Central Legislature has already been given (*see* paragraph **(a)** *above*).

In regard to the States, the subject will be dealt with under S. 187 of the Constitution. In the meantime, however, the following practices have been adopted.

In the State of Bihar, the present arrangements are that posts, whether permanent or temporary, are advertised in the local *Gazette*. After expiration of the due date, the applications are tabulated and put up to the officers for consideration; a few of the candidates are selected for interview and test, if any, before the final selection is made. The promotion of old hands is allowed on the basis of seniority and merit. A Government servant on the Ministerial Staff is allowed a pension on reaching the age of 55 but may be permitted to continue until he reaches 60 years.

In the State of Bombay, the initial recruitment of the Staff of the Legislative Department was made through the Bombay Public Service Commission. Promotion is by seniority. Leave, pension, etc., is governed by the Bombay Civil Service Rules and the Bombay Legislature Department (Recruitment and Conditions of Service) Rules 1949 administered by a Board consisting of the President of the Council and the Speaker of the Legislative Assembly, or in the absence of both, of the Secretary to the Legislature.

In Madhya Pradesh (old Central Provinces & Berar) the Staff of the Secretary to the Legislature consists of such number of Superintendents, Reporters, Assistants, Clerks, Stenographers, Translators as may be found necessary by Mr. Speaker. The scales of pay and conditions of service on the first staff (namely, those in employment on January 26, 1950) of the officers and establishment of the Assembly Secretariat are the same as those in force immediately before its creation under the new Constitution of India and correspond to such scales, etc., as those employed in the Secretariat of the State Government. Subject to Mr. Speaker, the Secretary exercises, over

the Assembly Staff, all the powers of a Head of a Department. Recruitment and promotion of the Staff are vested in Mr. Speaker, but he consults the Public Service Commission, with appeal to the Speaker. The recruitment, promotion and disciplinary control of Classes III & IV of the Assembly Secretariat are vested in the Secretary, subject to Mr. Speaker and appeals lie to him against any order passed in respect of a Class III member, but there can be no appeal against any order of the Secretary in respect of Class IV.

The Staff is common both to the Legislative Council and the Legislative Assembly and the Secretary of the latter is in charge of the whole.

Pakistan.

The new Constitution has not come into force but the practice in regard to appointments and promotions in East Bengal are made on merit. The provision for pension is the same as for Government servants.

Southern Rhodesia.

All the more important staff appointments and promotions on the Staff of the Clerk of the Legislative Assembly are approved by the House on the recommendation of the Standing Orders Select Committee. The pensions of the members of the Staff are governed by the Public Service Act (Cap. 68) as in the case of the Clerk.

Bermuda.

The Clerk of the Legislative Council has no staff, but should his duties be onerous, certain work may be relegated to junior clerks in the Colonial Secretary's office. The Clerk's office adjoins those of the Colonial Secretary and the Governor.

Neither has the Clerk of the House of Assembly any staff, but an Assistant is appointed when the retirement of the Clerk is imminent.

East African High Commission.

The Clerk of the Legislative Assembly has no staff.

Jamaica.

The appointment, promotion and pension of officials on the Clerk's Staff are as for civil servants.

Malta.

The Clerk's Staff forms parts of the Malta Civil Service and appointments and promotions are made by the Governor-in-Council under S. 20 of the Malta (office of Governor) Letters Patent in 1947, their pensions being awarded under Ordinance XVII of 1937.

Mauritius.

The Staff of the Clerk are on the same basis as to appointment, promotion and pension, as other Civil Servants.

Trinidad.

Here, too, the same conditions apply as to the Staff of the Clerk, as in Mauritius.

Conclusions.

These conclusions, which apply in particular to Overseas Parliaments and Legislatures, deal with the general subject in its various aspects, as outlined under the several sub-heads of Item XII of the *Questionnaire* to Volume II, given at the head of this Article.

The duties of the Clerk of a House of Parliament or Legislature under its Standing Orders, his position as the Permanent Head of his Department and his relationship to the Presiding Member and the House have already been dealt with in the JOURNAL.[1]

What we are concerned with in this Article is the position and status of the Clerk as an Officer of Parliament, a position which, in bringing him into close contact with Ministers and Legislators of all Political Parties, makes his office one of a different nature to that of any appointment in the Public Service.

The extent of the duties and responsibilities of the Clerk of an Upper or of a Lower House of Parliament throughout our Commonwealth and Empire, varies in accordance with the importance of the country and the type of constitution under which the particular Parliament or Legislature functions.

At Westminster, where Parliament sits almost continuously, the duties of the Clerk keep him closely occupied practically the whole year round. Consequently, some work of the Clerk's office is distributed among the various departments into which it is divided.

Although, in the larger Dominions, Sessions are not so long as at Westminster, the smaller staff employed means that a greater and more general volume of work devolves upon each individual member thereof.

In "responsible government" territories, Sessions are shorter than those of "Dominion" Parliaments, but, nevertheless, the staffs are small and the Clerk has to keep himself prepared and informed against the many eventualities which may suddenly arise, in regard to every matter concerned with the working of the House.

In "representative government" territories, the work of the Clerk is not so continuous, the Sessions are shorter (though often more frequent) than in countries under "responsible government".

In "Crown Colony Government" Legislatures, whose powers and

[1] *See* Vol. I. 37.

authority are centred in the Governor, the office of Clerk is not always substantive and his duties are often performed by officials seconded from a Department of the Administration.

The title of "Clerk" is perhaps not so impressive to the ordinary ear as that of "Secretary General", so much in use in Foreign Legislatures, but to those many and varied types of constitutions which have grown up in our Commonwealth and Empire, a great and high tradition attaches to the modest title of "Clerk". From times far away back in history at Westminster, the persons filling the office of Clerk have usually been, either "gentlemen of the long robe," or of some academic standing.

It is not, however, only by his legal or academic qualifications that the Clerk of a House attains efficiency, but by his actual working knowledge and experience gained through the years. Indeed, that is why it is necessary in the larger Parliaments and Legislatures, to have, occupying the office of Clerk, one who has devoted many years to service at the Table, during which he has seen the application of the authorities and precedents laid down in the text books, put into practice.

The nature of the duties of the Clerk, being so different from those of a member of the Administrative Civil Service, and his continuity of office as the Permanent Head of the Parliament Office being of such importance to the efficient working of the Parliamentary machine, he cannot look to the wide field of promotion offered members of the Administrative Service. It is therefore important that the salary of the Clerk in the larger Overseas Parliaments and Legislatures should be on the same footing as that of Head of a Ministerial Division.

There is much to be said for officials of Parliament being excluded from the Civil Service and included in a Parliamentary Service. In view of the necessarily slow promotion in a Parliamentary establishment there should not be a very marked difference between the salaries of the senior members of the Parliamentary Staff.

The Clerk of a House, as the Permanent Head of the office of Parliament, the Crown, the Upper and Lower Houses of Parliament being the supreme governing body in the country, naturally suggests that the Clerk of the Executive, or Privy Council, the Clerk of the Upper House and of the Lower House should, in that order, take precedence of Permanent Heads of Ministerial Divisions.

In regard to age limit, that of the Clerk himself should be unlimited in order that the House may always be assured of an experienced officer in charge should the other Clerks at the Table not have occupied their posts long enough to have had sufficient experience to take over the Clerk's duties. It is therefore in the best interests of the House of the Parliament or Legislature concerned so to arrange the appointments at the Table that their ages cover a wide range, and thus avoid *all* of them reaching the age limit about the same time. This longer experience at the Table is also an important factor in

preparation for the responsibilities of the office of Clerk of the House.

Westminster sets a good example in the recognition of their Staff in regard to honours. The Clerk receives a K.C.B. soon after appointment and sometimes a G.C.B. on retirement. The Clerk-Assistant in each House is given a C.B. soon after his appointment to that office. Indeed, honours are also given to some of the heads of the various departments of the Clerk's office.

It would give the Parliamentary officers Overseas well-deserved satisfaction if, in those countries where honours are given, some relative decorations were awarded and in those countries where honours are not given, that some honorary degree, such as a doctorate of law, be conferred on a Clerk who has rendered long and meritorious service to his House of Parliament or Legislature. In this connection it is pleasing to note that the University of Cape Town has recently conferred an I L.D. on Mr. Ralph Kilpin who has had such long and distinguished service as Clerk of the Union House of Asssembly.

In regard to the Staff of a House of Parliament, there should be a high educational and constitutional test of entrance, with encouragement further to qualify in their own time for such legal or academic status, as they may not have attained before taking up their appointment on the Parliamentary Staff.

By far the most particular feature in connection with the status of the office of Clerk of the House, however, is the necessity for absolute political impartiality. It is therefore important that he should be firmly secured against outside influence, whether of the Executive Government of the Day or of any political Party, in order that every Legislator, no matter whatever his political creed, may be assured of equal treatment and absolute confidence when seeking procedural advice in connection with whatever special matter the inquiring Legislator may desire, either to promote or oppose in the House.

That is why the appointment to the Office of Clerk of the House, or the removal of the holder therefrom, should be free from all political control or influence and rest with a Resolution taken in the House itself. All appointments to the position of Clerk and his Assistants at the Table should be on the recommendation of the Presiding Member, and those of other members of the Clerk's Staff, should be made by the Clerk himself, or, by the Presiding Member on the recommendation of the Clerk.

Neither should the Clerk nor his Staff be dependent upon the Executive Government in regard to pension, which should be under the sole control of his particular House. Should any disciplinary action be needed in connection with any member of the Clerk's Staff, the Presiding Member can deal with it, or should he consider it necessary to do so he can suspend the official and refer the matter to a Select Committee when Parliament next meets.

One of the main objects of this Society is to secure the establish-

ment of a highly efficient and well-qualified body of officials for the Staff of the Clerk of a House and thus ensure that the general machinery of Parliament may operate to the satisfaction of all.

There is no shadow of doubt that the observance of the facts and arguments put forward in these Conclusions will prove of inestimable value, not only to a House of Parliament as a legislative body but to the Government of the Day as well as to every Legislator, no matter to whatver Party he may belong.

Every Overseas House of Parliament or Legislature has the Staffs of the two Houses at Westminster to look to for guidance when their own practice does not afford precedent. In this connection it is good to see how many Overseas Clerks are now availing themselves of the opportunities, so generously extended to them by the Clerk of the Parliaments and the Clerk of the House of Commons at Westminster, to gain experience of the inner working of what is practically a full-time Parliament office.

XVII. BUSMAN'S HOLIDAY, No. II

By Owen Clough

THE constitutions of the Channels Islands have always been an attraction to the constitutional student and the last issue of the JOURNAL[1] gave a description of their latest developments, which should be borne in mind when reading this Article. As in the case of the "Busmans Holiday" Article on my visit to the Isles of Erin and Man in 1949,[2] opportunity is now taken of a visit to the United Kingdom in 1951 to contribute an Article on my stay during July of that year in the Channel Islands, the only part of the ancient Dukedom of Normandy now remaining to the British Crown, with the object of giving some impressions of the working of their constitutions, their procedure in dealing with legislation and other matters coming under the authority of the respective "States of Deliberation", as their Legislatures are called.

It was unfortunate that I could not have made the visit soon after my arrival in London from South Africa on May 18, for I should then have been able also to have seen the States of Jersey in Session, but work in connection with the production of the present issue of the JOURNAL required attention. Time had also to be given to renew old friendships, visit old scenes and enjoy other associations in Yorkshire, the county of my birth and where my early manhood was spent, before I came out as a volunteer with the British Forces to South Africa in 1900.

Upon arrival in London my first contact was naturally with the officials of the 2 Houses at Westminster, who greeted me with that

[1] Vol. XVIII. 149-183. [2] *Ib.* 269.

true courtesy and friendliness, for which they are so well known among all Overseas Clerks, visiting Britain. It would be invidious to mention names, but from Sir Robert Overbury, the Clerk of the Parliaments and Sir Frederic Metcalfe, the Clerk of the House of Commons, down, all were out to give me every help and that, notwithstanding Parliament being in Session.

Even as I write these lines, Mr. Allan A. Tregear, B.Com., A.I.C.A., the able First Assistant to Mr. F. C. Green, M.C., the popular Clerk of the House of Representatives at Canberra, is on the high seas *en route* to England to serve 12 months at the House of Commons under the now, established system of the exchange of Parliamentary Officers between the Overseas Parliaments and Legislatures and Westminster, a visit which I am sure will be most fruitful, not only to Mr. Tregear himself but to the House of the sovereign Parliament he serves with such distinction.

The rest of May and the first half of June was therefore devoted to the JOURNAL, much of the work for which I had brought with me. Advantage was also taken of the voyage to send some "copy" for typing to my Assistant, Miss Vera Chapman, at Cape Town, who so nobly and devotedly held the fort while I was away.

My work at Westminster was, however, made easy by the good offices of Sir Robert Overbury, through whom I was allowed the use of the room of the Earl Marshal, the Duke of Norfolk, in the House of Lords, for which I make my grateful acknowledgments.

I left London by train for the North on June 16 and it was not until my return there on July 9, that I was able to set out for the Channel Islands. Leaving Paddington by the 8.45 a.m. train for Weymouth, I embarked on the Channel Islands steamer *St. Patrick* (diverted from the England-Eire service) and landed at St. Peter Port, the capital of the Island of Guernsey at 5.15 p.m. On the way over we passed, in the distance, the buoy marking the place, about 16 miles W.N.W. of Alderney, where the ill-fated submarine H.M.S. *Affray* lay on the sea bed, the buoy being more easily distinguished by the surrounding craft engaged in her reclamation.

Guernsey.

On the following morning I was up betimes after a good night's rest at the hotel where the kind Mr. Arthur T. Mahey, the Bailiff's Private Secretary, had secured accommodation for me, even though in the peak of the tourist season. It was a pleasant walk down the hill to the Royal Court House, the sun shone brightly in the blue sky, the air was warm, the birds were singing in the overhanging boughs and all this midst the pleasant scent of flowers, made one glad to be alive.

The Bailiff.—At 10.30 I made my call upon the Bailiff, Sir Ambrose T. Sherwill, C.B.E., M.C., whom I had only previously known by correspondence. The duties and responsibilities vested

in the office of Bailiff have already been described in the JOURNAL.[1] Briefly, the position is a combination of the offices of Prime Minister, Chief Justice and (as President of the States of Deliberation) Speaker, and to some extent, also the representative of the Crown, notwithstanding the separate office of Lieutenant-Governor.

First, therefore, let me give an impression of the distinguished Guernseyman who honours this high and important office of Monsieur le Bailli, as it is called in French, the original language of the Island.

Sir Ambrose is tall and fair, his manner quiet and dignified. There is no trace of that studied air of importance, which many in high office seem to assume, especially, I have often noticed, when conscious of their own insufficiency.

Sir Ambrose received his education at the Guernsey High School, Elizabeth College and Caen University, of which he is Doctor of Laws and at which seat of learning all Channel Island *avocats* have to qualify, in addition to being members of one of the Inns of Court.

Sir Ambrose served with distinction during World War I in the East Kent Regiment and was wounded 3 times. In 1929 he was appointed H.M. Comptroller (Contrôle du Roi) of Guernsey, and in 1935 H.M. Procureur du Roi, which of course well qualified him for appointment to the office of Bailiff, which he assumed in 1940.

I give these details to show how rightly careful the British Government are to secure for this important post, those with the right experience and assured background.

To reurn to my story, Sir Ambrose received me in his Chambers at the Royal Court House, with great charm of manner. First, he took me to see the Chamber, where both the Royal Court and the States of Deliberation sit, after which we called at the Greffe (Registry), where I was introduced to the chief "Clerk at the Table," Mr. James E. Le Page, who is both H.M. Greffier of the Royal Court as well as of the States; thence, to the strong room where the Archives of the Island are housed, including the originals of the ancient charters of liberty of the Island, dating back to the days of King John and other sovereigns of England.

After our return to the Bailiff's Chambers, I was then formally introduced by Sir Ambrose to Mr. Arthur T. Mahey, the Private Secretary to the Bailiff, the nature of which office is more important than that of a Private Secretary.

It was then that I had the first of many interesting talks with the Bailiff during my stay in Guernsey. I was also given inside news of the Island under the German occupation, when, owing to Sir Ambrose having served in France as a British Officer 1914-19, he was in World War II made a P.O.W. by the Germans and later interned in Southern Bavaria. So very interesting had been our talk that I was staggered to find, on looking at my watch after leaving the building, that it was a quarter to one, which made me feel I had stayed a

[1] *Ib.* 161.

long time for a first call, but whenever I made a move to leave, I was pressed to stay.

I also gained a further insight into my host's character that evening when he took me for a motor run through the Island, which is noted for its narrow lanes and blind corners, for although the flag of Guernsey, a red cross on a white ground, fluttered over the bonnet, whenever we came to a crossroad or corner, it was always the Bailiff who gave the right of way.

Our route took us first through tree-lined roads and later along more open country, Sir Ambrose pointing out the various places of interest, and, at the same time, giving me their history, thus making the run all the more interesting and attractive.

It was 10 p.m., when we arrived at Sir Ambrose's home, Havelet House, in the village of that name, where I had the pleasure of meeting the charming Lady Sherwill.

I was surprised to find that such a very prominent official of the Crown on the Island as its Bailiff was not accorded an official residence. When one sees what is provided in this respect in other parts of the Commonwealth, where the Prime Minister usually has an official residence and grounds set apart for his use and maintained at Government expense or at very nominal rent, it seemed, therefore, particularly insufficient that the holder of such an important office as the Bailiff of the Island is not accorded an official residence. Moreover, the office of Bailiff is not one, the holder of which comes and goes with the political party of the day, but is a life appointment.

After spending some time in this delightful company, I bade my hosts *au revoir* but Sir Ambrose's kindness did not end here for he insisted upon delivering me back at my hotel, which I thought was the very height of hospitality. What an enjoyable and interesting day!

The States of Deliberation.—On Tuesday, July 11, I was at the Royal Court House at 9.30 a.m., where I was introduced by the Bailiff to Mr. J. P. Warren, B.Sc., F.R.G.S., of La Société Guernesiaise and the Guernsey historian from whom I had also received such help in connection with the constitutional Article on the Channel Islands in the last issue of our JOURNAL.[1]

With Mr. Warren in company, the Bailiff then introduced me to some of the Conseillers and Deputies of the States, after which Mr. Warren and I were given seats on the dais where sit the Bailiff and the Conseillers. This well-appointed Chamber is used both as the deliberation Chamber of the States as well as for sittings of the Royal Court.

Plan of Seating.—In order to give a picture of this Chamber when used by the States of Deliberation, the seating is as follows:

The Bailiff, as President, sits on a platform, which places his seat higher than that of the Lieutenant-Governor, for whom a seat on the Bailiff's right is reserved. In Guernsey it has always been accepted

[1] *Ib.* 183.

that the Bailiff, both in the Royal Court and in the States, takes precedence of the Lieutenant-Governor.

On the right and left of the Bailiff sit the Conseillers as on a judicial bench.

Below this bench sit H.M. Greffier with H.M. Sergeant on his right and H.M. Sheriff on his left, each at separate tables.

The other States representatives—the Deputies and the Douzeniers —occupy the seats on both sides of the Chamber facing the floor space between them, acording to the usual Parliamentary custom.

In front of these seats and to the Chair's right and left, sit H.M. Procureur and H.M. Comptroller respectively, each having their own table.

The Gallery in the lower part of the Chamber is set apart for the public.

The following is the order of dress of the President and the officials:

The President wears a black silk gown, bands and a dark blue brimless bonnet; H.M. Greffier, the gown of a French notary; H.M. Comptroller (Mr. L. M. Caulfield-Stokes, Barrister-at-Law) and H.M. Procureur (Mr. W. H. Arnold, Barrister-at-Law and B en D (Caen)), a K.C.'s gown, all 3 with bands and the bonnet, which is, of course, removed for Prayers, but may be worn thereafter, or not, as the wearer desires.

H.M. Sheriff (Mr. Harold J. Blampied) wears evening dress with a sword and gold chain, from which hangs his badge of office, bearing the arms of Guernsey surrounded by the words "Le Prévôt du Roi de l'Ile de Guernsey 1810" and on the other side the title in English. The name of this office in Norman-French is: "Executeur Officier des Hautes Oëuvers". This Office is of ancient origin and appointments thereto are made by the States of Election.[1]

H.M. Sergeant (Mr. Alfred Sebire) wears a black staff robe with his official silver chain.

The several Representatives in the States and the officials in attendance rose as the Bailiff, as President of the States, entered the Chamber.

His Excellency the Lieutenant-Governor and the Commander-in-Chief of the Island, Lieut.-General Sir Philip Neame, V.C., K.B.E., C.B., D.S.O., was absent in England. With all standing, H.M. Greffier of the States (Mr. James E. le Page) read the following Prayer:

Notre Père, qui es aux cieux, Ton Nom soit sanctifié. Ton règne vienne. Ta volonté soit faite en la terre comme au ciel. Donne-nous aujourd'hui notre pain quotidien. Et nous pardonne nos offensés, comme nous pardonnons à ceux qui nous ont offensés. Et ne nous induis point en tentation, mais délivre-nous du mal: car a toi est la règne, la puissance, et la gloire, aux siecles des siecles. Amen.

Prayers are always read only in French.

[1] *See* JOURNAL, Vol. XVIII. 168.

Immediately after Prayers, all others being seated, the roll is called by H.M. Greffier, when the Conseillers, Deputies and Douzeniers answer to their names with the word, "Présent". This always in French only.

The whole scene presented a most dignified and imposing assembly.

Billet d'Etat.—In place of an Order Paper, the States have a brochure called the "Billet d'Etat" bearing the arms of Guernsey. The cover page of this printed States Paper also contains a numbered list of the subject matters (called "Articles"), to be submitted to the States. The contents of this paper are headed with a Notice by the Bailiff convening the meeting of the States of Deliberation at the Royal Court House for the day and time.

After the formal reading of the printed Resolutions from the Billet d'Etat of the previous meeting, copies of which had been issued by the Bailiff to the members of the States, the matters given in the printed Billet d'Etat are taken into consideration.

The Billet d'Etat of July 11 is a voluminous document of 15 pp., with an Appendix of 40 pp. According to what action is taken by the States in respect of the various matters outlined in the Billet d'Etat, a printed States Paper is issued later called the "Resolutions on the Billet d'Etat (in this case) of Wednesday, 11th July, 1951."

These 2 printed States Papers constitute the record of the proceedings of the States and take the place of the usual Parliamentary Journals, Votes or Minutes, as the case may be. There are no Notices of Question or Motion, or Orders of the Day as such, the various matters being considered by the States as Articles on the Billet d'Etat.

Procedure.—The proceedings are conducted by the President (the Bailiff) according to the typewritten "Notes on States Rules of Procedure", the gist of which is as follows, namely:

1. When a member arrives after Roll Call, he must at the first opportunity ask the President to have his presence recorded.

