



SOUTH AUSTRALIA

Her Majesty opens Parliament. The Private Secretary is about to hand the Speech to Her Majesty.



CEYLON

Her Majesty opens Parliament. The Prime Minister presents the Speech from the Throne.

To face title page.

The Table

BEING

THE JOURNAL OF
THE SOCIETY OF CLERKS-AT-THE-TABLE
IN COMMONWEALTH PARLIAMENTS

EDITED BY

R. W. PERCEVAL AND C. A. S. S. GORDON

VOLUME XXIII

for 1954

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USUAL SESSION MONTHS OF PARLIAMENTS AND LEGISLATURES

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The Table

BEING

THE JOURNAL OF THE SOCIETY OF CLERKS-AT-THE-TABLE IN COMMONWEALTH PARLIAMENTS

I. EDITORIAL

Visit of Honorary Life President.—So far as the Society can be said to have a headquarters, they are presumably at the moment at Westminster; and we have been both assisted in our labours and delighted for other reasons in receiving a visit early this summer from our indefatigable Honorary Life President. Mr. Clough has been staying, with his family, in London, and has been able to maintain fairly constant touch with the working of the Society. Whatever his private opinions may have been, he has given vent to no criticism as yet of our operations; and it goes without saying that the Editors have been greatly fortified and helped by his presence. Several agreeable social occasions have been passed in reminiscence and discussion; one or two pregnant suggestions have been made; and the Editors very much hope that in the future they may again the pleasure of meeting the Honorary Life President and receiving the benefit of his unique experience as founder of the Society.

Accounting year of the Society.—Forty-one papers have been sent in on the proposed amendment to Rule 9 of the Society by which it is proposed that the Annual Report, instead of being ordered to be published in each issue of the JOURNAL, shall be circulated separately each year to members. All the votes so far are in favour of the change; and no objection has been received to the proposal—which, as we frankly admit, was made for the convenience of the Editors—that the accounting year of the Society should in future run from 1st December to 30th November. These changes in the practice of the Society will therefore be made this year, and the difficulties with which the Treasurer was faced in simultaneously making up the Society's accounts and editing a number of THE TABLE will be correspondingly eased. Members may expect their Annual Reports to be posted about the beginning of each year, when the audit is complete.

Introduction to Volume XXIII.—In the preceding volume, the

parliamentary aspects of Her Majesty's visit to Bermuda, Jamaica, Fiji and New Zealand during 1953 and the early part of 1954 were described by the Clerks of the Legislatures concerned; the story is continued in Article II of the present Volume, which contains accounts of the subsequent stages of the Royal Tour in Australia, Ceylon, Aden, Malta and Gibraltar, and the Addresses of Welcome by the Lords and Commons on Her Majesty's return to the United Kingdom.

Previous Volumes of THE TABLE have contained brief accounts by the Gentleman Usher of the Black Rod and the Deputy Serjeant at Arms of the House of Commons of the duties and history of their Office (see Vol. XIX, p. 128; Vol. XX, p. 133). The fact that during 1954 no less than four Houses have sent us descriptions of the presentation of a Mace or Black Rod has prompted us to gather these descriptions into one Article, prefaced by a general historical conspectus of the use of these emblems of office, and the changing functions of their bearers, in the service of the Kings and Queens of England.

The response of Members to our Questionnaire for Volume XXII has enabled us to include a comprehensive Article (IV) on the application of the rule limiting debate on matters *sub judice*. This topic is further touched upon in Articles VI and IX. The former, contributed by Sir Edward Fellowes and Mr. R. D. Barlas, describes proceedings in the High Court in relation to the *vires* of certain statutory instruments which were currently being debated in the United Kingdom Parliament; in the latter the Clerk-Assistant of the Australian House of Representatives describes how the rule was applied in that House to the proceedings of a Royal Commission.

Apart from the numerous amendments of Standing Orders which are included in Section 7 of Article XXI ("Miscellaneous Notes"), the major revision of the Standing Orders of the House of Lords which took place in 1954—only the third in over three centuries—is accorded a separate Article.

Despite the care and labour which were spent upon planning the rebuilding of the House of Commons after its destruction during the war (see Vol. XIII, p. 103), problems of accommodation have grown in acuteness since the new Chamber was occupied. We are indebted to the Clerk to the Select Committee on House of Commons Accommodation, etc., which was set up in two successive Sessions with widely ranging orders of reference, for an Article describing the Committee's main conclusions, and the action subsequently taken thereon.

Although preceded by the appointment and Report of a Select Committee on Members' Expenses, the institution in 1954 of a sessional allowance of £2 per sitting day to Members of the House of Commons formed no part of that Committee's recommendations. An Article contributed by Mr. A. A. Birley affords convincing proof that the House of Commons, unlike many continental legislative

Houses, is in no danger of becoming the mere executor of the decisions of its committees.

The Clerk of the Union House of Assembly has contributed his usual Article, for which we are grateful, on precedents and unusual points of procedure.

The story of the inception of the Rhodesia and Nyasaland Federation, which was begun in Volume XXII (pp. 99, 104) is continued in the present Volume by two Articles by the Clerk of the Federal Assembly describing the preliminary steps which were taken in setting up the new Assembly, and the opening of the First Session of the First Parliament.

In 1954, as in previous years, there have been several examples of constitutional reform. Articles are included describing the material amendments which were made to the Constitution of the Gold Coast, the provision of electoral machinery for the Legislative Council of Malaya, the new federal constitution which was granted to Nigeria, and constitutional reform in Singapore. We are also glad to be able to print an Article dealing with the progress of the Sudan in 1953 and early 1954 towards self-government and self-determination, which we were compelled, for reasons of space, to exclude from Volume XXII.

An article has been included upon the findings of the Commission which was set up to enquire into the resignation from his office of Mr. Braimah, a Gold Coast Minister. Readers may wish to compare the findings of this Commission with those of the "Lynskey Tribunal", which were described in great and illuminating detail by Mr. Clough in a former volume (No. XIX, p. 132).

We are indebted to the Clerk of the Legislative Council of Kenya for a scholarly analysis of the differing types of statutory provision for the control of delegated legislation in Kenya, together with suggestions for simplification and procedural expedition.

Rulings from the Chair of the House of Commons and Expressions in Parliament are accorded their usual Articles, and miscellaneous items of comment and description are segregated into a separate chapter.

Sir Robert Leslie Overbury, K.C.B.—On 11th January, 1955, Sir Robert Overbury, Clerk of the Parliaments from 1949 to 1953, died at the age of 67. He was born in 1887, and began his official career in 1919, when he became one of the Clerks in the Royal Courts of Justice. Matters connected with the conditions of service of the Clerks in the Law Courts brought him to the notice of Lord Schuster, then Clerk of the Crown in Chancery. As a result of the good impression that he made at that time,

he was transferred to the immediate service of the Lord Chancellor, and became in 1923 Secretary of Commissions of the Peace. In that capacity he was responsible, in the Lord Chancellor's Office, for giving advice and guidance in the selection of Justices and the operation of the Commissions of the Peace throughout the country. In 1930, his special talents in the management of staff took him to the post of Establishment Officer in the Lord Chancellor's Office, whence he was transferred by Lord Chancellor Hailsham in 1934 to the Table of the House of Lords, as Reading Clerk.

In this new sphere his pleasant character soon secured him acceptance and friendship, and in due course he became Clerk Assistant in 1937, and Clerk of the Parliaments in 1949. In the latter post his easy and agreeable spirit quickly won the respect and affection of the House and of his colleagues; and though he was beset by ill-health in the few years that he held the office of Clerk of the Parliaments, he endeared himself to all during his tenure of the post, and his retirement in 1953 was the occasion of warm tributes.

Despite further physical misfortune in his last years, he remained contented and cheerful until the end; and his death was sincerely mourned by a large circle of colleagues and friends.

Ralph P. Kilpin, LL.D.—We regret to announce the death in Cape Town on 17th March, at the age of 67 years, of Mr. Ralph Kilpin, the former Clerk of the Union House of Assembly. His death followed a serious internal operation.

Mr. Kilpin was a son of the late Sir Ernest Kilpin, K.C.M.G., for many years the distinguished Clerk of the House of Assembly of the Colony of the Cape of Good Hope, and at the close of his career one of the Secretaries to the South African National Convention, 1908-9, which drew up the Act of Union, viz.: the South Africa Act, 1909 (9 Edw. VII, c. 9).

Ralph Kilpin may therefore well be said not only to have been trained but nurtured in the Parliamentary tradition, for ever since he became Clerk of the Papers on his father's staff in 1905 right up to the day of his death and the publication of the Third Edition of his work on *Parliamentary Procedure in South Africa* (brought up to the end of 1954), his whole life was devoted, both in heart and soul, to the service of all that is "Parliament".

His record of service, the tributes paid to him upon his retirement in 1950 by the then Prime Minister of the

Union, Dr. the Hon. D. F. Malan, and the Leader of the Opposition, General the Rt. Hon. J. C. Smuts, after 45 years' service, 32 years of which was as a Clerk at the Table of the House of Assembly of the Union Parliament and 10 years of that time as the Clerk of the House, as well as the reviews of his *magnum opus*, are recorded in the JOURNAL (Vols. I, 134; IX, 177; XIV, 271; XVIII, 307; XXI, 16; and the present Volume, p. 184.

Ralph Kilpin was also author of *The Old Cape House* and *The Romance of a Colonial Parliament*. His great work, the *Annotated Digest of Speakers' Decisions* (1854-1950), which took him 25 years to compile, was generously presented by him to the Union House of Assembly in manuscript form.