2. There is a specified time for asking questions other than those arising out of matters on the Agenda for the Meeting, namely—before the States takes into consideration the first Article of the day.

3. Questions may only be addressed to a President of a States Committee and 3 days' written notice must be given of the question both to the President of the States and to the President of the Committee concerned.

4. A question, however, of which written notice has been given to the President of the States and to the President of the Committee concerned before Question time, may be asked; provided both Presidents agree.

5. The above, however, does not apply to Supplementary Questions which must arise out of answer to the main question. The person whose duty it is to reply may, with the permission of the President, however, demand notice of the supplementary question.

6. An urgent proposition which could be submitted to the States, through the President, of a Billet d'Etat, for consideration forthwith, may by permission of the President be submitted at any States Meeting, debated and decided upon with or without amendment "*Seance Tenante*", but such proposition must be in writing and a copy delivered to the President; provided that:

(*a*) Adjournment of the debate thereon has the support of not less than $\frac{1}{3}$ of the members voting on the Motion and the debate or the taking of the decision, is postponed to a date not later than 9 days thereafter, to be fixed by the President;

(*b*) on any such postponement, a Motion for the immediate publication or circulation, in such manner as the President may decide, of all relevant matter shall have effect if supported by not less than $\frac{1}{3}$ of the members voting on the Motion.

7. All amendments to propositions must be in writing signed by the proposer and seconder. An amendment going further than the original proposition is not, on that account, ruled out of order but a Motion for postponement of debate for not more than 9 days, or of taking a decision, on the amendment shall have effect if supported by not less than $\frac{1}{3}$ of the members voting on the Motion.

8. Members may make one speech only on any particular Motion, but a further speech is allowed on each amendment thereto. The proposer of a Motion or amendment has the right of reply thereon.

9. A member who has already spoken to a particular Motion may put any relevant questions, but only when it is necessary to clarify the question.

The following Resolutions are also on record:

RESOLUTION OF 24TH JUNE, 1938

Comité des Finances

Modification du Système Actuel de Votation sur Questions Financières

1. Les Etats, en faisant accueil à la lettre de M. le Président du Comité des Finances datée du 2 Mai, 1938, par rapport à une modification du système actuel de votation sur questions financières, ont été d'avis:

That a financial resolution, other than an Annual Budgetary Resolution, passed by the States purporting to authorize the expenditure by the States or a States Department of an amount of £10,000 or more shall be of no effect unless—

(1) the number of votes cast in favour of the Resolution amounts to not less than $\frac{2}{3}$ the number of members present when the Resolution is put to the vote.

(2) the number of votes cast in favour of the Resolution being less than is required under the last foregoing paragraph, a confirmatory Resolution is passed at a subsequent meeting, by a simple majority of the members present when such confirmatory Resolution is put to the vote.

RESOLUTION OF 23RD JANUARY, 1946

III. 2. (*d*) Propositions involving more than two alternatives, other than propositions for the elections of members of committees, but including propositions for the election of a President of a committee, shall be subject to a

second ballot if a majority of members voting thereon do not vote for the alternative obtaining the greatest number of votes at the first ballot. The second ballot shall consist of a vote of the two alternatives which head the list in the first ballot.

There is, however, no printed book of Standing Rules and Orders, but the proceedings are carried on with the greatest ease and expedition.

There is a States Committee on Rules of Procedure constituted by Resolution of the States of January 22, 1947, with personnel and order of reference as follows:

Constitution.—The President of the States and 4 other members of the States appointed by him. The President of the Committee shall be elected by the members thereof.

Mandate.—Charged with the task of codifying the existing Rules of Procedure in the States and of suggesting such additions thereto as they may deem desirable and of reporting thereon to the States.

To consider and report to the States as to the advisability of proceeding, with or without variations, with the decisions of the States concerning "Motions from Private Members" contained in paragraph 4 of their Resolution No. III of the 23rd January, 1946. (See Resolution of the 17th September, 1947). The Committee consists of:

The Bailiff.
Conseiller Sir John Leale.
Deputy E. T. Wheadon, O.B.E.
Mr. C. P. Le Huray.
(*One seat vacant.*)

Transaction of Business in The States.—As an example of the transaction of business in "The States", after Prayers and Roll Call, and the formal reading of the previous Billet d'Etat, the proceedings on the Billet d'Etat (of July 11, 1951, which is numbered in the margin—XVII. 1951) were proceeded with.

In the first place, this Billet d'Etat consists of running page numbers—the numbers in this case pp. 242 to 257 and Appendices—and the business is as follows:

I. Report of the Chief Officer of Police for the year ended December 31, 1950 (18 pp.), and II. Report of the Medical Officer of Health for 1950 (21 pp.) The headings of 11 Articles are listed on the cover of the Billet d'Etat together with the page number of each.

Article I refers to a letter from the President of the States Labour and Welfare Committee of June 19, 1951, notifying resignation of a member of the Committee and asking the States to accept the resignation and to select a new member.

The Billet d'Etat then states that:

The States are asked to decide:

Then follows a draft Resolution accepting the resignation of the member and the appointment of his successor, which draft becomes

a Resolution and appears in the States Paper: "Resolution on the Billet d'Etat of Wednesday, 11th July, 1951", which has the same marginal number, "XVII 1951", as on its corresponding Billet d'Etat.

This procedure is then followed in regard to the other Articles listed on the cover of the Billet d'Etat, whether reports from States Committees, finance or any of the forms of legislation. There are no readings of bills, no Committees of Supply and Ways and Means, and no Committees of the Whole House, and the process of Resolution is followed throughout. The spade work done by the States Committees is very considerable and thorough, therefore great reliance is placed upon their recommendations by the States of Deliberation. It does not follow, however, that the States never amend the draft Resolutions put forward. Members of the States may rise and move amendments which are considered on their merits and sometimes go to division.

When divisions are claimed H.M. Greffier calls the Roll and members say: "Pour" or "Contre" as the case may be (always in French only) after which the Greffier hands the list up to the President who declares the result.

The following endorsements in block type appear in the Billet d'Etat:

N.B. The States Advisory Council and the States Finance Committee recommend the States to adopt the proposals,

or—

N.B. The States Advisory Council recommends the States to adopt the proposal and the States Finance Committee raises no objection.

or—

N.B. The States Advisory Council recommends the States to adopt the Report.

The proceedings of a sitting of the States of Deliberation are closed by the Greffier reading the following Prayer in French only:

La grâce de notre Seigneur Jesus-Christ, la dilection de Dieu, et la communication du Saint-Esprit, soient avec nous tous etérnellement. Amen.

Legislation.—The procedure in regard to the various types of legislation, most of which appear in full in the Billet d'Etat and Resolutions therefrom are as follows:

Order in Council.

1. Letter from the Vice-President of the States Advisory Council enclosing letter from H.M. Comptroller to the President of the States asking that the Legislation Committee propose legislation.
2. Resolution of States on Report from States Advisory Council.
3. Report from States Legislation Committee with Projet de Loi to States for consideration.

4. Projet de Loi, with amendments, and Resolution of States authorizing the Bailiff to present a Petition to His Majesty in Council praying for Royal Sanction.

5. Registration of Royal Assent on records of Guernsey by Guernsey Royal Court.

Ordinances.—(*e.g.* authorizing Temporary Regulations).

1. Ordinances on minor subjects are originated by States Resolutions, after which they are referred to the Crown Law Officers for drafting. These are then submitted by the Crown Law Officers to the Legislation Committee for review. The Legislation Committee then submits the reports to the States which direct that they shall become law, passes the draft Ordinances with amendments and lays down the date of operation.

2. Draft Ordinance with amendments, approved by States, signed by H.M. Greffier.

Ordinances (*Urgency*).

1. In pursuance of Art. 66 (3) of Reform of (Guernsey) Law 48, H.M. Greffier lays the Ordinance before States.

2. Resolution of States.

3. Ordinance.

General Sanctions.

These are made by Acts of the Imperial Parliament on such subjects as: aliens, defence, emergency powers; Friendly Societies; postal; merchant shipping; and Savings Banks, sent to the Island for registration by the Royal Court.

In these cases the Bailiff places before the Royal Court of Guernsey the letter from the Government Secretary transmitting a copy of the General Sanction dated . . . issued by the Minister of . . . under the . . . Act and such Court, after hearing H.M. Comptroller, directs that the said copy be filed on the Greffe records that a copy of the . . . Act, together with a copy of the said General Sanction be sent to H.M. Greffier for information only, to the Clerk of the Court of Alderney and to the Seneschal of Sark.

Regulations under an Order in Council Law may be made thereunder by Ordinance.

Legislation by Acte de Promulgation de Loi.

The German Occupation.—During the German occupation laws were passed, of which the following is an instance:

Acte de Promulgation de Loi.

Le neuf decembre mil neuf cent quarante-quatre, par devant Victor Gosselin Carey, ecuyer, Bailiff, presents: Jean Allès Simon, John Roussel, Osmond Priaulx Gallienne, Arthur Dorey, Ernest de Garis, James Frederick Carey, Pierre de Putron, Quertier Le Pelley et Walter John Sarre, ecuyers, Jures.

Monsieur le Bailiff ayant ce jour communiqué à la Cour un Acte de Promul-

gation de Loi fait par lui-même aux qualités qu'il se porte, en date du 9 décembre, 1944, sanctionnant un Projet de Loi intitulé " The Wills (Temporary Provisions) Law, 1944 ", lequel dit Projet de Loi a été approuvé par le Platzkommandant Allemand. La Cour, àpres avoir eu lecture du dite Acte, ouïes les conclusions du Procureur Général Delégué, a ordonné que le dit Acte et le dit Projet de Loi seront enregistrés sur les records de cette Ile, desquels dits Acte et Projet de Loi la teneur suit:

THIS 9th day of December, 1944.

An Act of Promulgation of Law

BY

VICTOR GOSSELIN CAREY,

Bailiff of the Island of Guernsey,

in exercise of the powers thereunto enabling him.

WHEREAS on the 3rd day of June, 1944, the Court adopted a Projet de Loi styled " Loi intitulée ' The Wills (Temporary Provisions) Law, 1944 ' ":

AND WHEREAS on the 1st day November, 1944, the said Projet de Loi was approved by the States of Deliberation:

AND WHEREAS the Bailiff, in exercise of the powers thereunto enabling him, was desired by the States, subject to the approval of the German Platzkommandant, thereto, to accord his Sanction to the said Projet de Loi:

AND WHEREAS the said Projet de Loi has been submitted to the German Platzkommandant who has accorded his approval thereto:

NOW THEREFORE the Bailiff aforesaid hereby accords his Sanction to the said Projet de Loi and promulgates the same to the intent that the same shall have the force of Law within this Island, of which Projet de Loi the tenor followeth.

AND the Bailiff aforesaid doth hereby direct that this Act of promulgation and the said Projet de Loi be entered upon the Public Records of this Island and that all officials and other persons whomsoever are to take notice thereof and govern themselves accordingly.

VICTOR G. CAREY,
Bailiff.

" Projet de Loi " referred to in the foregoing Act of Promulgation.

LOI INTITULÉE " THE WILLS (TEMPORARY PROVISIONS) LAW, 1944 ".

LES ETATS ont approuvé les dispositions suivants lesquelles, moyennant la Sanction de, et Promulgation par Monsieur le Bailli et l'Approbation de Monsieur le Platzkommandant Allemand, auront force de Loi en cette Ile.

(Here follow the provisions of the Law, among which is the Section 2, which is given in full:)

2. The validity of a will executed outside the Bailiwick of the Island of Guernsey between the third day of September, 1939, and the day when peace shall be declared in the war which is now being waged between His Majesty's Government and the German Government and its Allies shall not be questioned—

* * * * *

5. This Law may be cited as the Wills (Temporary Provisions) Law, 1944.

A. J. ROUSSEL,
Greffier.

Genehmigt (Approved),
Jersey, den 21.11.1944.
Der Platzkommandant
HEIDER,
Major.

Laws passed during the German occupation were after the war, confirmed by the King in Council.

State Committees.

A great feature of the government in the Channel Islands is the embrasive system of States Committees, both permanent and special. Including the Board of Administration, the Advisory Council* and the Legislation Committee, the States Committees number 69 and cover such subjects as: *Agricultural land*;* Agriculture and Fisheries;* Ancient Monuments; Appointments Board; Arts;* *Accident Law Reform*; Bathing Places;* Board of Administration; Board of Health; Cadastre;* Central Outdoor Assistance Board; Children's Board; *Civil Defence*;* Civil Service Pensions;* *Clubs*; Control of Agricultural Land Investigation;* Control of Essential Commodities; *Caravans*;* Dairy; Ecclesiastical;* Education Council; Electricity Board; Elizabeth College; Essential Commodities; Festival;* Finance;* *Gambling Investigation*;* Health Board; Horticulture;* Hospital Board; Housing Authority; Income Tax Authority; Insurance Authority; *Insurance, Social Investigation*; Island Reception;* *Labour and Welfare*;* Ladies' College; *Laundry Investigation*; *Law of Succession*;* Lifeboat; Liberation Religious Service;* *Military Service*;* Natural Beauties;* Parochial Outdoor Assistance Boards; Passenger Transport Licensing Authority;* Pensioners; Priaulx Library; Prison Board; Public Thoroughfares;* *Rules of Procedure*; Strangers (Poor Assistance); Telephone Council; *Tourist*;* Festival of Britain; and Water. There is also a Guernsey-Alderney Advisory Council,* which will be referred to under Alderney.

Those marked above in italics are "Special" Committees, the others "Permanent". Those of the above-named Committees marked by an asterisk are controlled by the Secretary of States Committees. Those so marked have their own Secretaries but H.M. Greffier is Secretary of the Legislation Committee.

These Committees are appointed under the States Committees (Guernsey) Law 1949 by Resolution of the States, which have approved the following provisions:

(1) In every Committee, unless contrary provision has been made:

(*a*) order of retirement of members is decided by agreement among themselves, or failing that, by lot.

(*b*) Casual vacancies are filled by election or co-option.

(*c*) The Quorum is the nearest whole number above $\frac{1}{2}$ of the voting members on the Committee which includes the President thereof.

(*d*) The President has a casting vote only.

(*e*) "Committee" means any body set up by or at the instance of the States, whether styled Committee, Board or otherwise and not being appointed solely for investigation or report

or both, the periodical re-election or replacement of whose members is either specifically or by implication provided for in the constitution thereof.

These Committees are appointed for various periods, sometimes up to the full period for which the States have been elected.

In the official red book ("States Committees as at 1st May 1950") on this subject is set out in regard to each Committee its constitution, composition, and the number of members to retire annually; power to appoint sub-committee and co-opt persons for that purpose; (the latter, however, have voice but not vote); the quorum and the Mandate (order of reference).

Ex officio Supervisors attend many of these Committees in a consultative capacity. In many cases the President of the Committees must have a seat in the States and answers there for his Committee.

The Chairmen of these Committees are called Presidents and the personnel consist of Conseillers, Deputies and others.

These Committees are appointed under the States Committees (Guernsey) Law, 1949, by Resolution of the States and sit throughout the year. They do not come under H.M. Greffier of the States who is only Secretary of the Legislation Committee. All the others are controlled by the Secretary of States Committees, who is a Government official, with a special staff.

A States Committee may consist of members or non-members of the States and may co-opt non-members. Contributors to the States Insurance Scheme, if members of the States, are refunded at the rate of 10s. per half day while attending the States or States Committee, but then only if they claim it. They record no Motion of adjournment or actual form of Resolution. Minutes are sent in draft to the President of the Committee and in the case of some Committees, the draft is approved by its President and then circulated to members. These Minutes are subject to confirmation at the next subsequent meeting.

In the case of some Committees the draft Minutes sent to the President are Tabled therein for 2 months, during which they are open to inspection at the office of the Secretary of States Committees. If, after such 2 months no amendments are suggested then they are automatically confirmed.

The following Permanent States Committees, however, require more detailed reference:

ADVISORY COUNCIL.

Constituted by Resolution of the States of July 4, 1945.

CONSTITUTION.

A Chairman elected by the States and 8 members, of whom the Presidents of the Finance Committee, of the Board of Administration and, for a term of 5 years, of the Housing Authority, shall be *ex officio* members. The Chairman shall retire every 3 years, but shall be eligible for re-election. The re-

maining members shall be elected by the States, two of whom shall retire each year in rotation, but shall be eligible for re-election. The Supervisor shall attend in a consultative capacity. If the President of the Finance Committee or the President of the Board of Administration or the President of the Housing Authority be elected Chairman of the Advisory Council, the body concerned shall appoint a delegate to replace him on the Council.

On the 24th October, 1945, the States resolved that, a number of members of the Finance Committee being also on the Advisory Council and it being not possible in present circumstances to appoint a delegate to that Council from the Finance Committee, the Council be allowed to function with 8 members, including the President, for the time being.

QUORUM.

4 members.

MANDATE.

(1) The States Advisory Council shall act in an advisory capacity to the States to ensure the co-ordination of all projects laid before the States.

(2) In cases where there exists a States Committee or other Authority whose mandate embraces a subject on which action is considered necessary, that Committee or Authority shall, either of its own volition, or at the instance of the Council, examine the matter and report thereon to the States or the Council, as the case may be.

(3) In cases where the matter is outside the mandate of any existing Committee or Authority, the Council shall either:

(*a*) examine and report upon any such matter itself; or
(*b*) require any constituted authority to do so; or
(c) appoint a Committee or Committees for this purpose.

(4) For the purpose of the examination of all such matters the States Advisory Council shall be empowered (*a*) to obtain from any appropriate Authority all such relevant information as that Authority is able to supply, and (*b*) to discuss any such matters with the Committee concerned.

(5) All schemes involving expenditure shall, in their initial stages, be submitted to the Finance Committee and to the Council for their comments, and again when the final details have been worked out, after which they shall be sent to the Bailiff for submission to the States. The Finance Committee may consult the Council on any matter.

(6) The recommendations of the Council shall accompany all reports to the States.

(7) Individual members of the Council to have the right in the States of supporting or opposing at their discretion any proposal or view expressed by the States Advisory Council as a body. Similarly, the rejection by the States of a recommendation of the States Advisory Council not to entail *ipso facto* the resignation of the Council. Conseiller Sir John Leale (President); Conseiller R. H. Johns, O.B.E. (Vice-President); Conseiller J. E. L. Martel; Deputy E. T. Wheadon, O.B.E.; Deputy W. J. Corbet; Deputy R. O. Falla; Deputy H. G. Stephenson. (*One seat vacant.*)

FINANCE COMMITTEE.

Constituted by Resolution of the States of October 30, 1901.
Re-constituted by Resolutions of July 29, 1925, August 17, 1945, and September 26, 1945.

CONSTITUTION.

Seven States' members and the States' Supervisor (*ex officio*), of whom the two senior members shall retire annually.

QUORUM.

4 members.

MANDATE.

1. To prepare and submit the Budget annually to the States as provided for in the Budget Rules.

2. To submit to the States the States' Accounts after audit and report made to the Finance Committee by auditors appointed annually by the States.

3. To advise the States as to ways and means, including, if necesasry, proposals for modification of existing sources and suggestions as to new sources of revenue.

4. Generally to advise the States on all financial matters.

Conseiller Sir John Leale (President); Deputy E. T. Wheadon, O.B.E. (Vice-President); Conseiller J. E. L. Martel; Conseiller B. Bartlett; Deputy N. Grut; Deputy W. J. Corbet; Mr. L. R. Cohen.

INCOME TAX AUTHORITY.

Constituted by the Income Tax (Guernsey) Law, 1950, and Resolution of the States of June 28, 1950.

CONSTITUTION.

A President, who shall be a person having a seat in the States, and four other members, elected by the States. The normal age limit for members of the Authority shall be 70 years, but a person over that age who has been elected a member or who attains that age while serving as a member may, at the discretion of the Authority, continue to serve until he shall have attained the age of 75 years.

QUORUM.

3 members.

MANDATE.

The Authority is empowered to determine disputes between the Income Tax Administrator and Taxpayers (subject to reference to the Royal Court of any dispute on a question of law). The Authority is also entrusted with the supervision of the Income Tax Office and, in consultation with the States Board of Administration, the appointment of the necessary staff for that office.

Deputy W. J. Corbet (President); Conseiller R. H. Johns, O.B.E. (Vice-President); Mr. R. Dorey; Mr. C. J. H. Rawlinson; Conseiller E. F. Lainé.

LEGISLATION COMMITTEE.

Constituted by the Reform (Guernsey) Law, 1948.
See also Resolution of the States of September 22, 1948, and the Reform (Guernsey) Amendment Law, 1950.

CONSTITUTION.

The Bailiff, as President, and seven other members of the States elected by the States. The Committee shall elect a Vice-President from among its members who shall preside in the absence of the Bailiff or during a vacancy in the office of Bailiff. Two members shall retire on the 31st January of each year.

QUORUM.

The President or the Vice-President or the Chairman, as the case may be, and two members, and in the absence of the President and of the Vice-President from a meeting of the Committee, the Committee may elect one of its members to be Chairman. A Chairman shall have the powers of and be subject to the restrictions governing the President.

MANDATE.[1]

[1] *See* JOURNAL, Vol. XVIII. 171.

The system of States Committees, which is a form of subsidiary government is in the hands of able officials, Mr. E. W. Nicole, the Secretary, aided by Mr. V. E. Luff, his efficient Assistant, and their system of record is splendid. The Minutes of the Committees are not printed but kept on record in locked books, which Minutes are bound when the book is full. The system of "local government" is by Douzaines (Parish Councils).

Sark.

On Thursday, July 12, I left by the 10 o'clock boat for the Island of Sark, some account of the Government of which, was given in our last issue.[1] This was the one wet day during my 18 days' visit to these beautiful Islands, and the rain was heavy. The little ex-M.L. *Fleet Commodore* in which I made the 9 miles crossing passage to Sark from St. Peter Port floated like a cockleshell and rolled gracefully. To-day being the Annual Agricultural Show, the boat was crowded, and, being a good sailor, I left the "seclusion which the cabin grants" to the ladies, with the result that I, like most others on deck, was very wet on arrival at the Sark Quay. On the way over I had a most interesting talk with the 2 fellow passengers standing beside me on the crowded deck and in no time the crossing was over.

After offering hospitality to my 2 companions, I wended my way to La Seigneurie, the ancient and stately home of the Seigneurs of Sark, La Dame having very kindly invited me to lunch. Mr. and Mrs. Robert Hathaway are Le Seigneur and La Dame de Sark, and it was not long after passing their threshold that my host, conscious of my damp condition, offered me a beverage of such strength and quality that my hair and nether garments were soon dry. Major and Mrs. O. Priaulx (he a Jurat of the Royal Court of Guernsey) were also of the party and I sat down to an excellent lunch in this charming company. Afterwards, we drove in the Seigneurial carriage bearing the arms and coronet of Sark, to a field where the Agricultural Show was held, and the Guernsey breed of cattle in the various entries were ranged. Le Seigneur and La Dame, who one could readily see were beloved by all, then went about admiring the exhibits and congratulating the lucky prize-winners. One of the exhibits was the lovely dark-yellow Sark butter.