In whatever direction he could be of service, Ralph Kilpin gladly stepped forward, whether as Beit Lecturer in Southern Rhodesia on "Parliamentary Government"; as the framer of the Rules of Procedure of the Legislative Assembly of South-West Africa and the inauguration of its opening; or acting as assessor at the periodical and bye-elections under P.R. of the Union Senate. He was also the author of many pamphlets on subjects of Parliamentary procedure. In World War I he gallantly volunteered for service in 1916-17 as a private in the South African Infantry in German East Africa.

It is, however, as a Founder-Member of our Society and a generous contributor of many articles to its JOURNAL that Mr. Kilpin is best known to our more widespread readers. Ralph Kilpin was indeed a most ardent Member, and nothing was ever too much trouble for him to do in promotion of the objects and interests of the Society.

Had the practice of awarding honours to distinguished servants of the State not been discontinued some years ago, Ralph Kilpin would certainly have been an early recipient. In 1952 the University of Cape Town recognised his outstanding contribution to the South African Parliamentary system, by conferring upon him the degree *honoris causa* of Doctor of Laws.

Mr. Kilpin was educated at the Diocesan College, Rondebosch, and in 1914 married Hilda, daughter of the late G. M. Robinson of Rondebosch. Both Ralph Kilpin and his wife were, throughout their lives, devoted workers in the cause of Animal Welfare.

So great was the interest of Mrs. Kilpin in all the work of her husband that even in his last hours she was helping him in the final check-up of references in the Third Edition of his work on Parliamentary Procedure, truly a great

and worthy monument to his memory and one to be continued and developed into a veritable "May" of South Africa in the fullest sense.

Every Member of our Society will extend to Mr. Kilpin's widow and all the members of the family the deepest sympathy with them in their great bereavement, but they will have the satisfaction of knowing that Ralph Kilpin's name will go down in the history of South Africa as a great and distinguished servant of Parliament and a staunch supporter of Parliamentary government.

(Contributed Mr. Owen Clough.)

E. A. N. ffoulkes Crabbe.—The death took place at his home in Accra on 25th May, 1955, of Mr. E. A. N. ffoulkes Crabbe, Clerk to the Legislative Assembly of the Gold Coast, following a heart attack.

The esteem in which Mr. ffoulkes Crabbe was held was in evidence at his funeral service held in the Holy Trinity Cathedral, which was filled to overflowing with Cabinet Ministers, Members of the Legislative Assembly, heads of the Consular Corps, representatives of the Bench and the Bar, high ranking Civil Servants and many other distinguished people.

Born on 3rd March, 1905, Mr. ffoulkes Crabbe was called to the Bar in 1941 after studying in the Middle Temple. On his return to the Gold Coast in 1942 he practised as a Solicitor and Advocate. In 1948, he gave up his practice and took up a Government appointment as a District Magistrate. He served in that capacity for four years and once acted as Senior District Magistrate. In 1952 he was appointed Clerk to the newly constituted Legislative Assembly, which honourable position he held till his demise.

Mr. ffoulkes Crabbe's civic contribution to his country included his election on two occasions to the Cape Coast Town Council, during the period 1945 to 1948. At that time, his wife Mercy, to whom His late Majesty King George VI had been pleased to award the M.B.E., was also a Member of the same Town Council. Mr ffoulkes Crabbe was awarded the Coronation Medal in 1953.

Members of the Bench and Bar paid glowing tribute to Mr. ffoulkes Crabbe's character, integrity and friendly co-operation, a tribute which was shared by Members of the Legislative Assembly. Everywhere people said his death was "a loss to the country". From outside the Gold Coast came tributes from people who had met Mr. ffoulkes Crabbe. As Secretary of the Gold Coast Branch of the Commonwealth Parliamentary Association, Mr. ffoulkes

Crabbe was highly respected. The Secretary of the General Council in London described him as an "excellent officer", and "a good Secretary of the Commonwealth Parliamentary Association of the Gold Coast" who "will be greatly missed".

Mr. ffoulkes Crabbe is survived by a widow and a daughter.

(Contributed by the Assistant Clerk of the Legislative Assembly.)

Honours.—On behalf of our Members, we wish to congratulate the under-mentioned Members of our Society who have been honoured by Her Majesty the Queen since the last issue of THE TABLE:

K.C.B.—E. A. Fellowes, Esq., C.B., C.M.G., M.C., Clerk of the House of Commons.

C.B.—D. J. Gordon, Esq., Clerk-Assistant of the House of Commons.

C.B.E.—E. V. R. Samerawickrame, Esq., Clerk of the Senate, Ceylon.

M.B.E.—Mallam Umaru, Gwandu, Clerk of the Northern Regional House of Assembly, Nigeria.

Mr. Speaker Metcalfe.—We extend our warmest congratulations to Sir Frederic Metcalfe, K.C.B., a former Clerk of the House of Commons, on his appointment as Speaker of the Nigerian House of Representatives, which is mentioned upon p. 122.

On the first meeting of the new House of Representatives on 12th January, 1955, His Excellency the Governor-General (Sir John Macpherson, G.C.M.G.), during the course of his speech, observed:

I am sure that it would be your wish, as it is the wish of my Ministers, that I should, on your behalf, welcome the presence here today of Sir Frederic Metcalfe as your Speaker. In common with other Legislatures of the Commonwealth, former Nigerian Legislatures—and particularly the last House of Representatives—have used as their model, for their procedure and their conduct of business, the House of Commons, the first-born of "England—the Mother of Parliaments". In recent years, with the generous indulgence of the Speaker of the House of Commons and of Sir Frederic himself, we have had most valuable help from officers of the House of Commons—notably Mr. Fellowes, our good friend and wise tutor. Many of you who are present today probably only know him by name and reputation but I think that this House will wish to send sincere congratulations to him on becoming Clerk of the House of Commons in succession to Sir Frederic Metcalfe and on the honour of K.C.B. conferred upon him by Her Majesty in the New Year Honours. It is a matter for self-congratulation that we should have prevailed upon Sir Frederic, who was Mr. Fellowes' Chief and whose mantle as Clerk of the House of Commons has now fallen upon Mr. Fellowes, to come to Nigeria to preside over this first meeting of the Federal Legislature. It has been the subject of admiring comment from visitors who are competent to judge that

the members of the former House of Representatives most quickly and successfully adopted all that is best in the procedure of the British House of Commons. I have no doubt that under the guidance of Sir Frederic, this House, in spite of the very great influx of new Members, will worthily carry on in the same tradition.

(Fed. H. R. *Hansard*; 1st Sess., pp. 8-9)

On 18th January, on the motion for the Adjournment at the conclusion of the Session, Mr. J. M. Udochi (Kukuruku Division) made the following remarks:

Mr. Speaker, in rising to speak on the motion on the adjournment I hope I shall be voicing the sentiments of all sections of this House if I say I want to have it put on record how grateful we are to you, Mr. Speaker, for the very able and efficient manner in which you have conducted the business of this House. (*Hear, Hear.*) In this particular, Sir, this House is very fortunate that, with its complement of very many new Members who know very little or nothing about Parliamentary procedure, it has the services of a Speaker with your unique experience. We are very grateful and pray that you may be spared to be here the next time this House meets (*Hear, Hear*) and direct its affairs.

As I have been sitting here, Sir, since the commencement of this session I have watched with admiration the dexterity with which, Mr. Speaker, you have piloted us through the many complicated but very interesting processes through which a Bill passes in order to become law. I have been very much impressed by your patience and tact and the very studied desire you have to put everyone of us at his ease even though at times we have put your stock of patience severely to the test.

(*ibid.*, p. 114)

Agreement with these sentiments was expressed by several Members, until the Acting Chief Secretary, rising to a point of order, observed that while the Government wholeheartedly associated itself with these sentiments, it appeared that the matter was not within Ministerial responsibility. Mr. Speaker replied:

It is the duty of the Speaker to be stern in his rulings, I am sure, and it is very difficult to be stern on this occasion . . . However, I am deeply moved by the irrelevancies and the irregularities of this debate on the adjournment. It is hard enough to stop it, though I am thankful to the Chief Secretary for taking this point of order; and I must rule that Honourable Members should confine their attention to matters for which the Government are responsible.

For the conduct of the Speaker, if it be bad, there is a remedy—to put down a motion against him; if it be good, I think you must take it as part of his duty.

(*ibid.*, p. 118)

This is the first occasion on which any Member of the Society has received a permanent appointment of this nature, and on the Society's behalf we wish Sir Frederic many enjoyable years of the unusually strenuous form of "retirement" to which he has been called.

Acknowledgments to Contributors.—We have pleasure in acknowledging articles in this volume from Mr. H. Robbins, M.C., Clerk of the Legislative Assembly of New South Wales; Mr. R. H. C. Loof,

Clerk of the Senate of the Australian Commonwealth; Mr. E. C. Briggs, Clerk of the Legislative Council of Tasmania; Mr. R. S. Sarah, Clerk of the Legislative Council of Victoria; Mr. G. D. Combe, M.C., Clerk of the House of Assembly of South Australia; Mr. I. J. Ball, Clerk of the Legislative Council and Clerk of the Parliaments, South Australia; Mr. R. St. L. P. Deraniyagala, M.B.E., Clerk of the House of Representatives of Ceylon; Mr. V. A. Dillon, M.B.E., Clerk of the Legislative Assembly and Clerk of the Executive Council of Malta, G.C.; Mr. E. K. De Beck, Clerk of the Legislative Assembly of British Columbia; Mr. J. B. Roberts, Clerk Assistant of the Legislative Council and Usher of the Black Rod, Western Australia; Colonel G. E. Wells, O.B.E., E.D., Clerk of the Federal Assembly of Rhodesia and Nyasaland; Mr. A. C. W. Lee, Clerk of the Legislative Council of Tasmania; Sir Edward Fellows, K.C.B., C.M.G., M.C., Clerk of the House of Commons; Mr. R. D. Barlas, O.B.E., Mr. R. S. Lankester and Mr. A. A. Birley, Senior Clerks in the House of Commons; Mr. A. G. Turner, Clerk-Assistant of the House of Representatives of the Australian Commonwealth; Mr. J. M. Hugo, B.A., LL.B., J.P., Clerk of the House of Assembly of the Union of South Africa; and Mr. A. W. Purvis, LL.B., Clerk of the Legislative Council of Kenya.