After wandering around for some time, at 4.30 I bade *au revoir* to my delightful hosts and descended the steep road down to the quay-side, truly a case of "down to the sea in ships" where *Fleet Commodore* was soon underway. Her decks were again crowded with passengers and, passing the Islands of Herm and Jethou, we were back again in St. Peter Port in about an hour.

There was no opportunity for me to go into the system of justice,

[1] Vol. XVIII. 180.

legislation and administration of the Island, but I am indebted to La Dame de Sark for the following notes in regard both to the Channel Islands in general and to Sark in particular which we quote from a most interesting pamphlet[1] of which she is the author.

Lying within sight of Normandy, and speaking a dialect originating in that province, it is not surprising that the Channel Islanders have kept many of the same customs in spite of the fact that for nearly 9 hundred years they have been subjects of the British Crown. Increased communication with England, however, and the influx of English residents during the last 20 years, and more especially since the war (1914-18), are gradually modifying all the old customs and peculiarities.

It is not easy to define the Constitution of the Islands before they finally separated from Normandy in the reign of King John, but it will readily be understood that the Norman code of legislation—such as it was—which in 1066 was in force in these Islands, was not affected by the Conquest, although it materially altered all the English laws of the time. The laws in Normandy, as in the Channel Islands, were really only created for the Seigneurs or Lords of the Manors of the Duchy, who held their lands direct from the Duke and for which they paid him direct homage, and owed him knights' service in time of war. The most ancient laws entirely concerned the Seigneurs, as the "villeins" were not taken into account in those days, and in fact the word "vassal" does not seem ever to have been in use in the Channel Islands, the word invariably used being "tenant", the meaning of which is not that of the English tenant, but denotes a possession—a holder or possessor of land within the fief of the Seigneurie—such possession being strictly subject to certain forms of service which still constitute the conditions of occupancy.

Yet in 966 according to Wace, the villeins "commune faseint"; this phrase admitting of more importance than appears at first sight, for it denotes that towns, boroughs and even villages existed in Normandy under Duke Richard II which possessed independent rights and privileges, and proves without doubt the existence of "allodial" and "burgage" tenure. Allodium consists of the holding of property free from any rent, servitude, drawback, or contingency whatever, the owner of such property having full and immediate ownership. Feudal tenure abolished allodial proprietorship, and placed all land under the Duke, no subject being able to hold independent property, even the highest baron in the land having to pay homage for his territory and being called upon to repeat the oath of fidelity, besides which, certain "rentes" or dues payable to the Duke, were imposed on all holders of "Fiefs". Burgage tenure, as explained by Black-

[1] *Notes on Feudal Tenure, within the Empire, particularly relating to the Island of Sark*, by Sibyl Mary Beaumont, Dame de l'Ile de Sercq et Dépendances. Sark, 1928.—[O. C.]

stone, is where houses or lands which were "formerly the site of houses in an ancient borough, are held of some lord in common socage, but at a certain establishment rent." Allodial and burgage tenure exist even now in some of the Channel Islands.

Time and circumstance have naturally altered the laws in the various Islands. Amendments have been made by the local parliaments, of which many were founded on the famous "Code Napoleon I^er^", which was generally taken as a model for the formation of new laws and regulations.

Prior to the reign of King John, tradition says that judicial matters were referred to knights who held Courts at certain times. After the loss of Normandy King John established twelve Jurats in each Island, who were to be elected for life from among the inhabitants, and administer justice in the Islands; this was the original basis of the charters and privileges of the Islands, which were granted by his successors, of whom Henry III, Elizabeth, Charles II and Anne were the most concerned with the welfare of the Islands.

The "States" as at present existing may be described as a general Council, for to them belongs all regulation of finance and taxation, the enactment of new and the amendment of old laws. The authority of the Crown, acting with the advice of the Privy Council, is admitted, but not to the extent of altering the Constitution without the consent of the inhabitants. The latter have a claim to consideration by the fact that they render compulsory military service, which every able-bodied man, in every rank of life, is bound to perform in the ranks of the local militia.

The old feudal laws and rights are so quaint as to claim more attention.

The law of inheritance in these Islands is not the same as in England, for a man is practically unable to disinherit his eldest son by Will, as he is legally entitled to succeed to all landed property and to a third of the personal estate, so that a father is only able to provide for younger children out of one third of his property, as his widow is entitled to the remaining third. A man can of course sell his property, but if the heir wishes at the time of the sale to buy back the estate he can do so by the old law of "retraite", which requires some explanation. In the event of a sale the "contract" or deed of sale, has to be registered at Court, and for forty days the notice of the transaction with full particulars as to whom the estate has been sold and the sum paid, have to be publicly posted at the "Greffe", which is the local "Somerset House". During the forty days the heir or any other near relative of the vendor is empowered by this law of "retraite" to repurchase the estate.

There are some curious old laws relating to debt which are in force even now, and one cannot be too cautious in purchasing land. No title can be more secure than that which is given by the laws of tenure when proper precautions are taken, but nowhere is the un-

guarded purchaser exposed to so much danger, for, from the fact that all parts of the seller's property may be jointly and severally guaranteed for debts charges on the whole or part, it may, and does sometimes happen, that after a person has bought and paid for a piece of land, and perhaps built a house on it, he may be deprived of it because the other portion of the property of the vendor may be insufficient to meet the debts secured on it. In the case of a lease for a term of years, should the landlord of the property become insolvent, the creditors, should they find it to their advantage to dispossess the tenant, can restrict his occupancy to three years. The old custom of being able to imprison a debtor still remains, but the value of his debts must exceed seventy "livres tournois". All fines are inflicted in livres tournois, a coin which neither now, or ever has existed; its actual value at present being about one shilling and fivepence farthing.

The person and property of strangers are exempt from arrest until they have resided in the Island for a year and a day, for cases of debt contracted elsewhere, but they are liable to arrest on bills of exchange.

The Undesirable Emigrants Act is practically the old Norman law on which the Emigrant Laws have been grafted. There are also a number of old tithes on certain properties called "Les rentes anciennes de la propriété foncière", which are really taxes on cereals, apples, poultry, pepper, and even bread and conger-eels, which to this day are paid to the Lords of the Manors.

A divorce cannot be obtained by any couple domiciled in the Islands, the utmost relief allowed by law being a Deed of Separation. A minor comes of age at twenty, but the Courts are able to postpone majority for a year should the child have come under the displeasure of the Court.

Owing to the fact that "Varech" or sea-weed is used to such an extent for fertilizing the ground, a law has been made that none may be cut except at certain tides of the year, so that there is quite a trade among the old country people in the collection and sale of the floating weed that is washed ashore.

Sark, being an entirely independent Feudal State within the Empire, possesses more quaint laws and customs than any of the other Islands, as none of the rights and privileges conferred on Sir Helier de Carteret, the first Seigneur to whom Queen Elizabeth granted the Island in 1570, and which are set forth at length in the "Grant of Serck", have ever been annulled, though some have fallen into abeyance, owing to their not having been enforced for many years, although still capable of enforcement at any time. Queen Elizabeth's grant was modelled on the old Norman system of Feudal tenure, the Seigneurie being held direct from the Crown for one-twentieth of a Knight's service, and in 1582 an Order in Council decreed the payment of "Première Saisine" to the Queen. When the Seigneurial

rights were in force in all the Islands, we find that each Seigneurie had its "Droit de Colombier" or Pigeon-Cote, as only the Seigneur had the right to keep these birds, owing to the vast amount of damage they were supposed to do to the crops. This right exists in Sark at the present day, as also the "Droit de Moulin" whereby the tenants could only have their corn ground at the Seigneurial Mill. It is also laid down that the Seigneur alone is allowed to keep a female dog, a law strictly enforced by 21 successive Seigneurs of Sark. Queen Elizabeth's grant stipulated that the Island should be divided among 40 families, the head of each family being the "tenant", and addressed officially to this day as "Sieur". The present representatives of these forty, with the "Sénéschal", or judge, the "Greffier" or clerk of the Court, the "Prévôt" or sheriff, constitute the "Chef Plaids" or parliament, which assembles thrice yearly in the presence of the Seigneur, or his legally appointed proxy, and which has the power of making any new laws and regulations for the Island and fixing the necessary taxation, provided such enactments meet with the approval and consent of the Seigneur, who holds the right of veto.

In the old feudal Courts the Seigneur could not, and even now cannot, sit in his own Court as judge, but has a right to appoint a Sénéschal who is sworn in by the Guernsey Court and before whom all cases are tried. In certain cases appeal to the Court of Guernsey is allowed.

The grant of Queen Elizabeth (and the powers which it conferred on the Seigneur) was much augmented in 1662 by Charles II, who granted a further extension of the Seigneur's rights and privileges in recognition of his loyalty and services when the King was an exile in Jersey, as the Seigneur of Sark of that day was also Seigneur of St. Ouen in Jersey.

All cereals grown in Sark are subject to seigneurial tithes, and no man may harvest his crops until these tithes, called "dîmes", have been collected; he has to notify the Seigneur forty-eight hours before he intends carting, so that someone may be sent to the fields, usually a woman called the "dimeresse", to count every sheaf as the carts are being laden and see that every tenth sheaf is set aside for the Seigneur, who also has a tithe of cider, lambs, and wool in shearing time, and a royalty on all minerals discovered. Each of the forty "tenants" pays a yearly tithe or "rente" as it is called, on his property to the Seigneur, and the old chimney tax or "Poulage" is still in force, paid in live chickens to the Seigneur.

Estates in Sark cannot be sold without the Seigneur's permission, and to him is payable a due called a "triesième" on the sale of all estates. There is ample proof that this law has been in existence since 996, according to the history of Ordericus Vitalis, who mentions the feudal law which requires the "congé" or licence of the lord of the fief before any "tenant" may sell or alienate property held under the Seigneur. During the time of Duke Richard of Normandy we

find that a great many properties changed hands with no other legal formality than the congé of the Seigneur, while under other Dukes, when a tenant rendered back lands which were to be conveyed to another party, he gave back the "verge" or rod given to him or his ancestor when possession was first obtained from the Seigneur, and if it happened that the tenant, for non-payment of Rentes, or any other neglect of homage, were ever deprived of his lands, the rod was publicly broken in proof that the contract was cancelled, and the land reverted to the Seigneur. To this day land in the Channel Islands is measured in "vergées", a vergée being equivalent to about half an acre.

With regard to the laws regulating the sale of land in Sark at the present day, the laws of the old Norman fiefs still exist to a great extent. Before a property can change hands the prospective purchaser must obtain the Seigneur's congé or permission to buy, and must pay him the thirteenth of the sum to be paid for the property. No tenant may sell a part or parcel of his property, the grant of Queen Elizabeth providing that "a man may not break up, or sell, in portions or divide in any way whatsoever his inheritance". The whole tenancy must be sold intact.

By a law passed about 1735, modelled on the old French "Corvée", every man above the age of 16 must give two day's labour every year, towards the repair of the roads, or pay for a substitute, and every owner of a horse and cart must send the same for one day's cartage.

It has been shown that it is imposible for any tenant to sell a portion of his inheritance, neither can the Seigneur sell his Manoir or Seigneurie without a "permet" from the Crown for which permission he has to pay a certain fee, his "triesième" as it were, for the King's "congé", thus observing the old feudal law of dues to the liege lord, be he King of England or Duke of Normandy.

The dower a wife can claim on the sale of a property by her husband is a third share of the rooms in the house, a third of the stalls in the stables, and a third of all gardens, fields and fruit lands. On the sale of an estate the wife is usually asked to waive her dower, or to take a fixed sum paid into Court, or paid to her annually, in return for which she will agree not to take her actual share of the property. A wife cannot actually prevent the sale, but she can, by refusing to waive her dower, and by taking the share of the house to which she is legally entitled, make the property hardly a desirable purchase.

The greatest and most important right belonging to the Seigneur is the "Droit de Succession", that to the Seigneur reverts the absolute possession of any property to which there is no heir within the fifth degree of affinity, as no land may be left by will.

There are the usual close seasons for game, but in the case of seagulls the law enacts that they shall not be killed at any time under a

penalty of "not more than ten and not less than three livres tournois", the reason being that during time of fog these birds fly around the rocks and by their loud cries warn the fishermen of danger.

La Dame de Sark concludes this most interesting account by saying that:

> It is impossible in a small space to give details of the many laws and customs which make Sark unique in the Empire, but sufficient has been stated to rouse the curiosity of those interested in a portion of the Crown processions which has never been conquered and still forms part of the Dukedom of Normandy.

Guernsey.

Friday, July 13, I devoted to dealing with an accumulation of correspondence from various members of our Society in many parts of the world, which had been sent on to me from Cape Town.

My guide, counsellor and friend, Mr. Warren, had recommended me to an excellent stenographer who quickly and efficiently polished off the work. The routine correspondence, as usual, was left to the able hands of Miss Vera Chapman, my Assistant at Cape Town.

The Royal Court of Guernsey.—On July 14, at 10 a.m., I attended a meeting of the Royal Court of the Island. Formerly, this Court had considerable legislative power. Now, however, its only participation in legislation is when the Projets de Lois, which have become Orders of the King in Council, are registered, and until such registration has taken place, they are not law in the Island.

The Royal Court, as a judicial body, sits in Ordinary Division before the Bailiff and 4 Jurats (all seated on his right) and in Full Court before the Bailiff and 12 Jurats, 6 on either side of the Bailiff. The Lieutenant-Governor, if present, would sit on the immediate right hand of the Bailiff.

The Royal Court is opened and closed with the same Prayer as in the States.

The Plan of Seating in the Royal Court is as follows: The Bailiff sits in the same seat as in the States with the 6 Jurats on either side and on the same Bench occupied by the Conseillers in the States. Below this judicial bench sit, in the centre, H.M. Greffier with his table in front of him. H.M. Sergeant and H.M. Sheriff sit on his right and left respectively and the Reporters are accommodated at a table close to H.M. Sergeant. The Advocates sit in the front seats on either side of the Court, with precedence for H.M. Procureur and H.M. Comptroller on the right. The Dock is on the left of the Court and the witnesses stand in the centre-back.

The robes worn are as follows:

The Bailiff wears a robe of purple cloth lined with silk and trimmed with ermine and a dark blue velvet "bonnet". The honorary degree conferred upon the present holder of the office (who was a Licenciée en Droit de Caen) is Docteur honoris causa de l'Université

de Caen, not of any particular faculty but of the University as a whole. The badge of the degree is an "épitoge", *i.e.* a species of scarf worn over the left shoulder of cerise red and ice blue placed vertically with fur trimmings disposed horizontally. The Law Faculty of the Université de Caen, Calvados, France, which was founded by the English King Henry VI in 1436, is known as "La Faculté de Droit".

The Jurats robes are of purple cloth lined with silk and a bonnet is worn as in the case of the Bailiff.

H.M. Greffier, the Sheriff and Sergeant appear as in the States.

On this day, the Royal Court sat in Ordinary Division at 10 a.m., heard applications which were in some cases granted; in other cases judgment by default was given.

At 11 a.m. the Royal Court sat in full Court, at which application was made by H.M. Procureur to register an Order-in-Council ratifying a Projet de Loi entitled "The Firearms (Amendment) Law 1951". The application was granted and the Greffier of the Court directed to send a copy to the Sark Court for registration on the records of that Island.

Mid-vacation sitting of the Court was fixed for September 1, at 11 a.m. (Present Term finished July 14 and the New Term commences October 15.)

Two cases were then taken and the Court closed with the same Prayer as in the States.

There is no trial by Jury in Guernsey. Civil and Criminal cases are tried in the Courts before a varying number of Jurats and verdict is decided by the majority (often sentence as well), and in the case of equality of votes the Bailiff has a casting vote, otherwise, he sums up but does not vote.

Sunday, July 15.—In the morning I attended Matins at the Cathedral Church at St. Peter Port (Guernsey being in the Diocese of Winchester) and sat in the nave, where on the wall above is a tablet to the forbears, 2 Generals, of a very dear soldier-friend and Parliamentary colleague in South Africa—the late Col. T. H. de Havilland, C.M.G., D.S.O.—who commanded the 1st (S) Battalion, Royal Guernsey Light Infantry in France in World War I. I remained behind after the Service in order to take a copy of the tablet for his son in South Africa, who served "up North" with the South African Forces in World War II.

The evening I spent with Mr. and Mrs. Warren at their sunny home with lovely garden. The flowers in Guernsey are an everlasting source of admiration.

Jersey.

Monday, July 16.—I was up at 5.30 in order to breakfast early and walk down to the air-bus office. Our route to the Guernsey Airport lay inland and we took off at 7.15 a.m. for Jersey, the largest

Island of the group. The distance being only about 20 miles we had scarcely lost sight of the outline of one island before the other island came in view. As I travelled only with a haversack and Burberry I was soon away from the air-bus office and rewarded by a hotel-booking for the night, which I was lucky to secure, this being the peak of the Jersey season.

The good offices of Mr. Warren had preceded me and after breakfast No. 2 I immediately wended my way to the Museum Jèrsiaise to keep the appointment with M. Ralph Mollet, F.R.His.S., Le Secretaire de la Société Jèrsiaise, one of the historians of the Island, who was for many years the Private Secretary to the Bailiff of Jersey. After meeting the Revd. G. R. Balleine, M.A., another Jersey historian, Monsieur Mollet took me along the narrow streets of this very French-looking town to the Greffe, which was housed in a stately building bordering a tree-lined square. We first proceeded to the Library where I was shown some historical treasures and then taken round the well-appointed Chambers where the Royal Court and the States of Deliberation respectively hold their sittings.

The Royal Mace.—The States of Jersey is the only legislative body in the Channel Islands having a Mace, which was presented by King Charles II himself to Jersey in 1663. It is of silver gilt, 4 feet 9 inches long and weighs 237 oz. On the foot knop an inscription is engraved in Latin of which the following is a translation:

> Not all doth he deem worthy of such a reward.
>
> CHARLES II, King of Great Britain, France and Ireland, as a proof of his royal affection towards the Isle of JERSEY (in which he has been twice[1] received in safety when he was excluded from the remainder of his dominions) has willed that this Royal Mace should be consecrated to posterity, and has ordered that hereafter it shall be carried before the Bailiffs, in perpetual remembrance of their fidelity, not only to his august father, CHARLES I, but to His Majesty during the fury of the Civil Wars, when the Island was maintained by the Illustrious Philip and George de Carteret, Knights, Bailiffs and Governors of the said Island.
>
> The Mace is borne before the Bailiff at the sittings of the Royal Court and of the Assembly of the States of Jersey by the Sergent de Justice, an official named by the Bailiff.
>
> On the resignation or death of the Bailiff, the Lieutenant-Governor of the Island takes possession of the Mace and the Public Seal, and presents them to the Judge Delegate after his election. At the ceremony of the swearing in of the new Bailiff the Judge Delegate hands him the Mace and the Public Seal.[2]

Connétable.—The office of Constable no longer qualifies for election to the States of Guernsey but as the right continues in respect of the States of Jersey, the following information, kindly supplied by Monsieur Mollet in regard to the mode of election and duties of this office, is of particular interest, as the form of "local government".

[1] April 12 to June 21, 1646, and September 17, 1649, to February 13, 1650.

[2] *The Royal Court and the States of the Island of Jersey*, by Ralph Mollet, *see* pp. 16 and 17.—[O. C.]

The Parish is of very ancient origin, being constituted at the time when the churches were built. The civil chief of the parish is the "Connétable" or Constable, the origin of this office being doubtful. Both Falle, the historian, and Le Geyt, the commentator, are silent on this matter; other writers go on to say that it is of English origin and is similar to the office of High Constable. The Connétable in France was a high military official. Francis Hugo says that it is not Norman. In the Charter of Henry VII, 1495, there is a clause enacting that the Connétables of each parish are to be freely elected by the parishioners, without any recommendation of the Captain or Jurats. But in spite of this order we find the Governor nominating the Constables. Their term of office was not limited; some remained for life, in some instances the office became hereditary. Very often a Connétable became a Jurat, and until a successor was found the Jurat continued to act as Connétable. In 1621 it was ordered that after 3 years in office the Connétable had to apply to the Court for a new election. In 1669 the Connétables were ordered to attend the Royal Court once a month to report on any complaints in their parish. In their respective parishes they were in charge of the arms and ammunition belonging to the Militia. Very often the Connétable was an officer of the Militia. In case of an alarm the Connétable had to keep candles ready in the churches to be lit for Militiamen of the parish to muster there with their food and blankets, ready to be sent to the rendezvous; if the alarm lasted more than a day he had to assist in feeding the Militiamen on duty.

The Connétable presides over the Parish Assembly; he is the Mayor of his parish, head of the police, and often settles simple disputes and differences. It is his duty to see that order is preserved; he is assisted by Centeniers, who are also elected by the people for 3 years; by Vingteniers and by Officiers du Connétable who are elected for a longer period. The Connétable and Centeniers have the right of arresting and even of imprisoning with the consent of the Jurats, but in cases of imprisonment a written report of the whole case must be without loss of time, made to the Court. All reports of the Centeniers must be in the first instance be addressed to the Connétable, who presents them to the Court. The Connétable by virtue of his office, is a member of the States of the Island, and when any new laws are submitted to the Assembly it is left to him, should he think fit, to refer the matter to his constituents. The Connétable must reside in his parish.

In the oath which the Connétable has to take before the Royal Court he swears that he will keep the King's Peace and suppress and arrest those who interrupt the public peace, presenting them before the Courts to be dealt with; that he will protect all rights belonging to the parish; and will attend to the general welfare of his parishioners, with the advice of the Principals and Officers of the parish; that he will, through his Centeniers call together the Officiers

of the parish once a month to discuss parish affairs; and to be informed of any crimes and infractions of the various regulations in order to inform the Court from time to time. He will also carry out all orders he may receive from the Lieut.-Governor, the Bailiff or the Jurats in execution of their office, and will assist at the Assembly of the States when called upon.

The senior Centenier acts as Chief of Police in the absence of the Constable.

The States of Deliberation.—It was unfortunate that my visit could not have been timed to see a sitting of the Jersey States of Deliberation also, but if I begin with a description of the plan of seating in this Assembly, it will perhaps give the reader a general impression.

As in the States of Guernsey, the Bailiff sits in the principal seat on a dais which is several inches higher than that of the Lieut.-Governor, who sits immediately beside him. The Royal Mace and the Greffier of the Court are below them. On the right of the Chair is the Sergent de Justice and on the left the Usher. On the seats right and left of the Chamber sit, the Deputies with the Viscomte, H.M. Solicitor-General, H.M. Attorney-General with the Dean behind them. Across the open floor space on the 3 benches also facing the centre sit the Senators.

Below the gangway on the right, and left in similar circular formation, sit the Deputies and Connétables.

The Public Gallery is in the lower part of the Chamber with the Press on either side behind the seats of the Deputies and Connétables.

In the States the Bailiff and Greffier wear gowns and bands.

The furnishing of the Chamber is very imposing and the whole impression is one of the dignity befitting its constitutional status.

Procedure.—In the Jersey States of Deliberation there are no printed Billet d'Etat and Resolutions thereupon as in Guernsey. The Minutes of the States are written in a book, the entries being in French or English in accordance with language used by the mover. No translations are given.

The States sit *in camera* for certain appointments, as laid down by law.

The proceedings at meetings of the States are opened by the following Prayer, in French only, which is read by the Dean, or in his absence, by the Greffier:

Notre aide soit au nom de Dieu, qui a fait les Cieux et la Terre. AMEN.

SEIGNEUR Dieu, Père éternel et tout-puissant, qui as établi les gouvernemens et les puissances de la terre, pour le règlement et pour la conduite du peuple, et qui nous as commandé d'adoir toujours pour but la gloire de ton saint nom; nous te prions qu'il te plaise de donner à cette assemblée le don de conseil et de prudence, d'unir les

coeurs et les affections de tous seux qui la composent et de les conduire tellement toi-même par son Saint-Esprit, que toutes leurs délibérations étant accompagnées de ta bénédiction, réuississent au bien et soulagement du peuple, qu'il t'a plu de commettre à leurs soins; car nous t'en prions au nom et par les mérites de ton fils bien aimé, Jésus-Christ; notre Seigneur, qui nous a enseigné de t'envoquer, endisant:

(*Then follows "Notre Père" as given under Guernsey.*)

There is no Prayer at the close of the proceedings of the States of Jersey.

The Roll is then called by the Greffier, members answering to their names by "Présent", after which the Greffier says: "Monsieur Le Baille, l'Assemblée est en nomber", upon which the Bailiff replies: "Les Etats sont constitués".

Should a member be absent he is described in the Minutes as "est en default". Those absent from the Island ". . . sont en default" or "excusé". Members absent through sickness are excused on the oath of a member present, "après le serment de . . . sont absent de L'Ile".

The decisions of the States are not in the form of Resolutions. The titles of Laws are in French but the action taken is in English as also are authorities for expenditure.

In case of a division on the formal "appel nominal", the members answer "Pour" or "Contre", as the case may be. A standing vote may, however, be taken.

A member may by leave withdraw a proposition. Bills are referred to a Legislation Committee (*see below*) for consideration and report to the State.

When the death of a member of the States is reported, the States remain in silence for one minute.

No Standing Orders are laid down. In 1771, however, the following Order was passed by the King in Council:

And His Majesty doth further order, that when anything is proposed to the Assembly of the States, it shall be wrote down in the form in which it is meant to be passed, and there shall be debated; after which it shall be lodged au Greffe for fourteen days at least before it is determined in order that every individual of the States may have full time to consider thereof, and the Constables to consult their constituents if they judge necessary, and that this delay dispensed with in case of emergency in which the safety of the Island may happen to be immediately concerned.

Legislation.—The principal form of legislation is by Projet de Loi passed by the States, the form of entry in the Minutes of the States of Deliberation being: "The States, subject to the sanction of His Majesty in Council adopted the following law, the full text of which follows. When such a law has been adopted, the Greffier of the States is ordered to transmit it to the Privy Council for Royal Assent.

When this has been received in the Island, it is returned to the Island for registration in the Royal Court thereof.

In addition to Statutory Regulations, the States have power, under an Order in Council of April 14, 1884, to make Regulations to remain in force for no longer than 3 years. If they relate to subjects of municipal or administrative nature, they may be renewed every 3 years.

An "Acte" is a Resolution of the States or a Committee thereof. Private Members' Bills are first referred to the Legislation Committee. All Laws are ordered to be printed, published and posted, the latter sometimes being effected on Church grilles.

The Greffier of the States has an excellent progress sheet for Projets de Lois submitted to the Privy Council, the following being the column headings: Sheet No.; No.; Type; Title; to Printer for proof; to Printer for revise; to Printer for Projet; ADOPTED; to Printer for P.C. form; to Privy Council; acknowledgment by Privy Council; REGISTERED; to Printer for Poster; to Viscomte for Promulgation; to Printer for pamphlet; serial number; page number; Action complete.

By orders the States declare their intention: "Les Etats en ont fait Acte" (the States have taken note of).

Regulations are adopted by the States, with or without modification "Sujet logi au Greffe".

The States agree as to the amount of the public debt. Estimates of Revenue and Expenditure, in detail, are submitted to the States, which orders the Finance Committee to cause them to be printed. Appropriations of public money are described in the Minutes in detail and expenditure is authorized by the States.

The Auditor's Report is printed and circulated to all members of the States.

The Royal Court.—Unlike Guernsey, the Royal Court of Jersey sits in a separate Chamber, in which the seating is as follows:— The Bailiff and the Lieut.-Governor sit as in the States, with the Royal Mace and the Greffier of the Court before a table below them. On the bench on both sides of the President sit the Jurats. On the right of the Courtroom sit the Sergents de Justice, with the Banc des Seigneurs behind them, the Reporters and Usher being in the back row. On the President's left sit H.M. Attorney-General and H.M. Solicitor-General with the Viscomte adjoining. In front and facing the Bench sit the Avocats (Advocates), Les Ecrivains (Solicitors) and the 24 Jurymen. I understood that Trial by Jury in Jersey dates back to 1786 and that at each Assize 20 Jurors have to agree for a verdict of guilty, otherwise the accused is discharged. At the back of the Courtroom space is set apart for the Public. The "Prisoner's Cage" is in the back right-hand corner of the room.

In the Royal Court, the Bailiff, Law Officers and Advocates wear gowns and bands. Jurats wear gowns only. Advocates who have

passed the Council of Legal Education (Inns of Court) wear English barristers' gowns and bands. Those who have qualified at Caen University wear French Advocate's gowns and bands. The Bailiff, Jurats, Attorney-General and Solicitor-General wear red gowns, others black.

The Bailiff.—The Bailiff, Sir Alexander M. Coutanche, Kt., was unfortunately, laid up at his home at St. Aubin, but I had the pleasure of meeting the Acting Lieut.-Bailiff, Major E. P. le Mesurier, O.B.E. Sir Alexander, is also a member of the British Bar and a Doctor of Law, Caen University. He served with distinction in World War I with the Claims Commission and Directorate of Hirings and Requisitions and received the Chevalier of the Order of the Crown and Croix de Guerre, Belgium.

The Lieut.-Governor of the Island, Lieut.-General Sir Arthur E. Grasset, C.B.E., D.S.O., M.C., a Canadian, was absent from Jersey during the time of my visit.

I was then introduced to the members of the Staff of the Greffier of the States, Mr. F. de Lisle Bois, M.A.(Oxon.) being laid up with an attack of 'flu.

Monsieur Mollet then took me out to his home, Le Coin, at Bagatelle, some little distance from St. Helier, to lunch. His wife and other members of his family being present and I enjoyed some of the Island's delicacies. Madame Mollet was no exception to the charm of the Ladies of the Channel Islands. M. Mollet's daughter and grandchild were also of the party and I enjoyed the company of all very much. After lunch, my good host thoughtfully disposed me in an easy chair in the drawing-room for a few minutes, after which, we walked along the beautiful lanes of Jersey to the home of Mr. Bois, not far away, he having expressed a special wish to see us.

In Mr. Bois, one again has an example of the highly efficient type of Channel Islands Official. The Greffier of the States of Jersey does not, as in Guernsey, also hold the office of Greffier of the Royal Court, which is a separate office, but he is the Law Draftsman for the Island as well as *ex officio* Secretary of the States Committees and other delegations of the States.

Mr. Bois received us in his bedroom, in fact, under the circumstances, it was extremely kind of him to have seen us at all. However, we had a long and most interesting talk on many points of interest. The charming Mrs. Bois, who was carrying the sweetest little child in her arms, gave us tea, and altogether it was a most pleasant visit.

I was invited by Mr. Bois to the Greffe, where he said Mademoiselle C. A. Journeaux, a member of his Staff would furnish me with any information I might require.

On the following morning, therefore, I was early at the Greffe where I met M'selle Journeaux, a most capable official, who could answer, and off-hand, any question put to her as to the working of

the States and the States Greffe, the required authority being at once forthcoming.

At 11 o'clock thanks to the good office of Monsieur Mollet, I was introduced to Advocate Duret C. W. Aubin, a former Crown Law Officer, who gave me a marvellous description of the general working of legislation in the Island. Wherever one turns in these Islands, one is struck with the high standard of the officials.

In view of the short time at my disposal, I cut my lunch and continued my research at the Greffe.

States Committee.—There is in Jersey, as in the other States-governed Islands in the group, the system of States Committees. These Committees sit throughout the year and continue for the duration of the 3 years for which the States are elected, reporting from time to time to the States. The following are Permanent Committees and consist of the various categories of members of the States in the proportions given. S=Senators; C=Connétables; and D=Deputies. The Crown Law Officers attend those Committees indicated by an asterisk:

Finance S. (1), C. (2), D. (3); Defence* S. (3), C. (1), D. (3); Public Health S. (3), C. (1), D. (3); Agriculture S. (3), C. (1), D. (3); Public Instruction* S. (3), C. (1), D. (3); Public Works S. (1), C. (2), D. (3); Social Insurance S. (2), C. (2), D. (3); Harbours and Airport C. (3), S. (1), D. (3); Deux Greffes.* The Bailiff, S. (3), C. (1), D. (2); Tourisme S. (1), C. (1), D. (4); Telephones S. (1), C. (2), D. (4); Beautes Naturelles S. (3), D. (4); Etat Civil S. (2), C. (2), D. (3); Legislation S. (1), C. (2), D. (4); Tariff Council* The Bailiff, S. (3), D. (1); Cottage Homes C. (1), D. (5); Prison Board D. (3), C. (1), (H.M. Viscomte and H.M. Receiver-General *ex officio*); Civil Service Board S. (4), D. (3); Essential Commodities S. (1), D. (6); Textiles S. (1), C. (2), D. (4); Housing S. (3), D. (4).

Special Committees. These consist of: Divorce S. (1), C. (1), D. (5); Rehabilitation S. (1), C. (2), D. (3).

Special Committees re *Committees of the States (Jersey) Law* 1946. S. (7), C. (1), D. (3); Royal Visit; The Bailiff, S. (4), C. (2), D. (1). H.E. the Lt.-Gov., the Crown Officers and the Government Secretary attend.

Co-ordinating Committee or Council. This body is appointed by the States and a conference of the Presidents of the 8 following Committees, namely: Finance, Defence, Public Health, Agriculture, Public Instruction, Public Works, Social Assurance, Harbours & Airport (i) to give consideration to the terms of service, including pensions, of all employees of the States; (ii) to confer on all matters of general administration; and to give consideration to all matters referred to it by the President of the States. Should any matter come under discussion which concerns a Committee not represented, the President of that Committee is invited to attend.

By the Committees of the States (Jersey) Law, 1946, certain Committees are amalgamated into the Finance, Defence, Public Health, Public Instruction, Public Works, Harbours and Airports, Deux Greffes, Tourisme and Legislation Committee, and the Department of Essential Commodities, the latter to be described as the Essential Commodities Committee.

Part II of the Act makes provision for certain Cottage Homes and Part III makes special provision in regard to Principal Committees. No member of the States is eligible as President of more than one such Committee, and no member of the States may be a member of more than 2 such Committees.

The Minutes of these Committees show those present and record the matters submitted. The decisions are not in the form of Resolutions, but entries are made in French or English, as the case may be, with, at the end of each, a direction to the Greffier of the States to write to the applicant accordingly.

These Committees report to the States from time to time.

At 3.15 p.m. I left St. Helier by air bus for the Jersey airport to catch the 4 p.m. plane to Guernsey and was back at my hotel at 5.30, having spent more time in transit to the airports and waiting there, than in the air, as is so often the case even on longer flights in other countries. I left Jersey with a distinct feeling of satisfaction and keen appreciation of the kindness I had received from everyone in this lovely Island.

Guernsey.

On Wednesday, July 18, I was again in the able and guiding hands of Mr. Warren, who took me to meet Conseiller Sir John Leale, one of the Jurats of the Royal Court of the Island who, during the German occupation, was on December 30, 1940, appointed President of the Controlling Committee of the States of Guernsey, which office he held until 1945. This was a most thrilling interview and I only wish that space permitted me to give some description of the conversation. It was difficult to imagine how one of such quiet manner could have stood up so courageously to the German Kommandatur during their occupation, but stand up fearlessly he did on countless occasions and with great success in the protection of the people of the Island. Guernsey men say that the Rev. John Leale[1] was the one man whom the Germans never shouted at. They had the highest respect for him and his integrity, in every way. I had the pleasure of hearing Sir John speak at a meeting of the States and I could picture how his fearless and forthright attitude would appeal to the German High Command. We also discussed the question of the Island authorities conferring in an inter-Channel Islands Advisory Council in cases where their common constitutional right to govern themselves might be affected.

The afternoon was taken up with correspondence and at 6.30 I

[1] He was knighted after the war.—[O. C.]

went to a cocktail party at the home of one of the Jurats, Major O. Priaulx, where I met many people of the Island. Mrs. Priaulx was a most charming hostess and introduced me to the others present.

Thursday, July 19, the morning was again devoted to correspondence, and at noon the Bailiff called to take me to the Annual Guernsey Agricultural Show, held in the beautiful Park and grounds given to the Island by Lord de Saumarez, a member of an old Guernsey family. Sir Ambrose took me round to see the various exhibits of Guernsey cattle and introduced me to many people, among whom was Lady Neame, the wife of the Lieut.-Governor.

I also attended the Official Luncheon where I met some of the chief breeders of the cattle for which this Island is so famous.

After lunch we watched some of the jumping and other events in this spacious park. Later the Bailiff motored me through other parts of Guernsey, having tea on our way, and delivered me back to my hotel at 6 o'clock.

Friday, July 20, the morning was spent at the Greffe, looking up the application of the various methods of legislation and the procedure thereon. Mr. James E. le Page and Mr. Warren then gave me the pleasure of their company at lunch. Mr. A. T. Mahey, was, unfortunately, unable to come.

Saturday, July 21, Saturdays is a full working day, in the Island, both officially and unofficially, Thursday being the weekly half-day. To-day was taken up with private correspondence.

Sunday, July 22, I attended Matins at the Cathedral Church at St. Peter Port and in the afternoon I was again a guest at the Warren home, where I browsed among the literary treasures of my historian host.

Monday, July 23, Mr. Warren took me to have a talk with some of the prominent officials and in the afternoon I had a most interesting interview with Mr. Louis Guillemette, M.B.E., the States Supervisor, a position somewhat akin to that of the Permanent Head of the Treasury at Whitehall, whose duties are as follow:

States Supervisor.—The office of States Supervisor as a Civil Service appointment was created by the States of Deliberation by a resolution which they passed on March 22, 1922. Perviously the "Superviseur de la Chausée" was an office held by a Jurat of the Royal Court and had evolved because the administration of the Harbour of St. Peter Port had, through many centuries, been in the hands of the Bailiff and Jurats of the Royal Court. The Superviseur was elected from among their number as their own executive officer and the post was unpaid. As the functions of administration increased, especially during the First World War, the Superviseur was given more and more work to do and eventually it became obvious that the work was sufficient to occupy an officer permanently. Hence the resolution of March 22, 1922. The Supervisor is described in this resolution as "the permanent head of the administrative office

of the States " and his main function is to act as the executive officer of the Board of Administration, which body was formed by the States on the same day as the office of States Supervisor. This Board is responsible to the States of Deliberation and it is described in the resolution as having " full administrative powers ". The Supervisor is responsible directly to the Board for the organization of the various departments under the control of the Board and for the discipline of the staff, which functions include responsibility for the Treasury, the Supervisor being the Treasurer of the States.

The main matters for which the Board of Administration is responsible, and for which, therefore, the Supervisor is the executive officer, are:

The appointment, discipline and welfare of the Established Staff which, at the moment, consists of 285 men and 75 women; the Treasury; Airport; Customs and Excise; the administration of the department under the control of the States Engineer, including architectural and engineering staff; the maintenance of States Buildings; the Maintenance Engineer's Department; Stamp Duty and Entertainments Tax; marine pilotage and Fire services; the " King's Weights "; sewerage; Cemeteries and Crematoriums; Slaughter House, Cold Storage; inspection of Explosives and Mineral and Vegetable Oils; the administration of the Island of Herm (as landlords, ensuring that the terms of the lease are properly carried out); lighthouses and beacons (except the Hanois Lighthouse administered by Trinity House); protection of the coastline from inundation by the sea; the Alderney Airport and the Guernsey administrative staff in that Island: licensing of small craft; Public Buildings; public parks and plantations.

In addition to these matters the Board undertakes many other less permanent administrative functions from time to time at the direction of the States of Deliberation.

The States Supervisor is also the chief executive officer of:

The Cadastre Committee, which concerns itself with records of the rateable value of all property in Guernsey and Alderney and the collection of the States' Tax on Rateable Values, and also in the operation of the Rent Control Law in Guernsey; The Agriculture and Fisheries Committee (milk records and protection against the Colorado Beetle); The Finance Committee; Housing; the Civil Service Contingency Fund Committee (including Widows and Orphans' Pensions Scheme for the Established Staff); and the Guernsey Lifeboat Committee, which is responsible for the efficient running of the lifeboat.

The States Supervisor also sits in a consultative capacity with the Horticultural Committee (which is the States' Committee responsible for help to the main Island industry, namely, the production of tomatoes under glass), and with the Advisory Council.

By statute the Supervisor is the administrator of the Guernsey Merchant Shipping Law and the Registrar-General of Electors under The Reform (Guernsey) Law, 1948.

The staff under the control of the States Supervisor also includes:

1. A Financial Secretary who is responsible to him for all Treasury matters;

2. An Assistant Supervisor who helps him with all other administrative functions;
3. A States Engineer who is responsible to him for all functions mentioned above;
4. A Harbour Master.

The present holder of the office of States Supervisor, Mr. Guillemette, was recently appointed by Royal Warrant dated August 23, 1951, also to be Receiver General (hitherto a separate office) for the Island of Guernsey and Bailiwick with power:

1. To ask, demand and receive of all and every person or persons whom it doth or may concern All rents, chief rents, quit rents and all roture rents or free socage now due or that may become due to Us either in money or in kind as also all fermes, tithes, champarts, escheats, treiziemes, anchorage, custom duties, wrecks or gravages and casualties and generally all other Revenues and dues, either annual, fixed or casual, and all penalties, fines, forfeitures and amercements that may be now due or become due unto Us.

2. To let all such houses, mills, lands, tenements, poulages, tithes and champarts belonging or that may at any other time hereafter belong unto us, and to demand and receive all the rents and profits thereof; And further to pay all rents as may be due on any property that may now or at any time hereafter belong to Us in the said Island; And

3. Under the directions of the Right Honourable the Lords of our Treasury, to enter into any negotiations for, and to carry out and effect, the sale, exchange, commutation or alienation in any manner of any rent, tithes, champarts, rights or dues, and of any houses, mills, buildings, lands, tenements and hereditaments belonging or which shall or may belong to Us in the said Island, And, under such direction as aforesaid, to redeem, purchase and acquire any Rents, lands and real estate whatsoever for Us and in Our Name in the said Island for Our benefit and service.

Alderney.

Tuesday, July 24, I left Guernsey airport by the 8.30 a.m. plane for Alderney, the smallest of the 3 States-governed Islands. Mr. R. P. Walker, one of the Deputies of the States of the Island, with Mrs. L. M. Anson (both of whom were also the Alderney representatives in the States of Guernsey) were at the airport to meet me. Mr. Walker then motored me through St. Anne, the capital, with its narrow cobbled streets and lanes, explaining many things on the way and eventually dropped me at the hotel for breakfast. Here I was the guest of the States of Alderney, which I thought a very nice gesture.

After breakfast, Mr. Walker returned to take me to the Greffe where I met Mr. P. W. Radice, B.A.(Oxon.), (ex-I.C.S.) the Clerk of the States and of the Court of the Island and Captain C. Richards, the principal of the Civil Service, the President subsequently taking us all to tea.

The States of Deliberation.

After lunch Mr. Walker picked me up at the hotel for my visit to the States, where I was introduced to the President, Commander

S. P. Herivel, D.S.C., O.B.E., and the Deputies, as well as to Brigadier N. R. C. Cosby, C.I.E., M.C., the representative at the States Meeting, of H.E. the Lieut.-Governor of Guernsey.

A typed notice of the meeting had been sent out to all members by the President together with the Billet d'Etat containing the matters to be considered at the meeting, which was opened by the Lord's Prayer, in English only, read by the Clerk of the States, followed by the roll call, to which members answered "Present" in English.

Brigadier Cosby was then escorted into the Chamber by the Clerk of the States, when the following oath was administered to him by the President. This oath is required to be taken by His Excellency's representative at the States Meetings.

The President says:

You, A.B., do swear and promise by the faith you owe to God and on the Holy Gospels that you will will truly and faithfully acquit yourself of the duty of acting Lieutenant-Governor during the sitting of the States this day, that you will be faithful to His Majesty King Geoge VI and that you will take care that the rights of His said Majesty and the inhabitants of this Island be not infringed.

The following note was kindly furnished by the Clerk of the States as the Oath to be taken by a newly elected member of the States of Alderney, President of the States or newly appointed Jurat of the Court:

When the Court of Alderney was first constituted, the Jurats (members of the Court) were sworn in before the States by the President of the States. The Constitution does not lay down anything in this regard and probably it would be more proper for the newly appointed Jurats to be sworn in before the Chairman of the Court.

When the new member is asked to stand forth by the Clerk, the President will say:

Do you, A.B., swear by Almighty God that you will be faithful and bear true allegiance to His Majesty King George VI, his Heirs and Successors according to Law, that you will well and faithfully discharge the duties of the office of $\left.\begin{array}{c}\text{Member of the States of Alderney,}\\ \hline \text{Jurat of the Court of Alderney}\end{array}\right\}$ and that you will do right to all manner of people in accordance with the laws and usages in force in the Island of Alderney, without fear or favour, affection or ill-will?

The new Member will reply: "I do, so help me God."

Section 30 of the Government of Alderney Law, 1948, lays down that His Majesty may by Order in Council prescribe the form of oath to be taken by the President and members of the States, and that before entering their respective offices the President shall take before the States, members taking the oath before the President in the prescribed form.

The present President is the first under the new Constitution. There will be new elections for the President at the end of 1951. It

has not been considered yet who will actually administer the oath to the new President.

The following action was then taken in regard to the items of the Billet d'Etat previously circulated to members in typewritten form:

Item 1 was, with the permission of the President, withdrawn.