For paragraphs in Article XX ("Applications of Privilege") and Article XXI ("Miscellaneous Notes") we are indebted to Mr. J. M. Hugo, B.A., LL.B., J.P., Clerk of the House of Assembly of the Union of South Africa; Shri M. N. Kaul, M.A., Secretary of the Lok Sabha, India; Shri R. N. Prasad, M.A., B.L., Secretary of the Legislative Assembly of Bihar; Shri S. H. Belavadi, Secretary, Legislative Department, Bombay; Shri K. K. Rangole, Secretary of the Vidhan Sabha, Madhya Pradesh; Shri R. R. Saksena, B.A., Secretary of the Legislative Assembly of Uttar Pradesh; Mr. L. R. Moutou, Clerk of the Legislative Council of Mauritius; Mr. E. C. Briggs, Clerk of the Legislative Council of Tasmania; Shri G. V. Chowdary, LL.B., Secretary of the Legislative Assembly of Andhra; Mr. A. W. Purvis, LL.B., Clerk of the Legislative Council of Kenya; Mr. F. C. Green, M.C., formerly Clerk of the House of Representatives of the Australian Commonwealth; Mr. R. St. L. P. Deraniyagala, M.B.E., Clerk of the House of Representatives of Ceylon; Colonel G. E. Wells, O.B.E., E.D., Clerk of the Federal Assembly of Rhodesia and Nyasaland; Mr. K. Ali Afzal, Joint Secretary of the Constituent Assembly of Pakistan; Shri T. Hanumanthappa, B.A., B.L., Joint Secretary of the Legislature, Madras; Mr. G. D. Combe, M.C., Clerk of the House of Assembly, South Australia; Mr. G. Stephen, M.A., Clerk of the Legislative Assembly of Saskatchewan; Mr. R. S. Sarah, Clerk of the Legislative Council of Victoria; and Mr. F. E. Islip, J.P., Clerk of the Legislative Assembly of Western Australia.

II. PARLIAMENTARY ASPECTS OF THE ROYAL TOUR, 1953-54

This Article continues and concludes the account begun in the previous Volume of the parliamentary aspects of the visit of Her Majesty Queen Elizabeth II, accompanied by His Royal Highness the Duke of Edinburgh, to a number of countries in the Commonwealth and Empire. The descriptions of the visits are arranged in chronological order; abbreviated accounts, compiled by the Editors, are given in those instances where the ceremonies, although connected with Parliament or its Members, did not involve the specific participation of Parliament as such. None of Her Majesty's engagements in Uganda being of a Parliamentary nature, her visit to that country is not recorded.

NEW SOUTH WALES

By H. Robbins, M.C., Clerk of the Legislative Assembly

The Premier (Hon. J. J. Cahill, M.L.A.) having announced on the motion for the adjournment at the last sitting of the previous Session (4th December, 1953) that Her Majesty The Queen would open the next Session of the Thirty-seventh Parliament,¹ both Houses met at fifteen minutes after ten o'clock, a.m., on Thursday, 4th February, 1954, pursuant to a Proclamation² of His Excellency the Governor (Lt.-Gen. Sir John Northcott, K.C.M.G., C.B., M.V.O.), dated 6th January, 1954.

In the Assembly, the Speaker (Hon. W. H. Lamb, M.L.A.) offered the Prayer, and after the Clerk had read a copy of the Proclamation, a hushed House awaited expectantly the personal summons of Her Majesty Queen Elizabeth II to wait upon her. In the Council, the President (Hon. W. E. Dickson, M.L.C.) offered the Prayer, and the Clerk of the Parliaments read a copy of the Proclamation. Then the Usher of the Black Rod proceeded to the entrance of the Council Chamber.

At 10.18 a.m. the first of the 21-gun Royal Salute reverberated across the Domain from the area of Mrs. Macquarie's Chair, and the assembled Members and the crowds in Macquarie Street fronting Parliament House knew that Her Majesty and His Royal Highness the Duke of Edinburgh had left Government House.

Black Rod returned from the entrance to the Council Chamber as far as the Lower Bar, and announced "Her Majesty The Queen approaches the Council Chamber". As the President, the two Ministers of the Crown in the Council (Hon. R. R. Downing, M.L.C., and Hon. F. P. Buckley, M.L.C.), and the Clerk of the Parliaments moved to the Council portico, the atmosphere became tense. The

Clerk of the Parliaments crossed the courtyard to the centre gate to meet Her Majesty's Staff, and Black Rod led the President and the two Ministers into the courtyard. While Her Majesty's Staff and the two Ministers took up their places, the President and Black Rod proceeded to the centre gate to await the arrival of The Queen and the Duke.

The day was perfect, and Macquarie Street was densely crowded as the Royal Car halted in front of the centre gate and the President and the Usher stepped forward. Her Majesty and His Royal Highness alighted from the car, and turned to face the Guard of Honour of the Royal Australian Air Force. The band played the National Anthem, which the crowd spontaneously sang. The Royal Standard was broken from the centre flagpole on the roof of the Parliamentary Buildings, which had been gaily decorated with bunting and flowers for the Royal Visit.

The Procession walked up the Portico steps and into the Council Chamber in the following order:

	Usher of the Black Rod	
Clerk of the Parliaments	Clerk Assistant, Legislative Council	
	Two Ministers of the Crown in Council	
	The Royal Equerries and Members of Her Majesty's Staff	
	The President	
H.R.H. The Duke of Edinburgh		Her Majesty the Queen

When Black Rod was some six paces within the Chamber, he paused and announced "Her Majesty The Queen", and all present stood. The group proceeded along the aisle to the red-carpeted dais where, beside the stately old red plush Chair normally used by His Excellency the Governor—but now become the Royal Chair—was a chair for The Duke, but on a slightly lower level. When Her Majesty and His Royal Highness had occupied their respective chairs, The Queen said:

Honourable Members, pray be seated.

Her Majesty then commanded Black Rod:

Black Rod will now inform the Legislative Assembly that it is my pleasure they attend me immediately in this House.

Black Rod bowed on receiving the command, stepped forward to the front of the dais, bowed again, and then moved towards the door of the Council Chamber, keeping eyes right to Her Majesty all the time. When the Usher was level with the side of the dais, he bowed again and proceeded to the Legislative Assembly Chamber to do Her Majesty's bidding.

When the doors of the Assembly were closed and barred, the Members knew that Black Rod approached. His three heavy, deliberate knocks on the northern door were the signal for the Serjeant-at-Arms to peer through the glass of the door, recognise the Messenger from the Upper House, and make his traditional announcement—"Mr.

Speaker, Black Rod"—to which the Speaker replied: "Admit Black Rod". Bowing to the Chair, the Serjeant-at-Arms again faced the door and offered the traditional invitation: "Enter, Black Rod." The Usher, being admitted, bowed first to the Chair, then to the Members on either side of the Chamber, before delivering his message thus:

Mr. Speaker, The Queen commands this Honourable House to attend Her Majesty immediately in the Legislative Council Chamber.

Preceded by the Usher, the Assembly moved to the Legislative Council in procession. The Serjeant-at-Arms, the Speaker, the three Clerks at the Table, then the rest of the House in pairs, headed by the Cabinet.

(The Table of the Council and the President's chair had been removed in order to make room for the placing of chairs to accommodate the Members of the Legislative Assembly—this being done on the occasion of every Opening Ceremony.)

On the Speaker's Procession entering the Council Chamber, all rose to their feet except The Queen and The Duke.

When the Speaker and Members of the Assembly had taken their places, Her Majesty commanded:

Honourable Members, pray be seated.

Her Majesty's Private Secretary, who had taken up his place standing to the right side of Her Majesty, approached The Queen and presented her with two copies of the Speech. One (for the Speaker) was placed on a table beside Her Majesty's Chair, the other (for the President) Her Majesty read.

When the Governor reads the Opening Speech, he places his cap upon his head in order to salute the Members assembled whenever mention is made of "Honourable Members of the Council and Assembly" (or only "Assembly", as the case may be). Her Majesty, who wore a champagne lace gown, the Order of the Garter and a magnificent diamond tiara, paused momentarily, and inclined her head almost imperceptibly.

The Opening Speech was, by usual standards, brief, consisting of only six paragraphs; it is quoted in full:

Honourable Members of the Legislative Council and Members of the Legislative Assembly.

I am very pleased that I am able to speak to you in person on the occasion of the Opening of the Third Session of the Thirty-seventh Parliament of the State of New South Wales.

My long cherished hopes of visiting, with My husband, My people in Australia are now being realised. The welcome accorded to us on our arrival yesterday was so cordial and spontaneous that we shall always remember it. I desire to express My appreciation to you, and through you, as their representatives, to all the people of this great State. I look forward with pleasure to the rest of My stay in Australia.

This is the first occasion on which the Sovereign has been able to open a

Session of an Australian Parliament. It is most fitting that this should take place in the Mother Parliament of Australia, which had its birth over one hundred and thirty years ago, and in a building which has served as a Legislative Chamber for almost a century—ever since New South Wales was granted responsible Government.

Measured in terms of recorded history these periods are short, but they cover a large proportion of the period of one hundred and sixty-six years since the first British settlement in Australia. Nowhere else has Parliamentary democracy demonstrated more effectively its soundness and its adaptability to changing times and needs than in this young and rapidly advancing country.