Item 2.—A Projet de Loi entitled " The Marriage Law 1919 (Provisions applicable to Alderney) Law, 1951, was then submitted and approved of by the States Resolution.

Item 3.—The Traffic Regulations annexed to the Billet d'Etat were then also approved of by Resolution.

Divisions are put in English as " Those in favour of " and " Those against ", when the hands and names are noted.

The proceedings are closed with the Benediction pronounced (in English only) by the Clerk of the States.

Procedure.—There are no Standing Orders or Rules of Procedure but the proceedings are conducted by the President in a dignified manner, and according to the best Parliamentary tradition.

Seating in the States.—No robes or velvet bonnets are worn by the President and Clerk of the States, as in the States of Jersey and Guernsey.

The style and furnishing of the States Chamber and Court used to be the same as that now used in the States and Royal Court of Guernsey, but during the occupation the Germans removed the woodwork. It was therefore very sad to see this simply furnished Chamber. It is hoped, however, one day to restore the Chamber to its former dignity.

The plan of the seating in the States Chamber is, on the dais, the President, who presides over the proceedings like a Speaker, and on his right the seat of the Lieutenant-Governor or his representative. Immediately below the dais is the seat of the Clerk of the States. On the right and left of the Chamber, facing the floor space between them sit the elected representatives, the Deputies, 4 sitting on the Chair's right and 5 on its left. That part of the Chamber where the States sit is higher than the rest of the Chamber, which is used as a Public Gallery, the Press being accommodated near by.

States Committees.—In Alderney the States Committees are: Finance, which is responsible for all finances; Agriculture (which controls Colorado beetle, airborne from France); rabbits and rats; States dairy cattle, subsidies for milk cattle feeds and fertilizers and water-troughs; Education (a watching brief committee, the finances being controlled by Guernsey) Essential Commodities (controlling food, rationing as in the United Kingdom, licences for produce, price control and employment bureau); Public Assistance (brief mandate in respect of indigents, poor relief (recipients of which have no vote)); Publicity and Tourist arrangements; Public Works Committee which covers 75% of the Island expenditure, controlling graves, fire, water, roads, sanitation, plantations, cemeteries (except

War graves); lighting, police and sewers; Transport and Harbours, controlling Harbour master and staff, lights, buoys and landings (the airport being controlled by Guernsey); Customs staffed by Alderney but paid for by Guernsey.

In view of this Committee system, there is no municipal or other local Government.

The Court of Alderney.—I was informed that no gowns, bands or bonnets are worn, the Chairman sits on his platform, while the Jurats occupy side benches facing the floor space down the centre of the Court. The Clerk sits at the bottom of the Court near the witness box, Prosecutor and the accused. The Press are accommodated in the lower part of the room near what is the Public Gallery at the meetings of the States.

Readers of the Channel Islands Article in our last Volume of the JOURNAL will remember that the population of Alderney was evacuated during the World War II, after which the Island was turned into a fortress by the Germans, indications of which one can see in the concrete gun emplacements, etc., in various parts of the Island. It's annual revenue is not great and the members of the States are striving hard to run the administration on economic lines. This small Island lies like a gigantic ship in mid-ocean rich with all the advantages of health-giving sea-breezes from all quarters. The establishment of some suitable industries would be a great aid to the development of Alderney. There is an excellent air service with Guernsey, the other Islands in the group and with Great Britain.

It might appropriately be here remarked that at the meeting of the States of Guernsey on July 11, two Resolutions were passed in regard to expenditure in Alderney, one to authorize the States of Alderney to incur certain expenditure for the purpose of affording Alderney boys or girls, apprenticed in Guernsey, financial assistance not exceeding one-half of the difference between the weekly wage respectively earned as apprentice and £3 per week.

The other Resolution authorized the expenditure by the States of Alderney of a sum not exceeding £4,750 for the purpose of effecting repairs to St. Anne's Church, so badly damaged during the German occupation, the amount so expended to be appropriated from the sum allocated to the States of Alderney for votes of a capital nature derivable from the Loan of 1950.

After the meeting of the States, my guide, counsellor and friend, Mr. Walker, took me to his romantic home—Le Chateau l'Etoc—where we had a glorious walk along the coast before returning to have tea with his charming wife.

On my return I looked up Mr. Radice and his family, who lived not far from my hotel. Unfortunately I was not able to make my visit a long one.

It is astonishing how very bracing is the air of this small Island—a great place for the weary and worn-out industrialist or overworked

professional man to refresh his brain and recondition his tired nerves for renewed efforts.

On *Wednesday, July* 25, I was at the Alderney Airport at 8.30, where, to my surprise, I found Mr. Walker, who had come to bid me farewell. The little de Havilland Rapide took off at 9 a.m., and as we soared into the sky the coastline of Guernsey was already in view.

Guernsey.

States of Deliberation.—There was a meeting of the States at 10.0 but I was not down at the Royal Court House from my hotel until some time after it had met. A Billet d'Etat had been previously circulated to the members (Conseillers, People's Deputies and Douzaine Representatives) of the States.

Before the Articles of the Billet d'Etat were entered upon, an emergency Report from the President of the States Dairy Committee to the President, dealing with a subsidy on English milk, was considered and a draft Resolution recommended, amended and resolved upon, on the Motion of the President of such Committee.

Article 1 consisted of a long and detailed Report from the President of the States Income Tax Authority to the President on double taxation which the States Advisory Council recommended the States to adopt and to which the States Finance Committee raised no objections. After consideration of the subject by the States it was resolved that the Income Tax (Guernsey) Law 1950 be amended on the lines suggested in such Report with a direction for the necessary legislation to be prepared.

Article 2 dealt with an amendment of the Mental Treatment Law (Guernsey) 1939, upon which a Report dated May 21, 1951, from the President of the States Board of Health to the President, was submitted to the States, the States Advisory Council recommending the States to adopt the proposals.

The Resolution on the subject was, however, amended by the States which directed the introduction of the necessary legislation.

Article 3 dealt with an increase in the Budget Vote for a hospital on a Report dated June 6, 1951, from the President of the same Committee to the President of the States, which was recommended by the States Advisory Council and to which the States Finance Committee raised no objection. The States thereupon duly authorized the expenditure.

The proceedings were closed with the Prayer (*as above*).

There are three subjects of special interest which should be given some attention before bringing this account of my visit to a close; they are the use of the French language, the German Occupation 1940-45, and the ancient "Le Clameur de Haro".

French Language.

Coming from the Union of South Africa where bilingualism is almost a religion, it was interesting to observe the use of the French

language. Although I have little knowledge of this language, I could readily distinguish the difference between the Norman-French spoken by some of the farmers and the French of France.

The language of the Islands is interesting to the student of the English language, as we owe to the Norman-French of the Conquest a large number of words incorporated into English. The language of the Channel Islands differs in pronunciation in each Island, but is still fundamentally old Norman-French, though it has long ceased to be written and lacks polish, since no literature remains beyond the poems of Wace, who was born in Jersey, and died in England in 1184.

The legal and official language of the Islands as from the earliest times is French, and in many of the country churches Evensong is always in French.[1]

In general, however, French is little spoken socially and even officially it is no longer used in Alderney. But it is used considerably both in the laws and proceedings of the Courts and the States of Jersey and Guernsey, although when so used, it is not repeated in English. There is no feeling about this on the part of anyone. When anything is said in French, particularly on ceremonial occasions, no one calls for the English translation. But for all practical purposes English is tacitly accepted as the working language of the Islands.

In Jersey, the French language is used in all matters of procedure in the Royal Court. Minutes of the State are in French or English, depending on which language is most convenient to be used in the circumstances of the case. All deeds for the transfer of land are in French and French is used for Prayers both in the States and the Royal Court and in connection with roll call and divisions in the States. Most oaths are administered in French, and official notices are published in the French and English local newspapers (*Les Chroniques de Jersey* and the *Evening Post*).

In Guernsey, in view of the use of the English language during recent years, all proceedings in the States meetings, except Prayers and in regard to the roll call and divisions, are in English, whereas in the Royal Court quite a few applications are made in French, the Greffier says "probably one-third".

In Alderney, English seems to be used on all occasions. In all the Islands, however, where original laws are in Norman-French they naturally have to be amended in that language.

The German Occupation, 1940-1945.

As was described in the Constitutional Article in our last issue the entire population of Alderney was evacuated in British Merchant Navy ships and the Island transformed into a Fortress.

[1] We are indebted to La Dame de Sark for the above information; *vide* pp. 7 and 11, *Notes on Feudal Tenure particularly relating to the Island of Sark, Channel Islands*.—[O. C.]

In the other Islands, except for the many thousands who had joined the British Fighting Forces early in the war, the civil population remained. From accounts by various people I came across, the Germans conducted a rigorous control by means of a curfew. Roads were paraded by armed guards during the night and the strictest watch was kept at all times. There was no invasion whatever of Government offices or looting of their contents. The Acting Bailiff was the channel of communication between the German High Command and the particular Islands. The Germans said that the Channel Islanders were of the same culture as themselves. Soldiers billetted in homes conducted themselves well and even assisted where they could. Beyond those which occurred among the Islanders when the Germans first landed, there were no further casualties. Strict discipline was required but there were no barbarities.

The Food Supply of each Island was rigorously controlled and the Civil Head of the Population was compelled to supply to the very limit the demands of the German High Command which changed hands from time to time. Towards the end of the occupation, however, the food situation became so serious that even the German soldiers perceptibly lost weight and it was said that a dog or cat crossed the road at its peril.

Monsieur Mollet[1] says, with reference to Le Manoir de La Hague, Ile de Jersey, one of the old family seats in the Island, that during the German occupation, the enemy requisitioned the Manor on June 27, 1941, when Mademoiselle Cornu, the then Dame de la Hague, who was in residence, had to vacate the Manor. A force of Infantry, stationed at the Alexandra Hotel close by, moved in during the month of September. The Germans, among other alterations, heated the rooms with French stoves, which were usually placed in the centre of the room. They built a large underground shelter on the front lawn and erected a windmill on the top of the tower to generate electricity to light the Manor. About 40 horses were stabled in the meadow in the Valley. For about 18 months the lawns were used as a temporary dump for ammunition, stored in wooden huts. The ammunition was then removed to the tunnel at St. Aubin.

The fruit and vegetables were not touched by the Germans, the gardener, Mr. P. A. Cotillard, who furnished this information, being allowed to continue his work. During the siege the troops lived on roots and nettles; they also boiled sea-water to obtain the salt.

Le Clameur de Haro.

By far the oldest of the feudal customs of the Duchy of Normandy, which custom is still in existance, is the "Clameur de Haro". Duncan in his "Dukes of Normandy" describes the procedure as follows: "The word 'Haro' is compounded of 'Ha' the ejaculation

[1] *Le Manoir de la Hague, Ile de Jersey*, by Ralph Mollet, 1948, p. 30.—[O. C.]

of a person suffering or astonished, and 'Ro', a contraction of Rollo, the name of the first Duke of Normandy in 912.[1] After capturing Rouen and besieging Paris, Charles the Simple, King of France, made peace and offered Rollo the Provinces of the West and his daughter Giles to wife. Rollo became a Christian and distributed to his followers the lands he had conquered, thus establishing a feudal system. He enacted laws of such great severity for the maintenance of order and the respect of property, that his name became a terror to the wrongdoer, whether of high, or low estate.

If a party were assaulted, or any trespass committed on his property, he thrice repeated the word 'Haro' and all who heard it were bound to come to his assistance. If the wrong-doer escaped, the cry was repeated from district to district throughout the whole Duchy till he was apprehended, so that the system made every citizen a constable, and rendered escape almost impossible.

The "Clameur de Haro" and its invocation: "*Haro! Haro! a l'aide mon Prince on me fait toit*" is still to-day recognized by the laws of the Channel Islands to stay the hand of the man who would do wrong to his neighbour's property.

The above declaration has to be carried out kneeling in the presence of 2 witnesses after which the Lord's Prayer must be said in French. The aggrieved person must then register the Clameur with the Jurats (Magistrates) at the Greffe within 24 hours. There is then a "stand still" for a year and a day during which time either party may bring an action to determine the rights of the case.

During recent years the "Clameur" has been almost entirely confined to disputes over landed property. A "Clameur de Haro" was actually raised at the burial of William the Conqueror in Caen Cathedral. When he built the Abbey, he pulled down several houses to obtain space enough for it, and did not compensate all the owners, with the result that one Ascelin raised a "Clameur", which was investigated on the spot, and as his claim was supported by evidence he was awarded "sixty sous, and promise of the full amount of his loss".

Monsieur Mollet[2] quotes an interesting instance of the exercise of this ancient custom which took place on January 20, 1908, when his father raised the Clameur and it was received with all the respect and obedience of yore:

Mr. John Mollet, the Commis au Greffe of the Royal Court, one of the proprietors of the Royal Crescent, St. Helier, was on his way home in the lunch hour, when he found that workmen were engaged in cutting down one of the fine old oaks, more than twenty of which are situated in front of the Crescent,

[1] Monsieur Mollet gives the Dukes of Normandy to the Conquest in his *Jersey: Royal Court and States*: Rollo 912; William I (Longsword) 926; Richard I (Sans Peur) 943; Richard II (so-called the Good) 996; Richard III 1026; Robert I (The Magnificent) 1028; and William II (The Conqueror) 1035, who ascended the Throne of England as William I.—[O. C.]

[2] *Le Manoir de la Hague, Ile de Jersey*, by Ralph Mollet, 1948, p. 30.—[O. C.]

and which had been standing for over eighty years. The work was being carried out on the instructions of another proprietor, and Mr. Mollet, considering it would be to the prejudice of all the Royal Crescent proprietors, deemed it his duty to protest. He at once consulted with another proprietor, Mr. F. B. Le Cocq, who confirmed that the trees and lawn in front of the Crescent were held in common by all the proprietors and urged Mr. Mollet to stop the trespass by raising the "Clameur", which, in the circumstances, was the only procedure to adopt. Mr. Mollet said that it was necessary to have witnesses, so Mr. Le Cocq said he would stand by as did also the writer (Mr. Ralph Mollet) of this article. Another neighbour, Mr. John Ph. Tocque, an old gentleman, who was passing at the time, was invited to witness the raising of the Clameur, but he stoutly refused to be mixed up in a lawsuit and hurriedly walked away.

Mr. Mollet then approached the tree with his witnesses, and in the time-honoured fashion, he kneeling on one knee, exclaimed in a loud voice: "Haro! Haro! Haro! A l'aide, mon Prince. On me fait tort." The witnesses standing with heads uncovered. The effect was instantaneous. The workmen dropped their tools and the cutting down operations were at once suspended. Passers-by and school children quickly congregated in silence. The King's authority had been involved, and the King would have to intervene.

Mr. Mollet then made his way to the office of Mr. Malet de Carteret, the Procureur-General du Roi (His Majesty's Attorney-General) and reported the matter to him. The Procureur informed Mr. Mollet that he should instruct an Advocate to draw up the necessary summons, which he, the Procureur, signed.

Advocate E. T. Nicolle was instructed, and the case came before the Royal Court; the defendant came to Court and admitted he had wrongfully cut the tree. The Royal Court fined him 60 sols and costs, declaring that the "Clameur de Haro" had been rightfully raised.

A recent case of the exercise of the ancient right of the "Clameur de Haro" was in Guernsey in 1950, as follows:

The 25th day of April, 1950, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff;

Mr. T. H. M. Hugo, of Ronte Charles, in the Parish of St. Peter Port, in this Island of Guernsey, declared as follows: "I hereby declare that at Ronte Charles this day at or about 1.30 p.m., in the presence of Mrs. Blampied of Ronte Charles, and Mr. Wilkins, States Water Board employee, I raised the Clameur de Haro against the commencement by the States Water Board of work preparatory to supplying certain new dwellings from a water pipe which I hold to be a private pipe provided to my requirements under agreement dated 14th October, 1935.

(*Signed*) T. H. M. HUGO,
25th April, 1950.

Ronte Charles,
St. Peter Port,
Guernsey.

Declared before me this 25th April, 1950.
(*Signed*) A. J. SHERWILL,
Bailiff.

Received at 9.45 a.m.
this 26th April, 1950.
(*Signed*) R. A. MALLETT,
H.M. Deputy Greffier.

The work was not proceeded with. These cases do not often occur

but the right is there and can be exercised in the presence of witnesses.

A case[1] occurred in Jersey in 1939—Attorney-General and Huelin "ajoint" *v.* Le Bas, which arose out of a disputed right of way. At the commencement of the hearing, Huelin declared that he had not raised the "Clameur" in the accustomed form and that he had done so in ignorance of the fact that the circumstances of the case were not such as to justify recourse to this form of action since his property was not in peril. He was therefore permitted to withdraw the action but was fined 60 "sols" (2*s.* 3½*d.*) for having raised the "Clameur" frivolously. The Constable of the Parish who had removed the barrier across the way, was fined 10 "livres d'ordre" (11*s.* 6½*d.*).

A still later case was reported in Jersey and described in the *Daily Graphic*[2] as follows:

With bowed head and crossed hands, Advocate D. P. Richardson, of St. Martins, Jersey, knelt on land adjoining his farm yesterday and cried: "Haro, Haro, Haro; a l'aide mon Prince, on me fait tort." (To my aid my Prince, I am being wronged.)

He was raising the Clameur de Haro, a rite which dates back to Rollo, first Duke of Normandy, to protect land from alleged encroachment by a neighbour.

When the Clameur is raised all people employed on the spot must stop work until the Royal Court has given judgment.

Mr. Richardson alleges that his neighbour, Mr. A. A. Davey, had pulled up tomato plants and cut a channel which drained his fountain.

The case of Attorney-General and Huelin "ajoint" *v.* Davey is still proceeding, the latter having entered a plea to the ffect that as he had let the property to a third party, the remedy of the "Clameur" is not available in the circumstances of the case.[1]

On *Thursday, July* 26, the morning was taken up with the typing of correspondence, after which I had the pleasure of the company of the Bailiff, Lady Sherwill and Jurat Major O. Priaulx and Mrs. Priaulx at lunch, as some small appreciation of their kind hospitality to me and which occasion, for me, was the bidding of farewell to all these charming people and their enchanting Islands. Mr. and Mrs. Hathaway were unfortunately on one of their periodical visits to France.

On *Friday, July* 27, and I must confess with a sad heart, I sailed for Weymouth by *St. Helier,* and thence by train to Paddington, thus bringing to an end my most interesting and glorious holiday, but of which happy recollections will remain bright in my memory for many years to come.

Contemplations on my Passage back to England.

On reviewing my experiences during these 18 days among the charming Channel Islanders in their beautiful domains, governing

[1] I am indebted to Mr. de L. Bois M.A.(Oxon.), the Greffier of the States, for the information on this case.—[O. C.]

[2] September 13, 1951.

themselves under the freedom of their ancient charters of liberty, living in mutual harmony and goodwill under the Norman-French laws, customs and traditions, I could not but feel that they are indeed a lucky people.

When I planned this visit for the purpose of seeing the actual application of their respective and recently amended Constitutions, as described in the last issue of our JOURNAL,[1] I must confess that I thought, in my conceit, with my wide knowledge of these matters, first, for 26 years as a Parliamentary official in Southern Africa, under various types of constitution from Crown Colony to Dominion status, and later, for 20 years as the hon. Editor of this JOURNAL, reviewing, each year, all the constitutional changes throughout our Commonwealth and Empire, that opportunity might present itself to offer some suggested changes and improvements.

But I found communities living happily, each under its own constitution and according to its ancient rights, customs and traditions, fast-rooted in the deep precedent of centuries. Moreover, though each community is jealous of its own constitutional rights, they all join issue directly any attempt is made to interfere with their common liberties.

I also found, quite strange to my experiences, the elected representatives of a self-governing people sitting in deliberative assemblies in which were neither political parties nor even "Government" and "Opposition", but all bent on deciding every question entirely on its merits and, at the same time, serving—*gratis*—both in their governing legislature and on the innumerable all-the-year-round States Committees controlling, subject to the Legislature, practically every branch of the administration.

What is more, these legislative assemblies and their multitudinous 3-year Committees, are conducted according to a common understanding of what is fair play to all, even down to what we call in Parliaments, the right of "the private member" who so often has to struggle for a hearing and still harder to get any proposition brought forward in the legislature.

What I would say to these noble and ancient States is: stand resolutely by your constitutional freedom, guard your rights, preserve your simplicity of procedure, maintain the high standard of your administration and its officials and applaud the unselfish service of your elected representatives as well as all those equally public-spirited men who work in co-operation with them on the many States Committees.

What more ideal conditions than all these could be desired by any community? To quote Macaulay's famous lines:

> Then none was for a party,
> Then all were for the state.

[1] Vol. XVIII. 149.

*XVIII. EXPRESSIONS IN PARLIAMENT, 1950[1]

THE following is a continuation of examples of expressions in debate allowed and disallowed which have occurred since the issue of the last Volume of the JOURNAL.

Allowed.

"Conducting unnecessary obstruction". (72 *Union Assem. Hans.* 6752.)
"distorted representation of what another hon. member said". (73 *Union Assem. Hans* 7739.)
"Shame" when used with reference to the Administration. (Bombay.)
"to call an hon. member a Communist". (73 *Union Assem. Hans* 8922.)
"utterly untrue". (70 *Union Assem. Hans.* 333.)

Disallowed.

"a measure steam-rollered through Parliament". (72 *Union Assem. Hans.* 6290.)
"an outrageous lie". (70 *Union Assem. Hans.* 1490.)
"bloody". 478 (*Com. Hans.* 5, s. 2764.)
"bloody bastard". (71 *Uttar Pradesh Hans.* 42.)
"bluff". (78 *Uttar Prad. Hans.* 94.)
"cant and hypocrisy". (72 *Union Assem. Hans.* 6545.)
"deliberate misrepresentation". (71 *Union Assem. Hans.* 4119.)
"Dirty Dog". (478 *Com. Hans.* 5, s. 2034.)
"false". (81 *Uttar Prad. Hans.* 292.)
"he made a despicable speech". (73 *Union Assem. Hans.* 9311.)
"hon. member is a political lawyer". (72 *Union Assem. Hans.* 629.)
"I believe him but thousands would not". (70 *Union Assem. Hans.* 129.)
"idiot". (476 *Com. Hans.* 5, s. 2249.)
"I have no time to read it out to a lunatic". (71 *Union Assem. Hans.* 3835.)
"It is a deliberate untruth". (70 *Union Assem. Hans.* 176.)
"machination". (1950 *W. Beng. Hans.* 336.)
"malevolently". (73 *Union Assem. Hans.* 7755.)
"neither fish nor fowl nor good red herring". (64 *Uttar Prad. Hans.* 292.)
"Sharam" (Shame), when used with reference to an hon. member. (Bombay.)
"shame". (1950 *W. Beng. Hans.* 72.)
"silly". (1950 *W. Beng. Hans.* 179.)
"steam-rollering tactics". (73 *Union Assem. Hans.* 7467.)