My Ministers are giving close attention to matters of importance to the contentment and prosperity of My people in New South Wales, and they will submit their legislative proposals for your consideration.

I now leave you to the discharge of your important duties with the earnest prayer that under Divine Guidance your labours may further advance the welfare and happiness of all.

The Speech concluded, the President stepped forward and bowed to Her Majesty, who presented him with the Speech. After the President had returned to his place, the Speaker moved forward to receive the other copy on behalf of the Assembly. Her Majesty, after a slight pause, rose to her feet and the Procession (in reverse order, but preceded by Black Rod) left the Council Chamber. As the Royal Car moved off, the Royal Standard was lowered.

The President, the two Ministers of the Crown in the Legislative Council and the Officers of the Council returned to the Council Chamber, and the Assembly then withdrew in the order in which they entered and returned to their own Chamber. When reassembled, Mr. Speaker "left the Chair" until 3 p.m. that afternoon. The Speaker "leaving the Chair" for a period is an old practice in the Assembly, but is only done with the consent of both the Leader of the Government and the Leader of the Opposition.³ On this occasion, Members and their wives, and Officers and their wives, were to be presented to Her Majesty and His Royal Highness at Government House almost immediately after The Queen's return there.

When the Speaker resumed the Chair at 3 o'clock that afternoon, an Address-in-Reply to the Queen's Opening Speech was moved by the Honourable the Premier, seconded by the Leader of the Opposition (Mr. V. H. Treatt, M.M., Q.C., M.L.A.), and supported by the Deputy Premier and the Leader of the Country Party (Hon. R. J. Heffron, M.L.A.). Although practice has been for the two most-recently elected Members (supporters of the Government) to move and second the Address-in-Reply, on this occasion, in view of the momentous event, the Premier himself moved the motion, and, after it was carried unanimously, informed the House that he had ascertained it to be the pleasure of The Queen that the Address-in-Reply to Her Majesty's Opening Speech be presented to the Governor, acting on her behalf, and that His Excellency would be pleased to receive the Address on Her Majesty's behalf on 16th February at Government House.

On 16th February, the Assembly proceeded to Government House, where the Address-in-Reply to The Queen's Speech was presented to the Governor in conformity with the pleasure of The Queen. The Governor was pleased to give the following Reply:

Government House, Sydney.
16th February, 1954.

Mr. Speaker and Gentlemen,—

I have it in command from The Queen to receive from you the Address-in-Reply from the Legislative Assembly to the Speech which Her Majesty was graciously pleased to make to both Houses of Parliament.

It will give pleasure to present this Address-in-Reply to The Queen for Her Majesty's gracious acceptance.

J. NORTHOTT.
Governor.

On 23rd March the Speaker reported the following communication from Her Majesty:

Government House, Sydney.
18th February, 1954.

Mr. Speaker and Gentlemen,—

I thank you most sincerely for the Address which you have presented to me and for your expressions of loyalty and attachment to the Throne.

I am glad to have your assurance that earnest consideration will be given to the measures to be submitted to you.

I have every confidence that under Divine Providence your patriotic and zealous labours will conduce to the general welfare and happiness of all classes of the community.

ELIZABETH R.

The procedure at the Opening of a Session of the New South Wales Parliament, while it has its roots in Westminster, has over a period of more than a century, developed characteristics to suit local conditions; for example, the seating accommodation for Members of the Assembly on the floor of the Council Chamber—a relic of the 1842 partly-elective, partly-nominee Council. It is noteworthy that Her Majesty graciously followed local tradition. Minor variations included: the Clerk of the Parliaments being seated during the reading of the Speech; the second Chair on the dais (for His Royal Highness); the Procession, headed by the Serjeant-at-Arms, the Speaker and the Clerks, of Members of the Legislative Assembly moving across the front courtyard instead of through the corridors within the House (which new route will be taken on all future occasions); and the Queen, who had delivered the Speech, not receiving the Address-in-Reply in Person.

As is usual at an Opening of the New South Wales Parliament, members of the diplomatic corps, heads of Churches, members of the Judiciary and heads of the Armed Services (all in official dress) were present in the Galleries.

Although the business of the Executive Council is strictly not ap-

propriate to a paper such as this, it might nevertheless be recorded here that during the Royal Visit to New South Wales, Her Majesty presided at the Meeting of the Executive Council also held at Government House on 4th February.

AUSTRALIAN COMMONWEALTH

By R. H. C. Loof, Clerk of the Senate of the Australian Commonwealth

When Queen Elizabeth the Second visited Canberra between Saturday, 13th February, and Thursday, 18th February, 1954, she made constitutional history in the same way as she did in every Australian city she visited throughout the Royal Tour, for when Her Majesty alighted from her 'plane at the R.A.A.F. Station she was the first reigning monarch to have set foot within the Capital Territory. She was not, however, the first member of the Royal Family to do so. Her father and mother had been there in connection with the opening of the newly built Parliament House in 1927, and her uncle, the Duke of Windsor, then Prince of Wales, had even earlier laid a foundation stone on Canberra's Capitol Hill; the Duke of Gloucester had more recently lived in Canberra as Governor-General.

On her arrival, Her Majesty was met by the Governor-General Sir William Slim, Lady Slim, the Prime Minister (Mr. Menzies) and Dame Patti Menzies, and shortly afterwards by the President of the Senate (Senator the Hon. A. M. McMullin) the Speaker of the House of Representatives (the Hon. A. G. Cameron) and Commonwealth Ministers and Leaders of the Opposition party.

Her Majesty's programme for the ensuing five days was a crowded one, during which, apart from the functions connected with Parliament House, she received a Civic Reception, attended the old Canberra Church of St. John the Baptist, unveiled the Australian National Memorial to the U.S.A., visited the Australian War Memorial and met exservicemen, attended a Children's Welcome, presented new Colours to the Royal Military College and attended a Garden Party at Government House.

First Visit to Parliament House

The Queen's first visit to Parliament House was made on Sunday, 14th February. The visit was an unofficial one, made for the purpose of acquainting herself with the details connected with the opening of Parliament on the following day. Met at the entrance of Parliament House by the President and the Speaker, Her Majesty was escorted to the Senate Chamber, where she familiarised herself with the general surroundings of the place she would formally enter on the following day for the official Opening. It was an occasion which will be remembered by those privileged to meet her as the most enjoyable of all the occasions on which they met the Queen. The Queen

was eager to be advised about the forthcoming ceremony, and her questions displayed an interest and a knowledge of procedure which delighted the officials present.

Queen's Suite: The Queen was shown the Suite she would occupy during her visits to Parliament House. This was something in which the Senate took particular pride, as it was the suite normally used by the President and a great deal of thought had been put into the question of making it as comfortable as could be for the Queen and her party. It was carpeted throughout in mushroom coloured body carpet, and was softly lit with clustered candelabra lights with the windows covered with venetian blinds over which hung heavy drapes.

The suite itself consisted of three rooms—an office, a sitting room and a robing room, and overlooked a glorious view of the vast open grassland in front of Parliament House with the memorial to King George V on the one side and the Parliamentary gardens, gay with flowers, on the other. The robing room was furnished in blue-grey with a settee covered with loose damask covers. The office, which was panelled in blackwood, contained a magnificent Queensland blackwood table on which rested a Cigar Box which had been presented to Parliament by the Queen's father, the late King George VI, in 1927. The Queen and her party used this suite on every occasion when they visited Parliament House.

Visit to House of Representatives: Following the visit to the Senate Chamber, the Speaker of the House of Representatives invited Her Majesty to inspect the House of Representatives—still referred to as "another place". This visit provided some good material for the press who, delving into history, recalled that no British sovereign had entered the House of Commons (while sitting) since the days of Charles the First. However, being a Sunday, the House of Representatives was not sitting, and tradition was not offended. The Queen was most interested in the Speaker's Chair (a gift from the House of Commons and a replica of the Commons' chair which was destroyed during World War II), and the Despatch Boxes on the Table presented by King George the Fifth on the occasion of the Opening of Parliament House by the then Duke of York in 1927.

Opening of Parliament

The Official Opening of the Third Session of the 20th Parliament took place on the following day, Monday, 15th February.* The opening was marked by a splendour unparalleled in the Commonwealth, but it was unfortunate that the weather was particularly incle-

* Since the Standing Orders of the House of Representatives relating to proceedings at the first meeting of Parliament after a dissolution or prorogation referred only to the participation of the Governor-General, the following new Standing Order was agreed to by the House on 2nd December, 1953:

1A. On any occasion upon which Her Majesty the Queen intends to declare in person the causes of the calling together of the Parliament, the House shall attend Her Majesty at the time and place appointed (V. & P., 1953, p. 66).

ment. While the ceremony was taking place some 30,000 people along with some 4,500 servicemen and women waited outside in very heavy rain. The Queen arrived with the Duke at 2.20 p.m., when she was received by the Prime Minister and Dame Patti Menzies and conducted across the lawn to the upper landing of Parliament House steps, where the party waited while the Royal Salute, the breaking of the Royal Standard and the playing of the National Anthem took place. On the hillside in the near distance hundreds of school children then seemed to rise out of the ground in the form of a huge Australian flag and the words "OUR QUEEN".

Her Majesty and His Royal Highness then met the President of the Senate and the Speaker of the House of Representatives, and entered Parliament House where the Royal party, led by the Usher of the Black Rod and the Serjeant-at-Arms, proceeded to the President's Suite.

By this time, the Senate Chamber was already filled with guests and was a scene of considerable colour. Those who received invitations to attend the Opening of Parliament included Members' and Senators' wives, members of the Diplomatic Corps, Judges of the High Court, Church dignitaries and a few senior public servants. Many of the Diplomatic Corps presented striking pictures in their national costumes, and the judges in their robes and Members and Service personnel in their service uniforms with medals added to the colour. Special galleries had been built for the photographers and newsreel men, but, because of technical difficulties, the scene was photographed by movie camera in black and white only. It is also interesting to note that this occasion provided Canberra's first experience of television. The Chamber scene was televised and transmitted to the patients of the Canberra Community Hospital.

At 2.30, the President entered the Senate Chamber and took the Chair, all Senators having already taken their places. When the Clerk (Mr. J. E. Edwards, J.P.) had read the proclamation summoning Parliament, the Usher of the Black Rod appeared at the Bar of the Senate and announced the arrival of Her Majesty and His Royal Highness, who then entered the Senate Chamber and proceeded to the dais. Her Majesty was a figure of regal splendour with the heavy folds of her Coronation robe glittering as the strong light picked out the various colours in the embroidery. The Duke was in the white uniform of Admiral of the Fleet. Behind them followed six members of the Royal Household.

Arriving at the dais, Her Majesty was received by the President, and then, standing before the Chair with the President on her right and His Royal Highness on her left, bade the Members of the Senate be seated. Addressing the Clerk, who had remained standing facing her, Her Majesty then said:

Mr. Clerk of the Senate, please command the Usher of the Black Rod to let

Members of the House of Representatives know that I desire their attendance in the Senate Chamber forthwith.

Bowing to Her Majesty, the Clerk of the Senate so directed the Usher of the Black Rod, who then, moving backwards and bowing three times to Her Majesty, left the Chamber to convey this message to the House of Representatives.

A few minutes later the Usher returned, followed by the Speaker, Clerks, the Serjeant-at-Arms and Members of the other House, who then moved into the Chamber intermingling with the Senators already in their places. The Members of the House of Representatives remained standing when they took their positions until the Queen bade them to be seated. Her Majesty then addressed both Houses in the following terms:

The first Section of the Constitution of the Commonwealth of Australia provides that the legislative power of the Commonwealth shall be vested in "a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives".

It is therefore a joy for me, to-day, to address you not as a Queen from far away, but as *your* Queen and a part of *your* Parliament. In a real sense, you are here as my colleagues, friends, and advisers.

When I add to this consideration the fact that I am the first ruling Sovereign to visit Australia, it is clear that the events of to-day make a piece of history which fills me with deep pride and the most heartfelt pleasure, and which I am confident will serve to strengthen in your own hearts and minds a feeling of comradeship with the Crown and that sense of duty shared which we must all have as we confront our common tasks.

I am proud also, speaking as the granddaughter of King George V. and the daughter of King George VI., to recall two earlier events in the history, the short history, of the Commonwealth of Australia. The first was the opening of the First Parliament of the new Commonwealth of Australia in 1901 by my grandfather, then the Duke of Cornwall and York. The second was the opening of this building in 1927 by my father, then the Duke of York. Thus the history of Australia as a nation has a special family significance for me.

It is, I think, fitting that I should, speaking to you to-day, recall to mind those elements of unity which combine in the fabric of the British Commonwealth. The great institutions of Parliamentary sovereignty, a democratically controlled Executive, the just and impartial administration of the law; these exist and flourish in each of the great realms which call me Queen. They have, in this century, survived great trials of war and economic hardship. And they have done so, I am proud to say, because of the great qualities of my peoples, qualities which have shown themselves through labours manfully performed, duties courageously done by men and women, sorrows sustained, and happiness earned.

In the result, as I acknowledge the wonderful welcome of my Australian people, I do so in a country whose growth and progress are manifest, a country of freedom, eloquent of that true democracy which dignifies and expresses the individual human being.

Already, in my journeys through the Commonwealth, I have been made even more vividly conscious of the true brotherhood of my peoples, even prouder of their services to civilisation, and more richly confident of their future destiny.

I would like also to take this opportunity to say to my Australian people, through you ladies and gentlemen of the Australian Parliament, how grateful I was, and am, for their loyal support and encouragement on the occasion of

my Coronation. My husband and I can never forget your affection on that great day, an affection which you have expressed with such marvellous warmth in your own land since our arrival.

Moved by these feelings, it is my resolve that, under God, I shall not only rule, but serve. This is not only the tradition of my family; it describes, I believe, the modern character of the British Crown.

In this uneasy world of conflicts open or hidden, my peoples in Australia and throughout the British Commonwealth want peace in its fullest and richest sense; that peace, based upon freedom and justice, which must some day be the unquestioned inheritance of all mankind.

To play their part in the achievement and preservation of peace, my Australian Ministers will continue the closest co-operation with my Governments in the other Commonwealth nations. Only last month my Finance Ministers conferred in Sydney with the frankness and friendliness which always mark discussions between the Commonwealth countries. This was one of a long and continuing series of such conferences. Their immediate objective is to strengthen the British Commonwealth; but their ultimate benefit will flow to other nations and to the great world community of people everywhere.

Pursuant to the terms of the Constitution, a general election for the House of Representatives must be held at the end of this Session of Parliament. My Ministers will submit to Parliament the financial and other measures which must precede that election.

MR. PRESIDENT, AND MEMBERS OF THE SENATE.

MR. SPEAKER, AND MEMBERS OF THE HOUSE OF REPRESENTATIVES.

In the earnest hope that Divine Providence may guide your deliberations and further the welfare of the people of the Commonwealth of Australia, I now leave you to the discharge of your high and important duties.

Upon completion of Her Majesty's speech, her Private Secretary, Sir Michael Adeane, presented copies of the Speech to the President of the Senate and the Speaker of the House of Representatives.

Preceded by The Usher of the Black Rod, Her Majesty and His Royal Highness and party then moved in procession from the Senate Chamber to the President's Suite. The sitting of the Senate was then suspended.

Presentation of Senators and Members: About fifteen minutes after the proceedings in connection with the Opening of Parliament had concluded, the President and the Speaker waited on Her Majesty and His Royal Highness at the President's Suite and accompanied them to King's Hall in the centre of the Parliamentary building, where Senators and Members and their wives were waiting to be presented.

The Royal party stood in front of the King George V statue with the President and the Usher of the Black Rod to the right of Her Majesty, and immediately behind them stood members of the Royal Household, the Speaker and the Serjeant-at-Arms. Senators and their wives were then presented, the President announcing their names to Her Majesty and His Royal Highness as they approached. The Chamber Officers of the Senate and their wives were also presented.

The Speaker and the Serjeant-at-Arms then changed positions with

the President and the Usher of the Black Rod and the presentation of the Members of the House of Representatives and their wives, and the Chamber Officers and their wives, then took place in a similar manner.

Review of Troops: The historic day continued with a Review of Troops at the front of Parliament House.

Address-in-Reply

At 5 p.m. the same afternoon both Houses reassembled. The Address-in-Reply was then moved in almost identical terms in both Houses, that for the Senate being as follows:

To Her Most Excellent Majesty Elizabeth the Second—

We, Your Majesty's loyal subjects, the Members of the Senate of the Commonwealth of Australia, in Parliament assembled, desire to thank Your Majesty for the Gracious Speech which you have been pleased to address to Parliament on this, your first visit to our country.

The presence in Australia of Your Majesty and of His Royal Highness The Duke of Edinburgh has brought unbounded pleasure to the Australian people. We, their representatives in the Senate, invoke God's choicest blessing upon your life and reign, and are grateful for this opportunity to reaffirm our loyalty and devotion to the Crown and Person of Your Majesty.

In each House, there were only two speakers to the Motions, in order to fit in with arrangements made that the Address-in-Reply be presented to Her Majesty the following afternoon. The two Houses then adjourned.*

The actual presentation of the Addresses took place at Government House on Tuesday, 16th February, in short but dignified ceremonies. Dressed in their ceremonial robes, the President, Clerk and Black Rod, accompanied by ten Senators, presented the Address-in-Reply from the Senate to Her Majesty at 5 p.m. A few minutes later the Speaker, the Clerk and the Serjeant-at-Arms, accompanied by twenty Members, presented the Address from the House of Representatives.

Executive Council Meeting

Earlier that day (Tuesday, 16th February) the Queen had presided over a meeting of the Federal Executive Council, at which she authorised the use of a new Great Seal of the Commonwealth.

* *Note by the Clerk of the House of Representatives.*—To mark the significance of the Royal Opening and Her Majesty's visit to Australia, the House of Representatives departed from its usual practice in regard to the Address in Reply. The Committee appointed to prepare the Address ordinarily consists of the Prime Minister and two private Members from the government party, one of the private Members bringing up and moving the Address, the other seconding. On this occasion, the Committee consisted only of the Prime Minister and the Leader of the Opposition, the Address being brought up on the first day and moved by the former, the latter seconding. The unanimity of the House was expressed by its immediately agreeing without further debate to the Address which was presented to Her Majesty at Government House on the following day (V. & P., 1954, pp. 2, 5 and 13).

The next morning (Wednesday, 17th February) the Queen held a short meeting of the Privy Council at which she gave her assent to the Flags Bill, by which the Blue Ensign was declared to be the Australian National Flag, and the Red Ensign was authorised as the proper Flag for use on Merchant ships registered in Australia. At this meeting, Sir John Latham, Mr. E. J. Harrison and Mr. J. McEwen were sworn in as Members of the Privy Council.

Other Functions held at Parliament House

A brief reference might be made to two other very important functions which were held at Parliament House in connection with the Queen's visit, although these were not strictly Parliamentary functions. They were the State Banquet and the State Ball, held on the nights of Tuesday, 16th February, and Wednesday, 17th February, respectively.

Some 480 guests attended the State Banquet held at Parliament House. The approaches to the Banquet Hall were bordered by shrubs, and flowers were massed in window-boxes along the corridor which overlooked the courtyard. At this State Banquet, the Prime Minister presented to the Queen a diamond brooch in the form of sprays of Wattle and Tea-tree as a tribute from the Australian people.