[1] *See also* JOURNAL, Vols. I. 48; II. 76; III. 118; IV. 140; V. 209; VIII. 228; XIII. 236; XIV. 229; XV. 253; XVI. 224; XVII. 323; and XVIII. 287.

" talking out of the back of his neck ". (1950 *S. Rhod. Hans.* 2258.)
" that a member is not true to his conscience ". (Bombay.)
" that is not true ". (478 *Com. Hans.* 5, s. 753.)
" That the workers started indulging in subversive activities by coming into contact with the hon. members of this House ". (Bombay.)
" the political probity of the Huggins Government is impugned ". (1950 *S. Rhod. Hans.* 375.)
" there are some greedy swine ". (1950 *S. Rhod. Hans.* 2573.)
" . . . . The ravings of the hon. Gentleman ". (476 *Com. Hans.* 5, s. 1997.)
" there you lie ". (71 *Union Assem. Hans.* 2657.)
" this obnoxious Bill ". (1950 *S. Rhod. Hans.* 2742.)
" to say that part of the House is dumb and deaf ". (Bombay.)
" ulterior motive ", when applied to Government. (Bombay.)

Borderland.

" a particular member has shed crocodile tears to show his sympathy towards the agriculturists ". (Bombay.)

The following instances are contributed by the Clerk of the House of Commons:

But, as Mr. Speaker had once to point out, much depends on the context in which the words are used (457 *Com. Hans.* 5, s. 1601.) Thus the word " blackmail " used as an adjective (" What blackmail powers does the Minister have? ") was, in that particular instance, not ordered to be withdrawn. (476 *Com. Hans.* 5, s. 2248.)

Another borderline instance was the use of the phrase " Owing to the idiotic nature of that reply . . . ". The Speaker asked that the conventional phrase " Owing to the unsatisfactory nature. . . . " should be used, but he did not order the word " idiotic " to be withdrawn. (475 *Com. Hans.* 5, s. 2036.)

Other phrases that were not acutally disallowed, though their use was deprecated, include:

". . . honourable yahoos opposite ", Mr. Speaker ruling that if the reference had been to an individual it would have had to be withdrawn. (477 *Com. Hans.* 5, s. 573.)
". . . the venom of (the Opposition's) attack. . . ". (475 *Com. Hans.* 5, s. 388.)
". . . this crawling in the gutter . . . " (referring to a Question put to a Minister). (476 *Com. Hans.* 5, s. 1063.)

XIX. SOME RULINGS BY THE SPEAKER AND HIS DEPUTY AT WESTMINSTER, 1948-1949

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 Fifth Session of the XXXVIIIth Parliament of the United Kingdom of Great Britain and Northern Ireland (11 Geo. VI), are taken from the General Index to Volumes 457 to 470 of the Commons *Hansard*, 5th series, covering the period October 26, 1948, to December 16, 1949 (12 Geo. VI). The Rulings, etc., given during the First Session of the XXXIXth Parliament (1950) and the Second Session of such Parliament (1950-51) will be treated in Vol. XX 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—"457–945" or "470–607, 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.

Adjournment.
—*of House*
—debate, *see* that Heading.
—for Ministerial Statement, 462–2287.
—half hour, *see* Debate.
*—Motion cannot be moved during a speech so that it is interrupted, 463–2354.
—only movable by one of Ministerial Front Bench, 462–1917.
—*of House* (*Urgency*), *Motion for*
—*refused*
—arrest of Gerhardt Eisler—matter for the Courts, 465–32.
—late moving of, 460–176.
—no urgency, strike has been going on for some days, 466–2342.
—not definite matter suddenly arising, 462–2298.

Amendment(s).
—Bills, Public, *see* that Heading.
—Bills, Public, *see* Debate.
—Lords, *see* Lords, House of
—selection of, *see* Chair.
*—can only be withdrawn by Mover, 459–442.
—manuscript, may be moved, 464–880; 466–1675.
—whether in order or not, matter for Chair, 462–1485.

Anticipation.
—Bill must not be anticipated in debate, 461—1936.
—Bills, of which Notice has been given, may not be discussed on Address in Reply, 457—102, 3, 712.
*—*Q.* must not anticipate a later one, 458—1794.

Bills, Private Members', *see* Bills, Public; Debate & Members.

Bills, Public.
—debate, *see* that Heading.
—Finance, *see* Money, Public.
—Instructions, *see* that Heading.
—Lords, *Amdt(s).*, *see* Lords, House of
—non-reference of, to Examiners, *see* JOURNAL, Vol. XVIII, 46.
—Private Members' Bills, restoration of introduction of, after lapse of 10 years, *see* JOURNAL, Vol. XVIII, 47, for practice, 460 *Com. Hans.* 5, s. 47, for Procedure and *ib.* 101 for the Order.
—revised versions of, to have explanatory slip attached showing difference, 463—567.
—*Rep.*
—*amdt.* to new Clause on, should be moved by someone whose name is against the new Clause, 463—852.
—Clause as amended on, not put to House, 462—882.
—money *amdt.* that might possibly involve a charge ruled out on, stage, 470—2583.
—no stage, if no *amdts.* in C.W.H. or no Notice thereof for *Rep.* stage or not received by Clerks-at-the-Table, 470—714.
—" that further consideration of the Bill as amended be now adjourned " may be put without debate should Mr. Speaker so choose, 464—1038.
—3 *R.* questions of procedure do not arise on, 468—721.
—withdrawals can only be without objection, 461—2180; 462—1403.

Business, Public.
—division of time, matter for Chair, 462—1404.
—exemption from S.O., cannot be moved by Private Member, 469—1864.

Chair.
—*Amdt(s)., selection of*
—not selected by Mr. Speaker, 470—1202.
—reasons for, not given, 466—1662.
—reasons for, or against, new Clause, reasons not given, 466—1663.
—criticism of, 467—1089.
—debate, *see* that Heading.
—questions of order must be left to, 465—2345.
—reflections on, not allowed, 458—1434; 459—503, etc.
—Speaker, Mr., *see* that Heading.
—whether *amdt.* in order or not, matter for, 462—1485.

Chairman.
*—in Com. Ways and Means, cannot give a Ruling binding Chairman of the Committee on Bill, 458—720.

Chairman of Ways and Means.
—conduct of, *see* JOURNAL, Vol. XVIII, 40.

Closure.
—Guillotine, *see* JOURNAL, Vol. XVIII, 146.

C.W.H.
*—reflection cannot be cast upon, 459—411.

Com., Select.
—evidence; witness is asked to indicate for the information of the *Com.* if there is any part thereof, which for security reasons or in public interest, not to be made public and *Com.* decides,[1] 466–457.
Count, *see* Division(s).
Crown.
—aspersion must not be cast on late King, 469–104.
—consent of, signified on 3. *R.* of National Parks and access to countryside Bill, 467–1691.
—Governor, open to criticism, 468–1315.
—improper inferences in debate in regard to Governor, not allowed, 464–1015.
—Royal Prerogative, cannot be raised as Point of Order, neither can any *Q.* be asked thereon as no Minister can be questioned as to the secret advice he may give to the, 457–1857.
Debate.
—*Adjournment of House.*
—half hour, responsible Minister should be present, 461–2030; 465–1059.
—legislation not allowed to be discussed on, 466–2113.
—members can wander widely on, 460–401.
—*Amdt(s).*
*—can speak again with leave of House, 469–445.
—mover has right to make second speech, but not seconder, 466–1665.
—once put, confined thereto, 462–1981.
—allegations against Communists, 458–1989.
—anticipation, 457–102, 3, 172; 461–1936.
—" *Another Place* ".
—allowed to quote from Ministerial statement of policy in, made same Session, 470–2124.
—attack on member of, 470–506.
—debates in reference to, 462–1744, 2120.
—if a question of policy, Minister in, may be quoted, 462–1145.
—reference to, and quotations from what is said in, 460–371; 462–1744; 470–2124.
—*Bills, Private.*
—2. *R.*
—on nationalized industries can extend beyond contents of Bill, though must relate to its purpose and not traverse constitution and powers of the British Transport Commission settled by Parliament; the Bill covers administration, 461–1765, 6. *See also* JOURNAL, Vol. XVIII, 134.
—*Bills, Public.*
—new Clause if not incorporated in Bill cannot be discussed, 466–2513.
—not in order on, to discuss in detail Clauses to be put down for *Com.* stage, 465–1118, 1130.
—not printed, no point may be raised, 464–836.
—2. *R.* wide debate, if no objection, 470–374, 5, 6.
—*Rep.* merits of proposed new Clause ruled out of order cannot be discussed, 462–844.
—3. *R.*
—must be confined to the Clauses therein, 466–2558.
—not in order to discuss amendment rejected on Report, 463–967.
—only matters in the Bill as it comes to the House on, can be referred to, 462–892.
—unselected *amdt(s).* cannot be discussed on, 466–718.

[1] *See* May, XIV. 606.

Debate
—*Bills, Public (continued):*
—charges can always be made against Parties, 465—1429.
—charges may be made against persons without mentioning names, 457—36.
—Closure, *see* that Heading.
—conditional withdrawings disliked by Mr. Speaker, 458—1990.
—decision of House must not be criticized, 465—2336.
*—general statements against unidentifiable persons, 469—1158.
—Governor
—improper inferences in, not allowed, 464—1015.
—open to criticism, 468—1315.
—Guillotine, *see* Closure.
—Judge, comment on action of, can only be done by a proper Motion, not in debate, 460—1576.
*—limit to reading out from leaflet or newspaper, 466—2596.
—Lords *Amdt(s).*
—Minister may quote from proceedings in, 467—381.
—*see also* Lords, House of.
—Magistrates, reflections must not be made on, 465—1428.
—matters not reported to House cannot be discussed, 464—1044.
—members of Royal Family may not be discussed, 464—1924.
—member, —Minister } *see* those Headings.
—Money, Public.
—Matters involving taxation must not be discussed on Adjournment, 467—769, 770.
—mover of *amdt.* can speak more than once without leave of the House, as Bill comes from *Com.* upstairs, 465—1751.
—must be fairness to both sides, not only to numbers of speakers, but to length of speeches, Mr. Speaker therefore proposes now to call to members from the Opposition side, 459—689.
—Nationalization Bills, *see* **Debate** *Bills, Private.*
—not allowed in attack on a friendly country, 468—1480, 2.
—not allowed on matter for which Government is not responsible, 468—1478.
—Parliamentary Expressions, *see* JOURNAL, Vol. XVIII, 287.
*—personal statements ought not to lead to irregular debates, 460—340.
—reference can be made in, to members who hold appointments for which there is no Government or Ministerial responsibility, 462—929; 467—2814.
—reference cannot be made in House to anything which is going on in *Com.* upstairs until it has reported, 465—1153.
—reference in, to members of Tribunal, not Judges, allowed, 460—1872.
—Regulations, no reference to Act or what led up to it, allowed in, on 467—818.
—slander on Courts of Justice not allowed, 468—1526.
—unparliamentary words, by quotation, not allowed, 469—72; *see also* JOURNAL, Vol. XVIII, 287.
—when questions are asked of the Minister during, he may answer if the questioner gives way, 470—130.
Delegated Legislation.
—Prayers against Meat Orders, 2 Prayers taken together, 465—1392.
Division(s).
—correction of error in, 458—2129.
—member forcing way into Lobby after doors locked, vote struck out, 464—964.

Finance, *see* Debate & Money, Public.

Governor, *see* Crown.

Instructions.
—Stand. *Com.* by inadvertence extended Bill to Isle of Man and Channel Islands, therefore Notice of, given, 469–1939.

King, *see* Crown.

Lords, House of.
—"*Amdt(s).*"
—*amdt.* in lieu of, can be moved if House disagrees with Lords *Amdt.*, 470–1594.
—member can speak again only with leave of House, 465–1222.
—member whose *amdt.* was not allowed on O.P., cannot say what his *amdt.* was about, 470–1622.
*—Progress cannot be reported on, suggest "That the debate be now adjourned", 467–386.
—The House being still sitting at 6.0 a.m., the Deputy Speaker ruled that the Adjournment could not be moved, so it was moved: "That the further consideration of the Lords *Amdts.* be adjourned," 467–2099. It was subsequently decided on that sitting: "That the Lords *Amdts.* be further considered this day," 467–2216.
—with permission of House a number taken together, 468–713, 1166.
—with permission of House, Mr. Speaker puts, page by page, 468–1173.
—"*Another Place*", *see* Debate.

Member(s).
*—ballot for bills,
—one, one Bill, 460–49.
*—breaches of order and, must resume his seat, 463–1046.
—can ask *Q.* but has exhausted right to speak, 460–817.
—cannot
—be cross-examined on personal statement, 470–1890.
—call more than one member from one Town. (London Docks Strike debate), 467–510.
—discuss what goes on at international Congresses except in regard to line taken by H.M. representatives, 464–983.
—Chair, *see* that Heading.
*—disregarding Ruling of, 462–2240.
—incapacitated, allowed to address House sitting, 459–1594.
—Lobbying of, in *Com.* corridor, 470–1535.
—Lords, *Amdt(s).* } *see* those Headings.
—Lords, House of }
—Ministers, *see* that Heading.
*—Money Resolution, cannot make a 2. *R.* speech on, 461–1955.
—moving new Clause on Bill from upstairs has right to second speech, 467–866.
—must not
—anticipate and must wait until he catches Mr. Speaker's eye, 458–1433.
—be referred to as unpatriotic, 470–255.
—reflect upon ability or capacity of other, 463–877.
—remain standing or speak if member having floor does not give way, 470–2784.
—not allowed to resume speech if, disobeys Ruling of Chair, 468–1242.
—not "delegates" to Council of Europe at Strasbourg, but go individually, 469–1412, 1689.
—not in order
*—for, to read newspaper or magazine unless he intends to quote therefrom, 468–106.

Member(s) (*continued*):
—to read speech, but there are exceptions at Mr. Speaker's discretion, 462–1411; 466–2596.
—Order, *see* that Heading.
—ordered to withdraw from the House for the remainder of that day's sitting, 464–102; 458–1134.
—personal statement by, cannot be debated in House, 466–38, 1969.
*—position of, as, overrides any private position he may hold, 465–2101.
—Private Members' Bills, *see* Bills Public.
—Privilege, *see* that Heading.
—Questions to Ministers, *see* that Heading.
—refusing to withdraw when asked by Deputy Speaker to do so; report to Speaker member named and suspended, 467–1089-21.
—responsibility for statements, 458–1979, etc.
—should not address Mr. Speaker before being called, 466–2163.
—signatures to Motions and withdrawals, 456–573.
*—standing behind Chair, cannot join in debate, 465–1212.
*—standing on one leg when making speech is in Order, 466–574.
—suspension of, not debatable, 467–1091.

Minister(s).
—can only speak again by leave of House, 466–2299.
—contrary to spirit of House to raise matters to which no Minister can reply and of which no Notice has been given him, 461–654.
—entitled to reply to allegations, 464–1609.
—Government representative, presence of, not matter for Chair, 457–1318.
—House Adjournment motion to enable statement by, 462–2287.
—Motion moved by, seconder dispensed with, 460–1425.
*—Progress reported in order to enable Minister to make a statement, 466–2374.
—Questions to, *see* that Heading.
—Royal Prerogative: no, can be questioned as to any advice he may give to the Crown, 457–1857.
—statement by, Mr. Speaker no responsibility for, 462–1915.
*—statement of policy by, in "another place" in same Session, allowed to be quoted in debates, 470–2124.

Money, Public.
*—any question for raising starts in *Com.* of Ways and Means, 458–710, 711.
—*Bills, Public.*
—*Rep.*
—new Clauses on, imposing a charge out of order, 467–1279.
—debate, *see* that Heading.

Motion(s).
—Bills, Public, —debate } *see* those Headings.
—members' signatures to and withdrawal from, 456–573.
—Notices of
—signatures, 458–573.
—withdrawal of name from, procedure and question of publishing, 458-573; 459–1932.

Notices, *see* Motions and Questions.

Order.
—not a point of, 457–256, etc.
—point of, 460–1110, etc.

Order of the Day.
—seconder not necessary, 461–1483.

Parliamentary Agents.
—statement by Mr. Speaker that certain unqualified persons were representing themselves as, and that anyone contravening the Rules of 1938 would be liable to be dealt with by the House for contempt, 464–1665.
Parliamentary Expressions, *see* JOURNAL, Vol. XVIII, 289.
Petition(s), Public.
—Newfoundland petition presentation and Reading of, *see* JOURNAL, Vol. XVIII, 190.
Private Member(s)' Bills, *see* Bills, Public, and Member(s).
Privilege.
—no *prima facie* case of, *see* JOURNAL, Vol. XVIII, 295, 296, 297.
—*prima facie* case of, *see* JOURNAL, Vol. XVIII, 297.
—meaning of, 868–1523.
Question(s) to Ministers.
—acceptance or not by Mr. Speaker, reasons not in Order, 470–342.
—answers to oral at end of questions, with permission of member, 467–1795.
*—anticipates a later, 458–1794.
—cancellation of, 461–1841.
—cannot ask for *Com.* of inquiry into charges made by newspaper, as Minister is officially responsible therefor, 470–204.
*—error in reply, 469–2181.
—explanation of facts, not personal explanations, 465–882.
—giving of information to Ministers instead of asking *Qs.*, 458–1244.
—hypothetical, 457–853; 470–206, 1900.
—imputations, etc., 465–2116; 466–975; 463–2466; 467–1540.
—matters *sub judice* cannot be raised by, 465–32.
*—member(s)
*—cannot make long statements in, 461–940.
*—must not dictate to Minister, how he shall answer, 467–2459.
—must wait until he is called, 458–353.
—Minister.
—can disclaim responsibility in respect of matters under control of Colonial Government, 466–2134.
—need not reply if not wanting to, 470–2098.
—not present, will return to *Q.* later, 463–1683.
—non-acceptance at emergency sittings, 468–6.
—no power to ask Minister to accept responsibility, 469–1687.
—not within Mr. Speaker's power to say whether right or wrong, 468–1141.
—*Private Notice*, nearly an hour on, 464–25.
—put at the Table must refer to responsibility of some Minister of the Government on this front Bench and not of another Dominion Parliament or any other Parliament, 460–1835.
—reading of, at end of *Qs.*, 467–413.
—Speaker (Mr.) has no control over how a Minister answers *Qs.*, 460–171.
—*sub judice*, cases, cannot be asked, 460–1634; 463–350; 465–27.
—*Supplementaries.*
—cannot be put before reply given, 470–528.
—Foreign Office have nothing to do with Foreign trials, 457–1135.
—insinuations and implications in, 466–2307.
—long way from *Q.* and an argument, 459–810.
—long, should not be read out, 457–1706.
—many, means fewer, *Qs.*, 468–1156.
*—member
—allowed first, as matter referred to his Constituency, 462–2260.
—not asking a *Q.*, 462–1703.

—not arising, 458—22, etc.
—not in original, 466—1941, etc.
—too wide, 466—1763.
—very long, almost a speech, 470—2662.
—when Questioner is satisfied with the reply and does not put Supplementary, as a rule not necessary to call another member, 461—1602, 3.
—wider than *Q.* on Paper, 459—1386.
—words having passed the Table are in Order, 458—1980.
—verbal answer to written, objected to, answer read after, 462—794.
—whether ironical or not a matter of opinion, 466—2329.
—with a particular point of view, should not be put, 466—1791.

Speaker (Mr.).
*—cannot be asked in advance his intentions as to calling of Motions, 468—1032.
—has nothing to do with Ministerial statements, 462—1915.
—suspension of sitting by Deputy—while Mr. Speaker called for in regard to a member refusing to withdraw from House, 467—1090.

Supply, *see* Debate, and Money, Public.

" You " only applies to occupant of Chair, 464—1542, 3; 465—2526.

XX. APPLICATIONS OF PRIVILEGE, 1950

At Westminster.

Imputations upon the Conduct of a Member and use of Privilege.— On March 29,[1] Lord Vansittart was the mover of a Motion in the House of Lords dealing with " Communists in the Public Service ".

On April 4,[2] Viscount Stansgate (who is President of the Interparliamentary Union, after stating that he had already given notice to the noble Lord, Lord Vansittart, that he would raise this question of Privilege, gave notice that he would move the House in the following terms:

To draw attention to the speech of the noble Lord, Lord Vansittart, in this House on Wednesday, 29th March, last, in which, contrary to the accepted usage of this House, he made imputations upon the conduct of a member of this House—namely, the Lord Bishop of Bradford, without having given him prior notice thereof; and in which, further without due regard to their truth or falsity, and without sufficient investigation, he made serious allegations against the character and conduct of certain persons or groups of persons by name, who, owing to the Privilege of Parliament, have neither remedy nor opportunity to vindicate or defend themselves; and to move to resolve, That this House, ever jealously regarding the Privilege of Parliament, is no less zealous to provide against its abuse, and regrets that the noble Lord, Lord Vansittart, in the speech which he made in this House on March 29 last, did not use due care in the exercise of the Privilege of Parliament.

On May 2,[3] before the mover had proceeded further with the Motion, the Marquess of Exeter rose to a point of order to remind their Lordships that, through custom and confirmed by Standing

[1] 166 *Lords Hans.* 5, s. No. 10, 607. [2] *Ib.* No. 12, 725. [3] *Ib.* No. 20, 3.

Orders, there was no Chairman of their House in the accepted sense; therefore it lay with their Lordships to order proceedings so as to conform with the traditional dignity and restraint which had almost always marked their deliberations.

The noble Marquess then proceeded to ask their Lordships to order that S.O. XXVIII (Asperity of Speech), which might have a bearing upon the situation which had arisen, be read by the Clerk at the Table. The noble Marquess had been able to find only two occasions, in 1871 and 1872, when this Order had been read in the last 150 years. He then moved:

That Standing Order No. XXVIII (Asperity of Speech) be now read.

On Question, Motion agreed to: the said Standing Order read accordingly, as follows:

To prevent misunderstanding and for avoiding of offensive speeches, when matters are debating, either in the House or at Committees, it is for honour's sake thought fit and so ordered, That all personal, sharp or taxing speeches be forborn, and whosoever answereth another man's speech shall apply his answer to the matter without wrong to the person: and as nothing offensive is to be spoken, so nothing is to be ill-taken, if the party that speaks it shall presently make a fair exposition or clear denial of the words that might bear any ill-construction; and if any offence be given in that kind, as the House itself will be very sensible thereof, so it will sharply censure the offender and give the party offended a fit reparation and a full satisfaction.[1]

The noble Viscount said that his Motion had nothing whatever to do with the substance of the debate on March 29. The Motion might have arisen on any subject. It concerned the bearing of members of their Lordships' House and the effect of their bearing on Privilege and the possible effect on Privilege of abuse by members of this House.