For the State Ball on Wednesday, 17th February, King's Hall was transformed into a brilliantly decorated ballroom. This was the final official function, and formed a splendid and picturesque climax to the Queen's tour of the Capital City. The next morning Her Majesty and the Duke of Edinburgh returned by air to Sydney.

TASMANIA

By E. C. Briggs, Clerk of the Legislative Council

Preliminary

When it was announced in May, 1953, that Her Majesty the Queen, during the Royal Tour, would open a Session of the Tasmanian State Parliament, a move was promptly made to plan the necessary arrangements.

To direct arrangements for the Tasmanian ceremony, the President of the Legislative Council (Sir Rupert Shoobridge) set up a Committee comprising himself, the Leader in the Council (Mr. T. G. D'Alton), the Member for Queenborough (Mr. H. S. Baker), and the Clerk of the Council. At one of the earliest meetings of the Committee, the Speaker (Mr. L. T. Spurr) and the Clerk of the Assembly (Mr. C. K. Murphy, C.B.E.) attended the discussions. The State Director and State Marshal for the Tasmanian Royal Visit and the Official Secretary, Government House, also conferred with the Committee in the initial stage.

Before the close of the old Session, the Council passed a Resolution inviting the Assembly to occupy places on the floor of the Council when summoned by the Queen to hear the reading of the Speech.⁴ The Assembly resolved to concur in this arrangement,⁵ and suspended their Standing Order which restricted Members to attend only at the Bar of the Council.

This decision, which was to bring Members of the Assembly for the first time into the Council during a sitting of Parliament, enabled Members' benches to be placed in two blocks, facing inwards, the Council to the Queen's right, and the Assembly to her left.

The temporary removal of the President's and the Clerk's desks, and the Table of the Council, gave further space for seating accommodation. Having favourably arranged Members' seats in the half of the Chamber nearer the Dais, it simplified the placing of rows of chairs in the further half of the Chamber for visitors. By fixing these rows as closely together as practicable, even at slight inconvenience to the occupants, 200 visitors could be accommodated within the Council, making, with Members, Parliamentary officials, and the Royal Train, a total of 270.

A token Bar of red rope was placed across the Chamber between the benches of Members and the seats of visitors.

The Ceremony

The hour fixed for the opening ceremony was 12 o'clock noon on Monday, 22nd February, 1954, and the time for Her Majesty to alight from the Royal Car at Parliament House was arranged for 11.55 a.m.

Members of Parliament and visitors had been admitted to Parliament House by 11.40 a.m.; and the Members took their seats in their respective Houses at 11.45 a.m., following on which the President and the Speaker were duly announced, and the Clerk in each House read the Proclamation requiring the attendance of Members at the new Session.

The Heads of the three Armed Services (Commander V. A. T. Ramage, A.D.C., R.A.N., Brigadier G. E. W. Hurley, O.B.E., A.D.C., and Squadron Leader V. D. Kemmis, R.A.A.F.) were in position within the Entrance Hall of the Legislative Council at 11.48 a.m. ready to join the Royal Procession before entering the Council Chamber.

In the Legislative Council at 11.50 a.m. the Usher of the Black Rod (Mr. G. W. Brimage) announced to the Council that Her Majesty the Queen was now approaching the Council Chamber, whereupon the President and the Leader of the Government in the Council, followed Black Rod as far as the Porch Entrance, and the Clerk of the Council proceeded to the head of the Stairs.

At the appointed time the Royal Cars arrived with Her Majesty the Queen and His Royal Highness the Duke of Edinburgh, mem-

and bowed or curtsied. The Queen and the Duke mounted the Dais, and as the Queen turned to face the Council, Members and officers of the Council again bowed. Her Majesty seated herself in the Royal Chair. A chair was placed to the left and slightly in rear for His Royal Highness.

Her Majesty said "Pray be seated". His Royal Highness, Members of the Council and visitors took their seats accordingly. The Queen's Private Secretary remained standing in front of and to the right of the Queen: her Assistant Private Secretary, an Equerry, and the Ladies-in-Waiting stood to the rear and right of the Queen, whilst the Duke of Edinburgh's Private Secretary and an Equerry stood to the rear and left of His Royal Highness. The Heads of the three Armed Services remained standing in the aisle between the main entrance doors of the Chamber and the nearest corner of the Dais, while the President was seated in the aisle on the opposite side of the Dais. The Clerk of the Council stood behind Mr. President, and the Usher of the Black Rod stood in the centre aisle beyond the seated members.

Her Majesty then addressed Black Rod as follows:

Mr. Usher of the Black Rod, I command you to inform the House of Assembly it is my pleasure they attend me immediately in this Legislative Council Chamber.

Black Rod bowed when first addressed, and again after receiving the command, and then stepping backwards and turning to his left, proceeded through the southern doors to the corridors leading to the House of Assembly. Following the traditional procedure of knocking and being admitted to the Assembly Chamber, Black Rod delivered the Sovereign's Message. He and the Serjeant-at-Arms then led the way back to the Council, followed by Mr. Speaker, the Clerk of the House, and Members.

Members of the Council and visitors stood as the Assembly entered.

The robed Officers bowed as they entered the centre aisle and again before leaving the aisle to go to their respective places. Mr. Premier, Ministers, and other Members bowed before moving to their places where all remained standing. When the last Member had reached his place, Mr. Speaker, the Assembly, and Officers of the House bowed in unison to the Queen.

Her Majesty said "Pray be seated". All who had seats allotted them sat down with the exception of the officers of the Council and those attendant upon the Queen. Black Rod had taken up a position in rear of the Queen's Private Secretary.

The Private Secretary, moving in front of the Dais, bowed, and handed to Her Majesty the Speech, and placed two copies of the same on the small table at the Queen's right hand. He again bowed, and stepping backward, resumed his place.

Her Majesty read her Speech, as follows:

MR. PRESIDENT AND HONOURABLE MEMBERS OF THE LEGISLATIVE COUNCIL:
MR. SPEAKER AND MEMBERS OF THE HOUSE OF ASSEMBLY:

I welcome you to the Fifth Session of the Thirtieth Parliament, and it is a matter of great pleasure to me that I am able to open Parliament in person.

I feel it to be a happy coincidence that our first visit to the State should occur during the period of celebration of the first British occupation of the island 150 years ago, and I am glad that this has enabled me to take part in the commemoration of the principal settlement that was then established.

The strong and enduring ties that bind the people of Tasmania to the Throne and to my family have been demonstrated in the affectionate warmth of your welcome.

The Pacific members of my realm are taking an increasingly important part in the affairs of the Commonwealth and of the world, and I am deeply interested in your progress and continued prosperity.

My Government will continue to press forward with the utmost speed the development of Hydro-Electric power projects to meet the rapidly growing demand for electricity.

The Forestry Commission is proceeding with a programme directed to the conservation and protection of native forests, and fire protection works are being maintained and expanded. The State's forestry assets will this year be increased by substantial additions to the softwood plantations.

My Government will continue and extend its encouragement of mineral exploration and research in the State.

My Government will continue its endeavours to provide the best and most economic transport services, and will adopt a number of the recommendations contained in the Report on Tasmanian Government Railways of 1st October, 1953.

The growing volume of road traffic demands road improvements. My Government has undertaken a five year road reconstruction programme, on which work is already proceeding.

My Government will use every endeavour to promote sales of Tasmanian export fruits in London and foreign markets in order to combat the difficulties of competition that have arisen in overseas markets.

The construction of new schools to meet the needs of the growing population is proceeding, and it is expected that an increased number of area schools will function this year. More primary schools are being constructed, and plans for new high schools at Hobart and Launceston are being prepared.

My Ministers will endeavour to obtain through the Australian Loan Council the finance necessary for a larger programme of essential public works.

Preliminary arrangements have been completed for a consolidation and reprint of the Statutes.

You will be asked to consider law reform legislation and other important measures affecting the welfare of the State.

I now declare this Session of Parliament open, and pray that Almighty God may give His blessing to your counsels.

Mr. President and Mr. Speaker respectively bowed when addressed by Her Majesty.

Simultaneously with Her Majesty declaring the Session to be opened, the first gun of a 19-gun salute was heard from the battery at the Queen's Domain.

At the conclusion of the Speech, the Private Secretary again moved in front of Her Majesty, bowed, and received the Speech. Taking up the two copies from the Table on the Dais, he handed one copy to Mr.

Speaker and one to Mr. President, bowing to them as he did so, and also to Her Majesty as he passed in front of the Dais.

Black Rod then advanced, bowed to Her Majesty, and to Mr. President and Mr. Speaker, and took up a position facing the Queen, ready to lead the way from the Chamber.

Her Majesty rose. Immediately, all present stood and Black Rod again bowed to the Queen, took two steps to the rear and turned to his right.

The procession then left the Council Chamber in the following order:

Black Rod
 HER MAJESTY THE QUEEN
 accompanied by
 H.R.H. the Duke of Edinburgh
 Two Ladies-in-Waiting
 Private Secretary
 Equeries and other Members of Her Majesty's Personal Staff
 Resident Air Force Officer Resident Naval Officer
 Military Commander

The fanfare was again sounded as the procession moved slowly down the Stairs. With the Procession immediately in the rear, Her Majesty paused on reaching the Entrance steps. Black Rod bowed again to the Queen as Her Majesty entered the Royal Car for her return to Government House by the same route as followed before the ceremony.

It was requested that no one would move from his or her place until the Queen had commenced the return journey from Parliament House, and that all visitors remain standing while Members of either House were leaving the Council Chamber.

The first to move after the Royal Procession were Mr. Speaker, Members, and Officers of the Assembly, who withdrew through the side Entrance doors used by the Procession.