The noble Viscount observed that it was not necessary to warn old members about the value of Privilege. It is the life blood of Parliament: By privilege Parliament defended its members from Ministers, as in the Sandys' case;[2] by privilege they defended themselves against bureaucrats who put themselves above the Courts and it might be necessary by Privilege to defend themselves against the tyranny of the Party machine. Privilege was the living heart of a free Parliament. It could not be destroyed by frontal attack, but it might be injured by an invidious misuse and undermining; and it was to prevent that that he had put down the Motion. It was regretted that the noble Lord, Lord Vansittart, "did not use due care". The operative clauses of the Motion were that the noble Lord acted without due regard to "truth or falsity" and "without sufficient investigation".[3]

The Motion was not a general political Motion, but a point of Order. All members judged points of Order severally and generally. "We are all Speakers in this House". Due regard to their "truth

[1] *Ib.* 4. [2] *See* JOURNAL, Vol. VII. 122-149. [3] 167 *Lords Hans.* 5, s. No. 20, 5.

or falsity" did not mean that it was sufficient for a noble Lord to come and say: "So far as I know, this is true" or "to the best of my knowledge and belief I have stated the truth". "Due regard" meant that a speaker who knew that he was speaking under Privilege of Parliament, must exercise the most scrupulous care that the facts he laid before fellow members were in every respect accurate.

[*The noble Viscount then gave the House the result of his inquiries in regard to the facts of Lord Vansittart's speech on March* 29.[1]]

Having been told by Lord Vansittart, continued the noble Viscount, that the Rt. Rev. Prelate the Lord Bishop of Bradford was an instance of Communist infection, we are told that his suggestion that there should be a Royal Mission to Moscow is "impertinent and ignoble". That was the most amazing charge and alone would justify the Motion the noble Viscount had laid. It was a smirch which the noble Lord had no right to inflict under the protection of Privilege.[2]

The noble Lord had used such language in the House of Lords as: "a particularly murderous priest called Canon Cope . . . who openly advocated the killing off of his political opponents and the distribution of the loot among the boys who did the job. . . . Anybody who knows anything about this man must have known that he was a potential killer."

The noble Viscount could not imagine a grosser criminal libel against any man. Yet they were asked (for they were all judges) to give the Privilege of Parliament to the noble Lord in the use of words of that kind against a man with whose political opinions and beliefs most of the members in this House would disagree.

So far as Privilege of Parliament was concerned, they were, of course, not governed by the Rulings in the House of Commons, but May, in his description (rather than definition) of Privilege referred to Privilege in the High Court of Parliament.

The subject was graded into matters of taste; matters of order; what was permissible language; and who are protected people; and from these to libel and criminal libel. In matters of taste everybody must be his own judge.[3]

Had Lord Vansittart made in "the other place" the speech that he made here recently he would not have completed more than two or three sentences without being pulled up by the Speaker; and if he had refused to withdraw he would have been suspended.

They all knew that the name of His Majesty must not be introduced for the purpose of influencing debate and that there must be no criticism of judges except upon substantive Resolution, but what is often forgotten is the reference in debate to sovereigns or rulers, or Governments of countries in amity with His Majesty. The noble Viscount was not suggesting that this rule should be adopted in their House but it was rigidly enforced in the other place.[4] The noble

[1] *Ib.* 6-20. [2] *Ib.* 20. [3] *Ib.* 13. [4] *Ib.* 14.

Lord had made references to the President of the Austrian Republic, to King Leopold of the Belgians and to Monsieur Stalin.

The House of Commons had fortified its position in regard to Privilege and they had imposed restraint upon themselves because they had found it necessary to protect Privilege by preventing its abuse. It would be extremely unwise if the House of Lords were not to impose restraint upon itself.[1] The noble Lord should not come here and use this place as a platform for privileged libel.

The Lord Bishop of Bradford said that there was nothing he could add to what the noble Viscount had said with regard to the point that the noble Lord—Lord Vansittart—had given him no previous notice of his intention to include his (the Lord Bishop's) name in his "Black Record Series No. 2".[2]

[*The Lord Bishop then commented upon the allegations which the noble Lord had brought against him.*]

In conclusion, the Lord Bishop suggested to the noble Lord, that before he again made personal attacks on those with whom he disagreed, he should ask himself whether controversy by epithets was really a very creditable method of argument.[3]

In speaking to the Motion, Lord Vansittart asked whether, as he had a mass of material and nothing in front of him on which to rest it, might exercise the Privilege of a Privy Councillor of speaking from the Despatch Box if the noble Lord, the Leader of the Opposition, had no objection. The tenor of the noble Lord's speech was a refutation of the attacks made upon him.

The noble Lord said that he had not received from the noble Viscount, the notice of the question of Privilege stated by Lord Stansgate on April 4, except on a piece of paper which was very much shorter and different from the 160 words in the Motion.

The noble Lord, Lord Vansittart, refuted the statement that he had made implications on the conduct of the Rt. Reverend Prelate the Lord Bishop of Bradford,[4] but criticized his writings, which was a very different thing.

As soon as Lord Vansittart had been told that he should have given notice to the Rt. Reverend Prelate he had written him a letter of apology (*which the noble Lord read to the House*) and to which the Rt. Reverend Prelate had replied: "I do not feel in any way aggrieved at your omission to give notice".

[*The noble Lord then proceeded to deal with the points which had been raised in the House in regard to his speech on March* 29.]

The Leader of the House of Lords (Viscount Addison), during the course of his speech, said that House was unexampled in its freedom of expression. There was no Speaker. They ruled by the good will and common consent of every individual Peer; they had no other rule. Therefore, the careful refraining from any abuse of their Privi-

[1] *Ib.* 15. [2] *Ib.* 16. [3] *Ib.* 20. [4] *Ib.* 26.

leges was a stern duty which fell upon everyone of them. It was because he felt misgiving on that account that he was disposed to move the Motion, which, in a minute or two, he would put before their Lordships.[1] The noble Viscount, then urged the noble Viscount, Lord Stansgate, not to press his Motion.

The noble Viscount, Lord Addison, then moved the previous question: "Whether the said original Question shall be now put?"

The Leader of the Opposition (the Marquess of Salisbury) in supporting Viscount Addison's Motion, observed that it was vital that Privilege should not be abused and in particular that they should not indulge in any way in what the Standing Orders called "merely taxing" speeches in support of their case.[2]

The noble Lord, Viscount Stansgate, at the conclusion of the debate, observed that the House could not avoid the issue. "If you say: 'We will take the previous Question' then this was the situation—Certain libellous statements had been made. I have asked that they should be declared by the House to be out of order and the House has declined to rule them out of order. To-day you are creating a precedent and I shall raise my voice (I cannot divide: I am alone) against it. . . . Therefore I shall say 'Not content' . . . and I also will adopt a procedure seldom adopted and under Standing Order XXXV, if my Motion is defeated or the other Motion is carried, I shall enter my protest on the Clerk's Journals before two of the clock to-morrow".[3]

On Question, Whether the said original Question shall be now put, resolved in the negative.

The Protest[4] by the noble Lord, Viscount Stansgate, against the decision of the House, and entered in the Protest Book of the House of Lords, dated May 2, 1950, reads:

Dissentient.

1. Because, by its vote, the House declined to censure the speech of Lord Vansittart of March 29th last.
2. Because the said speech lacked dignity and good taste; neglected and defied the accustomed rules concerning the mention of the governments of Foreign States in amity with His Majesty; and because the said speech contained slanderous statements, made without sufficient supporting evidence, of private individuals who have no redress at law.
3. Because such conduct, if persisted in, will be hurtful to the dignity and reputation of this House and may even bring into question the Privilege of Parliament.

STANSGATE.

[1] *Ib.* 48. [2] *Ib.* 50. [3] *Ib.* 53. [4] The Standing Order of the House of Lords relating to Protests reads as follows:

XXXV. 27 Feb. 1721; 3 March 1721.—Such Lords as shall make protestation, or enter their dissents to any votes of this House, as they have a right to do without asking leave of the House, either with or without their reasons, shall cause their protestation or dissents to be entered into the Clerk's book the next sitting day of this House, before the hour of two o'clock, otherwise the same shall not be entered, and shall sign the same before the rising of the House the same day.

Speech: West Belfast Election.—On November 23, 1950,[1] in the House of Commons, the hon. member for Oldham W. (Mr. Leslie C. Hale) apologized for raising a matter without adequate notice, which, under the Rules of the House, must be raised to-day, if it was to be raised at all. His hon. and learned friend, the member for Hornchurch (Mr. Geoffrey Bing, K.C.) was travelling back from Ireland in the hope of calling attention to a question of Privilege. Therefore it became obligatory for someone to mention the matter at the earliest possible moment. The *Manchester Guardian* reported from their correspondent in Belfast as follows: (*for full quotation see below*).

Mr. Hale then asked Mr. Speaker to rule whether a *prima facie* case for Breach of Privilege had been made out.

Mr. Speaker stated that he had only heard at the end of Question time that this case was to be raised and therefore, he could not form a judgment at present but he would look into the matter which could be raised to-morrow.

On November 24,[2] in the House of Commons, Mr. Hale duly brought up the question and again drew attention to the report in the *Manchester Guardian* referred to above which mentioned a speech made by a Labour candidate quoting statements alleged to have been made by the Attorney-General for Northern Ireland. The Report said:

He said that the Unionist Press today had reported the Attorney-General as saying at an election meeting in West Belfast last night: " one thing stands out crystal clear. If Mr. MacManaway had been elected as a Socialist, he would still be a member of the Imperial Parliament." Mr. Warnock had also stated at the same meeting that Mr. MacManaway's rejection from the Imperial Parliament was a " dirty political trick ", and that he (Mr. MacManaway) had not been put out because he was a clergyman, but because the Socialist Party saw a way of using an old Act of Parliament to increase their slender majority from 6 to 8. Mr. Warnock had said that he wanted the people of West Belfast to " burn with indignation at this treatment ".

Since that statement, there had been placed in his hands a copy of the *Belfast News-Letter*, which appeared to be the report upon which the Labour member's speech was based.

West Belfast Fight.

Attorney-General and a " Dirty Trick ".

" One thing stands out crystal clear—if Godfrey MacManaway had been elected as a Socialist, he would still be a member of the Imperial Parliament," said Mr. Edmond Warnock, Attorney-General, at a meeting in Sandy Row, Orange Hall, Belfast, last night, in support of the candidature of Mr. T. L. Teevan, Unionist candidate for West Belfast.

Mr. Warnock went on to say:

Mr. MacManaway's rejection from the Imperial Parliament was a dirty political trick, and if the people of West Belfast were going to allow their representative to be put out and not to put in another man of the same kidney, they were not the people he believed them to be.

[1] 481 *Com. Hans.* 5, s. 526. [2] *Ib.* 653.

Later the report added:

Mr. Warnock declared that Mr. MacManaway had been put out of Parliament not because he was a clergyman but because the Socialist Party saw a way, by using an old Act of Parliament, to increase their slender majority from 6 to 8.

The hon. member (Mr. Leslie C. Hale) then said that on those facts he respectfully asked for Mr. Speaker's opinion as to whether a *prima facie* case for a Breach of Privilege had or had not been made out.

Copies of newspapers delivered in.

THE CLERK (SIR FREDERIC METCALFE, K.C.B.) *read the passages complained of.*

Mr. Speaker then said that, having heard the statement, he declared that a *prima facie* case had been made out, and it was his duty to inform the House that he had that morning received the following telegram the contents of which might assist the hon. member for Oldham in framing the Motion in which he should conclude his complaint. The telegram was addressed to "Speaker of the House of Commons, Westminster, London" and read:

I understand that a speech delivered by me at Belfest on Tuesday last is to be brought to your notice on a Question of Privilege. In Thursday's evening Press I caused the following statement to be published:

> On Tuesday evening last, when speaking at a meeting in support of the candidature of Mr. Tom Teevan, I made certain charges against the Socialist Party in regard to the proceedings which ended in the disqualification of Mr. MacManaway as a member of the United Kingdom Parliamnet. My speech was widely reported, and I am satisfied on reflection that my allegations were unjustifiable and that I ought not to have made them, and I want to withdraw them as publicly as I made them. I am very conscious of my fault and I deeply regret it. The words were spoken in the heat of political controversy. They should not have been spoken.
>
> You may perhaps consider—though I hope you will not—that my speech reflects also on the House of Commons or on the propriety of its actions. Whatever view you may take, I would assure you that when I was speaking nothing was further from my thoughts or intentions, and I cannot adequately convey to you in this telegram the sorrow which I feel at having allowed myself to fall into the error of using the language which I did use. If my words do in your view reflect either upon the House of Commons or on any of its members, then, Sir, I will tended to you and through you to them, a very humble and a very sincere apology.
>
> EDMOND WARNOCK.

The hon. member for Oldham W., then said that he had had very little opportunity of ascertaining the views of the House, but one was that this House would always wish to be generous and, in the case of an apology freely made and fully and frankly offered, in general it was the view of the House that it should be taken. There were 2 precedents, in 1845[1] and 1880,[2] in which the House by Resolution, without reference to the Committee of Privileges, gave its opinion

[1] 100 C.J. 72. [2] 135 *ib.* 54, 57, 60, 73, 74, 76, 77.

that a Breach of Privilege had been committed and recorded this in the Journal of the House, but decided that, in view of the apology, no further action be taken.

The hon. member then moved:

That Mr. Edmond Warnock is guilty of a breach of the privileges of this House, but that this House, having regard to the full and ample apology that has been offered to this House by him, will not proceed further in this matter.

—which was seconded by the hon. member for Hornchurch, who urged that the House adopt the generous course.

The hon. member for S. Ayrshire (Mr. Emrys Hughes), however, asked that the Attorney-General be brought to this House and disciplined in the correct manner, as in the case of the Editor of the *Evening News*.[1]

The hon. member for Birmingham, Perry Barr (Mr. C. C. Poole) moved to leave out all words from "That" to the end of the Question and to instert instead thereof:

the matter of the complaint be referred to the Committee of Privileges,

—which was duly seconded.

After a short debate, however, the amendment was by leave withdrawn. The Main Question was then put and agreed to.

(*See Editorial Note above* "House of Commons: Election of a Member (Clergyman of the Church of Ireland)".)

Northern Ireland.

Libel upon the House.—On May 31,[2] in the House of Commons, the hon. member for Queen's University, Belfast (Mrs. Calvert) asked to raise a matter affecting the Privileges of the House. It was reported in that morning's *Northern Whig*, that an hon. member of this House had read a statement in a letter from a Major Proctor reflecting on the integrity of the House, a copy of which newspaper the hon. Lady would place in the hands of Mr. Speaker. Mrs. Calvert now asked him to consider whether the matter should not be referred to the Committee of Privileges.

Mr. Speaker then asked the hon. member to bring the newspaper to the Table.

Copy of Newspaper delivered in.

The hon. member for North Armagh (Mrs. MacNabb) then placed the letter in the possession of Mr. Speaker (Rt. Hon. Sir Norman Stronge, Bart., M.C., H.M.L.), who directed the Clerk to read the letter.

THE CLERK AT THE TABLE *read the extract from the newspaper as follows*:

"That you should have received no support from members," the letter stated, "is a grave reflection on the integrity of the House which gave the impression of condoning, if not approving, the Minister of Health's unpardon-

[1] *See* JOURNAL, Vol. XVI. 278. [2] XXXIV. N.I. *Com. Hans.*, No. 28, 1229.

able action of endeavouring to influence the course of justice with a personal matter—namely, a plea from a dentist which she should have disregarded entirely."

Mr. Speaker then said that having heard that letter read and having himself seen it in the Press that morning—he ruled that there was a *prima facie* case for the Committee of Privileges.

The Minister of Finance (Major the Rt. Hon. J. M. Sinclair, D.L.) then moved:

That the passage complained of by the honourable member for Queen's University be referred to the Committee of Privileges, and that they do inquire into the same and report to the House.

Mr. Speaker:

If the hon. member referred to is in her place in the House she may now be heard if she wishes to say anything.

Mrs. McNabb said that, as a member of the Northern Ireland General Health Services Board, she personally took very strong exception to the Minister's letter that reached the Board, and felt that the fullest inquiry should be made into the matter.

Mr. Speaker:

If the hon. member would now withdraw from the House any other hon. member who wishes to say anything may do so.

The hon. member for North Armagh then withdrew from the House.

Question: "That the passage complained of by the honourable member for Queen's University be referred to the Committee of Privileges, and that they do inquire into the same and report to the House"—put, and agreed to.

On June 20,[1] the Report from the Committee of Privileges was presented and Ordered to lie upon the Table. It was further Ordered that the Report be taken into consideration on Tuesday next.

On June 27,[2] it was resolved: "That the Report of the Committee of Privileges be now taken into consideration" after which the Attorney-General (Rt. Hon. J. E. Warnock, K.C.) in moving:

That this House agrees with the Report of the Committee of Privileges and records its displeasure with the writing of the letter, but that no further action be taken.

—said that the Committee of Privileges were unanimously of opinion that the words complained of constituted a breach of Privilege and they reported accordingly.

The words used in the letter were plain and unambiguous and he recommended that the House agree with the Committee, but having said that, he would, for reasons he would now give, suggest that the House should content themselves with recording their displeasure with the writing of the letter and that no further action was necessary.

The Attorney-General challenged the right of any member of the

[1] *Ib. No.* 31, 1322. [2] *Ib.* No. 32, 1383.

public to pen the letter which Major Proctor wrote, if that letter was intended to be published or widely circulated, but he would be slow to say that a member of the public, feeling strongly upon such a matter, could not without offence write such a letter to his M.P. privately. In this case, if the writer of the letter had sought to give it a wide publicity at a public meeting or sent it to the Press or sought by any means to ensure wide publicity for his statement, then he would have suggested to the House that he (the writer) merited and should receive suitable punishment for his offence.

The Attorney-General said that he was justified in that view by practically all the precedents he had looked up. The British House of Commons, to which they must look for guidance in the matter of precedent had always laid emphasis upon the wide publication of a statement. But in this particular case the Report of the Committee showed that this letter was published without the authority of the person who wrote it, and that, indeed, if he had known that it was going to be published, the letter would have been differently phrased. Where the writer erred and brought himself within the jurisdiction of this House was when he permitted the limited circulation which he admittedly did agree to.

The words were undoubtedly a libel on the House. That libel on the House was not circulated by the writer. He thought that a letter marked "personal" meant that that letter was meant for the eye of the recipient and not for disclosure to anyone else without permission. If the writer of this letter had merely written the letter to Mrs. McNabb, if he had done nothing else, he (the Attorney-General) doubted very much whether the House would say he was guilty of any contempt.

But the writer took the precaution of marking his letter personal. He declined to give publicity to it, he declined to permit it to be sent to the Press, and he said that if he had known it was coming before the House he would have phrased it differently. In the circumstances, continued the Attorney-General, of which every member of the House was aware, he ventured to hope that the House, without debate, would see its way to agree with the Report of the Committee of Privileges.

Question proposed: "That this House agree with the Report of the Committee of Privileges, and records its displeasure with the writing of the letter, but that no further action be taken."

The Prime Minister (Rt. Hon. Sir Basil Brooke, Bart., C.B.E., M.C., D.L.) thought that the House would agree with what the learned Attorney-General had said. If the House agreed he suggested that the House records its displeasure at the letter, and leaves the matter like that. Question put, and agreed to.

Saskatchewan.

Newspaper Libel upon a Member.—On April 5, 1950, in the

Legislative Assembly, the Hon. J. H. Brocklebank, Minister of Natural Resources, raised a matter of privilege claiming that newspaper reports of a debate in the Committee of Supply concerning the disposition made by his Department of certain potential uranium-bearing areas in Northern Saskatchewan, as published in editions of *Regina Leader-Post* of March 31st, omitted his replies to certain questions raised by Mr. W. A. Tucker, K.C., Leader of the Opposition. The Minister claimed the questions, when published without his replies thereto, tended to cast suspicion on his integrity as a member of the Assembly and as a Minister of the Crown, and that by reason of this omission a breach of privilege had been committed.[1]

The Speaker (Hon. Tom Johnston) having declared that, in his opinion, *a prima facie* case had been made out, the Minister moved:

> That the matter of the claimed breach of privilege be referred to the Select Standing Committee on Privileges and Elections, together with the newspapers containing the reports complained of, and a transcript of the relevant discussion in Committee of Supply as recorded.[2]

The Leader of the Opposition thereupon raised a point of order that such a motion should not be made without Notice. Mr. Speaker deferred his ruling.

On April 6, Mr. Speaker ruled the motion in order, citing May[3] and Beauchesne,[4] to the effect that no Notice was required in such cases.[5]

The Minister then stated that, in the interim, he had considerable discussion with the Press representatives, and had ascertained that 2 members of the *Leader-Post* staff had written the report as published. One of these had reported the speech of Mr. Tucker, the other had reported his (The Minister's) reply; but, because of the lateness of the hour, they had not had an opportunity to compare notes. The result was that certain questions were not connected with the answers, and in some cases the answers were not given at all. Under the circumstances, and having voiced his objections to such reports, he would ask leave to withdraw the motion.[6]

Union of South Africa.

Publication of proceedings of Select Committee.[7]—On April 12, in the House of Assembly, the hon. member for Malmesbury, C.P. (Mr. S. M. Loubser) drew attention to an article in the *Cape Argus* of April 3, which, in his opinion, in commenting on the opposition of certain municipalities to a water scheme contemplated by the Southern Suburbs of Cape Town Water Supply Act Amendment (Private) Bill, then the subject of enquiry by a Select Committee, referred to the proceedings before such a committee.

[1] 1950 *Sask Hans.*, April 5, 1950, p. 1. [2] VOTES, No. 36, p. 1. [3] XIV Ed. at pp. 134, 136 *et seq.* [4] III Ed., 200. [5] 1950 *Sask. Hans.*, April 6, 1950, p. 1. [6] *Ib.*, p. 2. [7] *See also* JOURNAL, Vols. IV. 133; V. 200; XI-XII. 255; XV. 296.

Mr. Speaker in a ruling subsequently stated that he did not consider that the article complained of, although referring to the enquiry, actually constituted a breach of privilege in that it published the proceedings of the Select Committee before its report had been printed by order of the House. Mr. Speaker further pointed out that Select Committees sitting on Private Bills adjudicated on such Bills in a quasi-judicial manner and appealed to newspapers to refrain from dealing with such matters in a way which might prejudice the enquiry.[1, 2]

XXI. REVIEWS

May's Parliamentary Practice XVth Edition.[3]—Owing to the pent-up demands, the XIVth Edition of *May* was exhausted in less than 5 years and it became necessary to publish the 15th Edition unusually quickly for a work of this character. None the less, while the general style and construction of the work remain unaltered, a number of important changes are contained in this edition because of the intense Parliamentary activities which took place between 1945 and 1950, activities which included the Report of the Select Committee on Procedure in 1946.

Quite apart from any other changes a new edition was rendered essential by the complete recasting of the Standing Orders relating to Public Business, which include many drafting improvements and have been largely rearranged and renumbered, thus rendering previous editions completely out-of-date.

The Select Committee on Procedure had a number of almost revolutionary proposals before them, but with that intense conservatism which permeates members of all parties in respect of the procedure of the House, they rejected most of them. They accepted, however, a considerable recasting of Supply Procedure in the House whereby a March Guillotine somewhat similar to the July Guillotine was introduced. These changes are embodied in S.O. 16 and a further change is recorded in S.O. 17 (2), whereby matters involving legislation can, within certain limits, be discussed in Committee of Supply.

Among minor changes, an interesting experiment in devolution is exemplified by the new machinery whereby Scottish Bills can be sent in certain circumstances to the Scottish Standing Committee for the equivalent of a second reading debate and estimates relating to Scotland can and have been remitted to that Committee for discussion on not more than 6 days in any Session.

[1] 1950 VOTES, 71 *Assem. Hans.* 4061, 4165. [2] Contributed by the Clerk of the House of Assembly.—[ED.]

[3] *Sir Thomas Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament.* Fifteenth (1950) Edition. Edited by Lord Campion, G.C.B., D.C.L., formerly Clerk of the House of Commons; Assistant Editor, T. G. B. Cocks, O.B.E., a Clerk in the House of Commons. (1950. Butterworth and Co. (Publishers), Ltd., London. £4 4s.)

Another interesting change is the appointment of Business Committees and Sub-Committees to deal with the detailed allocation of time in connection with guillotine motions on public bills in Committees of the Whole House and Standing Committees respectively. This procedure has worked reasonably well in Standing Committees, though certain difficulties naturally arose, but in only one case has it so far been used for a Committee of the Whole House and it seems doubtful if the present composition of the Business Committee is entirely satisfactory.

Now that the return to more normal times has made some progress, it has been found desirable to remove many references to wartime expedients which were formerly embodied in the section on Emergency Procedure, and, since the granting of independence to India and Burma, references to those countries have been excluded.

It seems fitting at this stage to pay a tribute to the work of Lord Campion, who has been responsible for 2 editions of this monumental work in a brief space of time. There may be some who regret the disappearance of much of the old *May*, but to them it must be said that it had become somewhat irritating to read several pages of the text and then to find in a footnote a brief statement that this had been former procedure which had now become either obsolete or substantially modified. Perhaps the worst than can be said of Lord Campion is that he is a theorist who tends, perhaps, on occasion, to select those facts which suit his theories and to gloss over those that point in a contrary direction. That, however, detracts in no whit from his immense skill and knowledge of procedure and his lasting contribution to the study of procedure of the House of Commons, valuable alike to those who work there, to students everywhere and to those in the Dominions and Colonies who look to Westminster for some part, at any rate, of their own procedure.

Finally, it must be added that the excellent work of Mr. T. G. B. Cocks is now officially recognized as Assistant Editor. He it was who, behind the scenes, contributed so much to the XIVth Edition and took an equally prominent part in the preparation of this Edition.

The Eighth Edition of the *House of Commons Manual of Procedure in the Public Business*.[1]—The VI Edition of this indispensable book was reviewed in Volume III of our JOURNAL (at p. 102) where its origin and history were dealt with. Since that year (1934) both the XIV and XV Editions of *May* have been published, the former in 1946 and the latter in 1950. Therefore the Schedule at the foot of the review of the VI Edition in Volume III can be amended accordingly. Since that time there has been considerable revision of the House of Commons Standing Orders in the Public Business by the Select Committees of 1932[2], 1945-46[3] and 1948.[4] In the Prefa-

[1] *House of Commons: Manual of Procedure in the Public Business*. VIII Ed. 1951. (H.M.S.O. 7s. 6d.) [2] *See* JOURNAL, Vol. I. 42. [3] *Ib.* XVI. 104. [4] *Ib.* XVII. 181.

tory Note to the VIII Edition by the Clerk of the House of Commons, Sir Frederic W. Metcalfe, K.C.B., he refers to this work as having been prepared by a former holder of the office—the late Sir Courtney Ilbert, G.C.B., etc.—for the use of members and that the present Edition embodies the alterations in normal procedure made since the VII Edition. What is so useful in this Edition is that it includes references to *May* to date.

The late Walter Gale, C.M.G., the distinguished Clerk of the House of Representatives at Canberra, used to call *May* his bible and the Commons Manual his prayer book. He said that he had read the then current Edition of *May*, 25 times, which always gave him a great standby, for, whenever suddenly confronted with an unusual problem, even if he could not instantly put his finger on the page, his subconscious mind prevented him from committal to an incorrect opinion.

Sir Frederic Metcalfe and his redoubtable staff are to be congratulated on this new Edition of the Commons Manual (bound in the traditional Commons' colour—green) which is both set out and indexed on very practical lines. No Clerk at the Table, President, Speaker or Chairman of Committees should be without this most useful and necessary book.

The Entrenched Provisions in the South Africa Act (the Union Constitution).[1]—In the 1951 Session of the Union Parliament, the Separate Representation of Voters' Bill[2] was passed by both Houses bicamerally, to amend S. 35 of the South Africa Act 1909[3] by removing the Coloured voter from the common voters' roll, a right which principally affects the Cape Province, the number of such voters in Natal being insignificant.

The Constitution, however, provides that such Section can only be amended by a $\frac{2}{3}$ vote of the total number of members of the 2 Houses sitting as one body.

The introducers of this Government Measure, however, took up the position that since the adoption of the Statute of Westminster by the Union Parliament in 1931 and the Status of the Union Act, 1934,[4] the $\frac{2}{3}$ provisions in the South Africa Act no longer apply, notwithstanding the fact that, in order to safeguard the $\frac{2}{3}$ rights, the following Resolution was passed by both Houses at that time, to which both the Government and the Opposition solemnly subscribed, as a double assurance that the $\frac{2}{3}$ rights would be respected.

The Motion for the Resolution supporting the Statute of Westminster, which was proposed by the Prime Minister on April 14, 1931, reads:

That this House, having taken cognizance of the draft clauses and recitals

[1] *Parliamentary Sovreignty and the Entrenched Sections of the South Africa Act*, by D. V. Cowen, Professor of Law in the University of Cape Town and an Advocate of the Supreme Court of South Africa. (Juta. Cape Town. 1s.)
[2] Act No. 46 of 1951. [3] *See also* JOURNAL, Vol. V. 35. [4] No. 64.

which it was proposed by the Imperial Conference of 1930 should be embodied in legislation to be introduced into the Parliament at Westminster, approves thereof and authorizes the Government to take such steps as may be necessary with a view to the enactment by the Parliament of the United Kingdom of legislation on the lines set out in the Schedule annexed.

On the resumption of Debate on the 22nd *idem*, the Leader of the Opposition (General J. C. Smuts) moved an amendment to insert after the first word "That" the words:

"on the understanding that the proposed legislation will in no way derogate from the entrenched provisions of the South Africa Act".

This amendment, after being duly seconded, was accepted by all Parties in both Houses and without a division, as was also the Question: "That the Motion, as amended, be agreed to".

Nevertheless, the Separate Representation of Voters' Bill, supported by Rulings of the President of the Senate as well as by the Speaker of the House of Assembly was taken through both Houses as an ordinary measure, where it was hotly contested.

After the Bill had been passed it was decided to test its validity in terms of Ss. 34 and 152 of the Constitution, and proceedings were instituted in the Cape Division of the Supreme Court of South Africa, in Harris and another *v.* T. E. Dönges, N.O., and another.

The applicants were 4 Coloured voters on the Cape common roll and the respondents, Dr. T. E. Dönges, Minister of the Interior, and Mr. P. H. Savage, Cape Electoral Officer.

The application was, however, on October 2 dismissed with costs on the grounds that the Lower Court was not competent to inquire into an Act of Parliament, in view of the decision of the Appellate Division of the Supreme Court of South Africa in the Ndlwana case.[1]

Professor Cowen, in his admirable essay, advances reasons to support the following contentions:

1. That the efficacy of the entrenched sections has never depended on the existence of the Colonial Laws Validity Act, 1865, and that, accordingly, the repeal of that Act, in so far as it applied to the legislation of the Union Parliament, is irrelevant.

2. That although the Statute of Westminster, 1931, did more than repeal the applicability to the Union of the Colonial Laws Validity Act, it did not impair the efficacy of the entrenched sections.

3. That the decision of the Privy Council in Attorney-General for the Irish Free State *v.* Moore does not affect the validity of either of the aforementioned propositions.

4. That the Status of the Union Act, 1934, carried the matter no further than the Statute of Westminster had done.

5. That should the question of the efficacy of the entrenched sections come squarely before the Appeal Court, that Court need not, and should not, be fettered by the decision in Ndlwana *v.* Hofmeyr, N. O., 1937, A.D. 229.

6. That the present efficacy of the entrenched sections is in no way incompatible with the sovereign status of South Africa or with the sovereignty of the Union Parliament.

The case is to be heard by the Appellate Division of the Supreme

[1] *See* JOURNAL, Vol. VI. 216.

Court of the Union on February 22, 1952, but in preparation for its treatment in the next issue of the JOURNAL, our constitutional readers are recommended to study this very well reasoned and learned essay by Professor D. V. Cowen, in which he gives a very thorough treatment of the subject.

Western Australia Parliamentary Handbook.[1]—The Fourth Edition of this very useful and informative record of the Western Australia State Parliament was reviewed in Volume XIII (at p. 266) of our JOURNAL. The Sixth Edition revised up to 1950 has now been received and is well up to the standard of its predecessors.

XXII. 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[2] 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[3] gave a list of works on Canadian Constitutional subjects and Volumes IV[4] and V[5] a similar list in regard to the Commonwealth and Union Constitutions, respectively.

Volumes II,[3] III,[6] IV,[7] V,[8] VI,[9] VII,[10] VIII,[11] IX,[12] X,[13] XI-XII,[14] XIII,[15] XIV,[16] XV,[17] XVI,[18] XVII,[19] and XVIII[20] 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 1950.

[1] *The Western Australia Parliamentary Handbook.* VI Ed. (Government Printer, Perth, W.A.)

[2] 123-6. [3] 137, 138. [4] 153-4. [5] 223. [6] 133. [7] 152. [8] 222. [9] 243. [10] 212 *et seq.* (starred items). [11] 223-6 (starred items). [12] 170. [13] 196. [14] 267. [15] 270. [16] 274. [17] 297. [18] 300. [19] 343. [20] 309.

Bonnault, Claude de.—Histoire du Canada Francais (1534-1763). (Paris: Presses Universitaires de France.) 600 fr.

Coatman, John.—The British Family of Nations. (Harrap.) 10*s.* 6*d.*

Cowen, D. V.—Parliamentary Sovereignty and the Entrenched Sections of the South Africa Act, 1951. (Juta, Capetown.) 1*s.*

Crisp, L. F.—The Parliamentary Government of the Commonwealth of Australia. (Longmans.) 21*s.*

Gale, W. D.—Heritage of Rhodes. (O.U.P. London: Cumberlege.) 10*s.* 6*d.*

Gérin-Lajoie, P.—Constitutional Amendment in Canada. (University of Toronto Press.) (O.U.P.) $5.50.

Glazebrook, G. P. de T.—A Short History of Canada. (Oxford: Clarendon Press; London: Cumberlege.) 10*s.* 6*d.*

Gough, J. W.—John Locke's Political Philosophy. (Oxford: Clarendon Press; London: Cumberlege.) 12*s.* 6*d.*

Graham, Gerald S.—Canada. (Hutchinson's University Library.) 7*s.* 6*d.*

Hardy, H. Reginald.—Mackenzie King of Canada. (O.U.P. London: Cumberlege.) 30*s.*

Hastings, Maurice.—Parliament House. (The Architectural Press.) 12*s.* 6*d.*

Hostetter, Rudolf.—The Printer's Terms. (Alvin Redman.) 21*s.*

House of Commons: Manual of Procedure in the Public Business. VIIIth ed., 1951. (H.M.S.O. London.) 7*s.* 6*d.*

Jennings, Sir Ivor.—The Constitution of Ceylon. (O.U.P. London: Cumberlege.) 16*s.*

Journal of Comparative Legislation and International Law.—Vol. XXXII. Parts I and II, May, 1950; and III and IV, November, 1950. (Royal Empire Society: Northumberland Avenue, London, W.C.2.) 10*s.* each.

Keeney, Barnaby C.—Judgment by Peers. (Harvard University Press; London: Cumberlege.) 20*s.*

Keir, Sir David Lindsay.—The Constitutional History of Modern Britain, 1485-1937. IVth Ed. (Black.) 25*s.*

Kelsen, Hans.—The Law of the United Nations. (Stevens and Sons.) £5 5*s.*

Kinvig, R. H.—A History of the Isle of Man. (Liverpool University Press.) 7*s.* 6*d.*

Macmillan, Lord.—Law and Custom. (Thomas Nelson.) 2*s.* 6*d.*

May, Sir T. Erskine.—XVth ed. Edited by Lord Campion and T. G. B. Cocks. (Butterworth and Co. (Publishers) Ltd.) 84*s.*

Ogg, F. A. and Zink, Harold.—Modern Foreign Governments. (Macmillan.) 45*s.*

Western Australia Parliamentary Handbook. VIth ed. (Government Printer: Perth, W.A.)

XXIII. LIST OF MEMBERS

JOINT PRESIDENTS

Henry H. Cummings, Esq. H. Robbins, Esq., M.C.

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Secretary of the Legislature, Fort St. George, Madras.
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C. C. Chowdhuri, Special Officer of the West Bengal Legislative Assembly, Calcutta, W. Bengal.
Sri Surat Chandra Das, M.A., B.L., Secretary of the Legislative Assembly, Cuttack, Orissa.
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Sri T. C. Shrivastava, Esq., M.A., LL.B.,* Secretary of the Legislative Assembly, Nagpur, Madhya Pradesh.

Indian States.[1]

Hyderabad. Md. Hamiduddin Mahmood, Esq., H.C.S., Secretary of the Legislative Assembly Dept., Hyderabad, Deccan.
Jammu and Kashmir. The Secretary to the Government, Praja Sabha (Assembly) Department, Srinagar.[2]

[1] Many States are being grouped, others are being absorbed into Provinces.—[ED.] [2] In dispute between India and Pakistan. The ultimate fate of this State to be decided by plebiscite under U.N.O.—[ED.]

* Barrister-at-Law or Advocate.

States Acceded to India.

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Kenya Colony.

Clerk of the Legislative Council, Nairobi.

Federation of Malaya.

Raja Ayoub, Clerk of Councils, Kuala Lumpur.

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Nigeria.

S. Ade Ojo, Esq., Hon. M.B.E., Clerk of the Legislative Council, Lagos.

Colony of Singapore.

The Clerk of the Councils, Singapore.

Anglo-Egyptian Sudan.

M. F. A. Keen, Esq., B.A.(Cantab.), Clerk of the Legislative Assembly, Khartoum.

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Winston Fung, Esq., Clerk of the Legislative Council, Port of Spain.

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XXIV. 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.*

Raja Ayoub.—Clerk of the Federal Legislative Council and Federal Executive Council, Federation of Malaya; *b.* Bukit Raja, Klang, Selangor, February 17, 1909; *ed.* Malay College, Kuala Kangsar, Perak and Lincoln College, Oxford; Malayan Civil Service; appointed to present position November 1, 1950.

Bedi, Dr., K. C., M.A., Ph.D.*—Secretary of the East Punjab Legislative Assembly, member of the Inns of Court (Middle Temple); practised as an Advocate of the High Court at Lahore 1936-46; Reader in Constitutional Law and Jurisprudence, University of Lahore, 1946-1947; teaching at Lahore and afterwards at University Law College, Simla until 1949, when appointed Special Duty Officer to succeed Sardar Bahadur Sardar Abnasha Singh;[1] appointed to present position August 1, 1951.

* Barrister-at-Law or Advocate.
[1] *See* Editorial hereof.

Bois, F. de L., M.A.(Oxon).*—Greffier of the States of Deliberation, Jersey, since 1947 and Law Draftsman since 1936; also the *ex officio* Secretary of Committees, sub-Committees and other delegations of the States.

du Toit, C. T., M.A., LL.B., B.Ed.*—Clerk-Assistant, House of Assembly, Union of South Africa; *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; Second Clerk-Assistant, 1946; appointed to present office July 1, 1950.

du Toit, J. P., B.A.—Clerk-Assistant of the Senate of the Union of South Africa; *b.* November 9, 1920; *ed.* Boys' School, Stellenbosch and University of Stellenbosch; appointed Senate Staff, 1941; Clerk of Papers, 1944; Gentleman Usher of the Black Rod, 1946; appointed to present office, 1951.

Emerton, W. I.—Second Clerk-Assistant of the Senate, Commonwealth of Australia; qualified Accountant and Secretary; *b.* May 21, 1901, entered Commonwealth Public Service 1917; transferred to Parliamentary Service, 1927; Secretary to Joint Parliamentary Committee on War Expenditure 1942-1946; appointed to present office May, 1950.

Goodman, V. M. R., C.B., O.B.E., M.C.—Reading Clerk and Clerk of Outdoor Committees, House of Lords; Clerk in the Parliament office 1920; Judicial Taxing Clerk 1925; also Clerk in charge of historical records 1926; also Judicial Taxing Officer 1934; Chief A.R.P. and Security Officer of the Palace of Westminster (on release from the Parliament Office) 1941; Principal Clerk of the Judicial Office 1946; in addition appointed Reading Clerk of the House of Lords, 1949.[1]

Govil, S. L., M.A.(Econ.), LL.B.—Secretary to the Uttar Pradesh Legislative Council, April 1, 1946; prior to which Superintendent in Legislative Department of United Provinces Government; M.A. degree in Economics (Allahabad University) and LL.B. (Lucknow University).

Hugo, J. M., B.A., LL.B.*—Clerk of the House, House of Assembly, Union of South Africa, 1950; *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; Clerk-Assistant, 1946; appointed to present office, July 1, 1950.

Keen, M. F. A., B.A.(Cantab.).—Clerk of the Legislative Assembly of the Sudan; *b.* November 27, 1903; *m.* 1948; 1 *d.*; *ed.* Haileybury and St. John's College, Cambridge. Mechanical Sciences Tripos 2nd Class. Joined Sudan Political Service as Assistant District

* Barrister-at-Law or Advocate.

[1] *See also* JOURNAL, Vol. XVIII. 38.

Commissioner 1936; Assistant Civil Secretary and Secretary to Governor-General's Council 1947; attached to the office of the Clerk of the House of Commons April-July, 1948; appointed Clerk to the newly constituted Legislative Assembly December, 1948.

Lascelles, F. W., C.B., M.C.—Clerk-Assistant of the Parliaments, House of Lords; appointed a Clerk in the Parliament Office, January 1, 1919; Principal Clerk, Public Bills, 1925-49; Reading Clerk and Clerk of Outdoor Committees, 1937-1949; appointed to present position, 1949.

Le Page, James E.—Her Majesty's Greffier of the States of Deliberation, Guernsey; Her Majesty's Greffier of the Royal Court of Guernsey, Clerk and Registrar to the States of Deliberation and Election; is also Registrar-General of Marriages, Births and Deaths as well as Registrar of Companies and of Divorce Proceedings.

Overbury, Sir Robert L., K.C.B.—Clerk of the Parliaments, House of Lords; Secretary of Commissions of the Peace, Lord Chancellor's Office, 1923-30; Establishment Officer, Lord Chancellor's Office, 1930-34; Reading Clerk and Clerk of Outdoor Committees, 1934-37; Clerk-Assistant of the Parliaments, House of Lords, 1937-49; appointed to present position, 1949.

Radice, P. W., B.A.(Oxon.).—Clerk to the States and Court of Alderney; *b.* June 18, 1908; *ed.* Blundell's School and Exeter College, Oxford; scholarship in Modern History and First-class Honours in History at Exeter Coll.; I.C.S. 1931-49; Secretary to the Government of the United Provinces in the Public Health and local self-Government Departments 1945-47; appointment to present position, 1949.

Roberts, J. B., M.B.E.—Clerk-Assistant of the Legislative Council of Western Australia and Usher of the Black Rod; *b.* 1913. Joined Legislative Council staff 1928; Clerk of Records and Accounts 1936; Secretary Joint House Committee and House Controller 1947; active service with Australian Imperial Forces 1939-1946; demobilized with rank of Major. Appointed to present position June, 1951.

Sparks, A. B.—Clerk of the Legislative Council and Clerk of the Parliaments, Western Australia; joined Parliamentary Staff, 1923; Clerk of Records and Accounts, 1931-36; Clerk-Assistant and Usher of the Black Rod, 1936-51; served in A.I.F., 28th Batt., 1916-18; appointed to present position April, 1951.

Tatem, G. S. C., B.A.(Oxon.).—Clerk, House of Assembly, Bermuda; appointed Clerk-Assistant by His Excellency the Governor, September 1, 1938; Oath of Allegiance administered by His Honour the Speaker, October 26, 1939; appointed to present position June, 1941.

Tierney, J. J. P.—Usher of the Legislative Council and Clerk of the Records, Victoria, Australia; *b.* 1909, South Yarra, Victoria; Clerk in Education Department, 1926-37; appointed to Parlia-

mentary Staff, 1937; Assistant Clerk of the Papers, Legislative Assembly, 1938-46; Clerk of the Papers, 1946-50; appointed to present office, February, 1950.

Turner, A. G., J.P.—Second Clerk-Assistant of the House of Representatives, Canberra; *b.* December 11, 1906; appointed Speaker's Secretary and Junior Clerk, 1924; Speaker's Secretary and Reading Clerk; 1927; Accounts Clerk and Reading Clerk, 1929; Clerk of Papers and Accountant, 1937; Clerk of Records and Assistant Clerk of Committees, 1939; February 18, 1942 to January 1, 1946, on loan to Department of Supply and Shipping as Administrative Officer, Petroleum Division; Serjeant-at-Arms, 1946; September 25, 1950, to October 29, 1950, Acting Clerk-Assistant; appointed to present position 1949.

Victor, J. J. H., B.A.—Second Clerk-Assistant, House of Assembly, Union of South Africa; *b.* April, 1918; *ed.* Boys' High School, Paarl, University of Stellenbosch; appointed in Department of Social Welfare, 1941; Clerical Assistant, House of Assembly, 1946; appointed to present office July 1, 1950.

Wood, W. T., B.A., LL.B.—Clerk of the Senate of the Union of South Africa; Clerk of the Papers, 1936; Gentleman Usher of the Black Rod, 1941; Clerk-Assistant, 1946; appointed to present office, 1951.

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Amdts.=Amendments.
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Printed in Great Britain by
Billing and Sons Ltd., Guildford and Esher
G4263