Lady Cross (wife of the Governor) with A.D.C. and Lady Shoo-bridge and Mrs. D'Alton were the next to leave followed by the Chief Justice and Puisne Judges.

The Council then proceeded to business which was of a formal character.

Mr. D'Alton presented the Pro Forma Bill, and the President reported the Queen's Speech.

Leave to move Motion without Notice was granted Mr. D'Alton, who then moved for the re-appointment of two Select Committees, and for the suspension of Standing orders requiring Reports of Select Committees to be read to the Council by the Clerk.

Mr. Fenton (Member for Russell) tabled the Report of the Select Committee of last Session on North West Coast Rail Passenger Services.

The adjournment till 17th March was agreed to, and the President, Members, and the Officers left the Chamber for the Ante-Room at 12.23 p.m.

The Church Dignitaries, the Civic Representatives and the representative of the University, all of whom had been seated to the right or left of the Dais, left in that order, followed in succession to the Fore-court by the visitors in the Entrance Hall, the Upper Hall, and the Council Chamber.

Thus came to a conclusion the most momentous and colourful event in the history of the Tasmanian Parliament.

VICTORIA

By R. S. Sarah, Clerk of the Legislative Council

Two ceremonies of paramount importance to Parliament marked the visit to the State of Victoria by Her Majesty, Queen Elizabeth II and His Royal Highness, the Duke of Edinburgh, in the early part of the year 1954. One was the presentation of a joint Address of Welcome by both Houses of Parliament, and the other was the Opening of the Victorian Parliament by the Queen in person.

Presentation of Address of Welcome

The Address of Welcome to Her Majesty had been agreed to by both Houses of Parliament at the close of the last Session, and both Houses had resolved that it be presented to Her Majesty on the day of her arrival in Victoria. It was accordingly presented in Queen's Hall, Parliament House, on Wednesday, 24th February, 1954, the day the Queen arrived in Melbourne by 'plane from Tasmania. It formed a special feature of the Royal Progress, timed to take over two hours, from the Airport to Government House.

Queen's Hall, which is flanked on the North side by the Assembly Chamber and on the South side by the Council Chamber, is 85 feet long by 45 feet wide and 54 feet high to the centre portion of the domed ceiling and is dominated by an imposing marble statue of Queen Victoria sculptured in 1876, which stands in the middle of the Hall towards the Eastern end facing the central entrance door. Platforms with seats for the wives of Members and Parliamentary Officials and some hundred other special guests had been erected on the North and South sides. All guests were in their places by half-past three. At ten minutes to four the Members commenced to assemble in their respective Chambers and fifteen minutes later led by their presiding officers and the Clerks of the Houses they entered the Hall and took up positions along the broad aisle running down its centre, the Council being on the South side and the Assembly on the North.

The President and the Speaker accompanied by the Usher of the Black Rod and the Serjeant-at-Arms bearing the Mace then proceeded to the Entrance Vestibule. Here the President and the Speaker remained while Black Rod and the Serjeant-at-Arms continued on to the carriage-way at the foot of the steps to await the Queen's arrival. A wide red carpet of the traditional oak-leaf pattern stretched from the central entrance doorway across the colonnade and down the steps to the carriage-way.

At fifteen minutes past four tumultuous cheering from the crowds thronging the streets proclaimed the approach of Her Majesty. On reaching the carriage-way the Royal Progress halted. Her Majesty and His Royal Highness alighted and were met by Black Rod and the Serjeant-at-Arms. After pausing whilst a verse of the National Anthem was being played, the Queen and the Duke, followed by members of the Royal Household, were conducted by Black Rod and the Serjeant-at-Arms up the carpeted steps to the Entrance Vestibule, where they were received by the President of the Legislative Council (the Hon. Sir Clifden Eager, K.B.E., Q.C.) and the Speaker of the Legislative Assembly (the Hon. P. K. Sutton). As Her Majesty entered the building the Royal Standard was broken above Parliament House.

Preceded by Black Rod and the Serjeant-at-Arms, Her Majesty with the President, and His Royal Highness with the Speaker, then entered Queen's Hall and passed down the wide central aisle to the dais erected in front of the statue of Queen Victoria.

Her Majesty and His Royal Highness ascended the dais and turning about stood before the Royal chairs placed thereon. The members of the Royal Household arranged themselves on either side of the dais and the President and the Speaker took up positions a few feet in front facing the Queen. The Members and officers of the Council and Assembly moved forward to form compact groups behind the President and Speaker respectively. Bowing to Her Majesty, the President read the Address as follows:

TO HER MOST EXCELLENT MAJESTY QUEEN ELIZABETH THE SECOND:
MAY IT PLEASE YOUR MOST GRACIOUS MAJESTY:

We, the Legislative Council and the Legislative Assembly of Victoria in Parliament assembled, cordially welcome Your Majesty and His Royal Highness the Duke of Edinburgh to this State of Victoria.

We desire to convey to Your Majesty the expression of our loyalty and devotion to the Throne and Person of Your Majesty and we are delighted that Your Majesty has graciously seen fit to visit this part of Your Commonwealth.

We earnestly hope that Your visit will be a pleasant and a happy one and feel sure that it will strengthen the friendly association under the Crown of the peoples of the Commonwealth.

The President then stepped forward, bowed and presented the Address to Her Majesty, and withdrew to his former position.

Her Majesty was graciously pleased to reply to the Address as follows:

MR. PRESIDENT AND MR. SPEAKER:

I sincerely thank you for the cordial welcome which you have extended to me and to my husband on behalf of the Legislative Council and the Legislative Assembly of Victoria.

Your expressions of loyalty and devotion are greatly valued by us both.

I look forward to meeting you all to-morrow when I shall have the pleasure of opening the second session of your Parliament and I can assure you that we shall both enjoy to the full our visit to your State.

Her Majesty then presented signed copies of her Reply to both the President and the Speaker. Descending from the dais the Royal Party left the Queen's Hall and proceeded to the President's suite. After a brief respite there, during which light refreshment was served, Her Majesty and His Royal Highness returned through Queen's Hall to the carriage-way. Here they took leave of the President and the Speaker and the Royal Progress continued.

Opening of Parliament by the Queen

On Thursday, 25th February, Her Majesty Queen Elizabeth II attended at Parliament House and opened the second Session of the Thirty-ninth Parliament.* This was without question a most important day in the life of the Victorian Parliament as never before had the reigning Sovereign personally attended to open one of its Sessions. Every person in Victoria and particularly those interested in its constitutional history were deeply conscious of the very singular honour conferred upon its Parliament, and every effort was therefore made, whilst adhering strictly to the procedure normally followed, to imbue the ceremony on this particular occasion with the greatest possible dignity and solemnity consistent with simplicity.

In the brightly lit Council Chamber where in keeping with tradition the Ceremony took place, the highly polished cedar wood, the rich red of the oak-leaf carpet and plush covered Throne and seats, the colourful robes of the Supreme Court Judges, clergy and others, and the exquisite frocking of the ladies combined to make a most brilliant but awe-inspiring scene. Seating had been provided in the Chamber and its Galleries for approximately 600 official guests. An additional 400 occupied tiered seats specially erected on either side of

* For the removal of doubt which had existed as to whether in their existing form the Standing Orders of the Legislative Council relating to the Opening of Parliament by the Governor were sufficient to meet the case where the reigning Sovereign attended in the Legislative Council in person for the purpose of opening the Session, the following new Standing Order had previously been adopted:

22A. Whenever Her Majesty the Queen is personally present in Victoria and attends in the Council Chamber to declare in person the cause of the calling together of the Parliament, references in the Standing Orders numbered 11, 12, 13, 14, 16, 18, 21, and 22 to His Excellency the Governor shall be read as references to Her Majesty the Queen.

Queen's Hall through which the Queen passed on several occasions, and space was found for more than 2,000 others on Parliament House steps. The streets and all vantage points in the vicinity of the building were packed with people from an early hour, many having taken up positions late the previous day.

To avoid any last minute confusion, all guests were required to be in their places at a quarter to two o'clock, half an hour before Her Majesty was due to arrive. Then at intervals until two-o'clock certain distinguished guests such as the State Representatives of the Armed Services, Church dignitaries, the Lord Mayor of Melbourne and members of the Judiciary, after driving through the heart of the city over a large part of the route later to be traversed by Her Majesty, arrived at Parliament House steps and were conducted to their places in the Council Chamber. They were followed five minutes later by Lady Brooks, the wife of the Governor, and certain others from Government House, and they too were met on arrival and conducted to the Chamber.

At a quarter past two Her Majesty the Queen and His Royal Highness the Duke of Edinburgh, having driven from Government House through wildly cheering masses of people along the beautifully tree-lined St. Kilda Road and on through the heart of the city, arrived at the carriage-way at the foot of the steps of Parliament House. The Usher of the Black Rod in full Windsor Court Dress complete with lace ruffles and jabot and bearing his staff of office met them as they alighted from their carriage, and conducted them to the middle landing.

The Queen wore a white mink stole over a gleaming gown of lustrous magnolia satin brocade, the Blue Ribbon and Star of the Order of the Garter, a high diamond tiara, a three-stranded diamond necklace and diamond earrings. Later in the Library Her Majesty discarded the mink stole before proceeding to the Council Chamber. His Royal Highness was clad in the white uniform of an Admiral of the Fleet.

As they reached the middle landing and turned about for Her Majesty to take the Royal Salute the cheering broke out with renewed intensity only to subside a few moments later as the Guard of Honour presented Arms and the Band played the National Anthem.

After the Salute the Royal Standard was broken on the central flagpole on the roof of Parliament House and Her Majesty and His Royal Highness then moved up the remaining steps to the Colonnade where the President of the Legislative Council was waiting to receive them. Meanwhile the Royal Procession, in which were the State Leaders of the three Armed Services and members of the Royal Household, had formed up at the entrance to the building, and at a given signal moved off into Parliament House followed by Black Rod, the President, and Her Majesty and His Royal Highness. Passing slowly through the Entrance Vestibule and the Queen's Hall,

the Procession reached the Library and halted. The Queen and the Duke then passed through to the south wing of the Library, where they remained until it was time to proceed to the Council Chamber.

The ringing of the bells summoned the Members of the Council and of the Assembly to their respective Chambers for the reading by the Clerk of the Proclamation convening Parliament.

At twenty-seven minutes past two Black Rod, coming to the Bar of the Council, announced that " Her Majesty the Queen is approaching the Council Chamber ". Withdrawing immediately, he hurried to the Library to take his place in the Procession. The Queen, accompanied by His Royal Highness, emerged from the South Wing and the Royal Procession, heralded by a fanfare of trumpets, left the Library for the Council Chamber. Passing through Queen's Hall, the main corridor and the Council Lobby, it entered the Chamber exactly at half-past two.

The Queen ascended the dais and after bowing to the President took her seat in the Royal Chair. His Royal Highness occupied a chair at the side of the dais to the left of Her Majesty, and the President's chair was alongside the dais on Her Majesty's right.

All present, having risen as Her Majesty entered the Chamber, remained standing until the Queen, addressing the President, requested that Honourable Members be seated.

Again addressing the President, the Queen said:

Mr. President, I desire the immediate attendance of Mr. Speaker and Members of the Legislative Assembly in the Legislative Council Chamber.

Bowing to the Queen, the President addressed Black Rod repeating Her Majesty's command. Black Rod, bowing three times as he withdrew, proceeded to the Legislative Assembly and delivered the Royal Command to the Speaker.

On returning, Black Rod bowed to Her Majesty and addressing the President said:

Mr. President, I have delivered Her Majesty's command.

Almost immediately the Speaker, led by the Serjeant-at-Arms bearing the Mace, and followed by the officers and Members of the Assembly, entered the Council Chamber and advanced as far as the Bar. As many as possible (principally the Ministers and Party Leaders) filled what space there was at the Bar and the remainder were accommodated in one of the side galleries specially reserved for their use. The Speaker bowed to Her Majesty, and remained standing until Her Majesty, again addressing the President, requested that Honourable Members be seated, whereupon he took his seat in a chair placed specially for him just inside the Bar, and all present who had risen as the Assembly entered again resumed their seats.

Her Majesty's Private Secretary advanced to the front of the dais, bowed, and presented the Speech to the Queen, and returned to his

place. The Queen, remaining seated, then read the Speech as follows:

MR. PRESIDENT AND HONOURABLE MEMBERS OF THE LEGISLATIVE COUNCIL:
MR. SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY:

It is but seldom that the Sovereign is able to open Parliament outside the United Kingdom, and I welcome the opportunity to exercise this historic privilege in Victoria.

When I first opened Parliament at Westminster late in 1952, I said that I looked forward with deep pleasure to fulfilling my long-cherished hopes of visiting with my husband my peoples in Australia, New Zealand and Ceylon.

These hopes are now being fulfilled.

After the warmth and cordiality of the welcome accorded to us on our arrival in Victoria we anticipate with pleasure our sojourn in this State.

MR. SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY:

A review of revenue and expenditure for the first half of the current financial year indicates that a satisfactory Budget is assured.

Supplementary estimates of expenditure for the year 1953-54 will be laid before you in due course.

MR. PRESIDENT AND HONOURABLE MEMBERS OF THE LEGISLATIVE COUNCIL:

MR. SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY:

For eight successive years Victoria has been blessed with bountiful seasons. During the year just ended the Spring growth of pastures was good and the production of all kinds of livestock was high. It is estimated that the wheat crop will yield more than fifty million bushels.

A programme of important legislation will be brought forward later in the Session.

This will include a Bill relating to child welfare. The existing legislation is, in many ways, not adaptable to progressive social standards. The new measure will deal comprehensively with the care, maintenance and welfare of those children who come under the supervision of the Children's Welfare Department.

A Bill designed to improve and consolidate the law controlling the transfer of land will be laid before you.

The regulation of building is being attentively examined with a view to legislation.

A comprehensive amending measure dealing with public health will be introduced.

Other measures will be laid before you in due course.

I now leave you to discharge your important duties.

I pray that the blessing of Almighty God will rest upon your deliberations.

With the ending of the Speech a salute of 19 guns fired from the Domain by a battery of the Royal Australian Artillery announced to the public at large that a new session of the Parliament had commenced.

The Private Secretary again advanced and received the Speech from the Queen. He then presented signed copies of the Speech to both the President and the Speaker before once more returning to his place.

The Ceremony being now concluded the Queen rose and bowed to the President. Black Rod stepped forward, bowed to Her Majesty and slowly led the Royal Procession out of the Chamber. Her Majesty inclined her head to the Speaker as she drew level with him

at the Bar of the Chamber, and the Procession returning through Queen's Hall proceeded to the President's suite where refreshments were served.

Twenty minutes later the Queen and the Duke in company with the President and Lady Eager, the Speaker and Mrs. Sutton, and the Premier and Mrs. Cain, left the President's suite for the Library where the Members and Officers of both Houses and their wives were now assembled. Here the President presented to Her Majesty and His Royal Highness the Members and Officers of the Council and their wives, and the Speaker presented the Members and Officers of the Assembly and their wives.

Her Majesty and His Royal Highness then left the Library to return to Government House, being escorted to their carriage at the foot of the steps of Parliament House by the President, the Speaker and the Premier and their wives.

QUEENSLAND

A State Reception was held at Parliament House on the evening of 9th March, at which all Members and their wives were presented to Her Majesty. On the following morning Her Majesty revisited Parliament House in order to hold an investiture and preside at a meeting of the Executive Council, after which, accompanied by the Duke of Edinburgh, she attended a parliamentary luncheon there.

SOUTH AUSTRALIA

I. Account of Proceedings

By G. D. Combe, M.C., Clerk of the House of Assembly

The first opening of a Session of the South Australian Parliament by the reigning monarch made Tuesday, 23rd March, 1954, a day of singular significance in the State's constitutional history. The presence of Her Majesty Queen Elizabeth the Second, His Royal Highness the Duke of Edinburgh and the Royal entourage combined with the colourful and traditional ceremonial to make a never-to-be-forgotten scene of great dignity and solemnity.

Division bells summoned Members of the Legislative Council and House of Assembly to be in their respective Chambers at twenty minutes before noon. Following the reading in both Houses of the Proclamation summoning Parliament, Members of the House of Assembly, led by the Speaker (Hon. Sir Robert Nicholls, M.P.), were conducted by Black Rod to positions on the floor and in the benches of the Legislative Council Chamber.

Shortly thereafter, Black Rod announced from the Bar of the Council, "Her Majesty the Queen approaches". The President (Hon. Sir Walter Duncan, M.L.C.), the Speaker and the Premier (Hon. T. Playford, M.P.), preceded by Black Rod, moved out of

the Chamber, through the Centre Entrance, to the footpath in front of the main steps to receive the Queen and the Duke of Edinburgh.

More than fifty thousand people had crowded outside Parliament House at noon to witness the arrival of Her Majesty the Queen on this momentous occasion. After the reception by the Premier and the presentation of the President, Speaker and Black Rod, a Royal Salute was given by the Guard of Honour, the National Anthem played and the Royal Standard broken at the centre flagpole.

A fanfare of trumpets heralded the entry of the Queen and her suite into the Chamber and Members and guests stood in a hushed silence as Black Rod made the historic announcement, "Her Majesty the Queen".

The Queen, with the Duke of Edinburgh on her left and the President on her right and followed by the Speaker and the Premier and the Royal Household, moved in dignified procession along the floor of the Chamber to the dais. The gentlemen bowed and the ladies curtsied as Her Majesty passed. The Queen stood momentarily before her chair on the dais and bowed to the right and left and members and guests bowed or curtsied in response.

Her Majesty wore an eau-de-nil gown with the Star and Ribbon of the Order of the Garter and diamond tiara. The Duke of Edinburgh in the white uniform of an Admiral of the Fleet was seated on the left of Her Majesty and the President on her right.

The Queen's Private Secretary (Major Sir Michael Adeane, K.C.V.O., C.B.) came to the front of the dais and handed the Queen a copy of the Royal Speech. The Queen read the speech to an audience fully appreciative of the constitutional importance of this unique occasion—the Queen in person opening a session of the South Australian Parliament.

The text of the Speech was as follows:

HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL AND GENTLEMEN OF THE HOUSE OF ASSEMBLY:

I am very glad to be able to open in person this Session of the Parliament of South Australia and to take part in the time-honoured ceremonies attending such an occasion.

It is now 97 years since your citizens first enjoyed the benefits and privileges of responsible government. During that time, you and your predecessors have faithfully maintained the traditions, the spirit and the practices which you inherited from the Mother of Parliaments at Westminster. I congratulate you upon your success in adapting the British system of Parliamentary Government to the needs of your country.

I thank you and the people of South Australia, most warmly, both for the loyal and affectionate welcome with which My Husband and I have been received, and also for the unfailing help and support which your State has at all times given in so generous a measure to the Mother Country.

Among the important problems which concern you is that of the development of the productive resources of your State. I have noted with interest and pleasure the progress which you have made and I am confident that by courage, enterprise, and determination you will move forward to an era of ever-increasing prosperity.

My Government is making satisfactory progress in the construction of the many engineering works and buildings required for the public utilities and social services of the State. Included among the new buildings is the large public hospital at Woodville, the total cost of which will be £4,500,000. I am happy to accede to the request, which My Ministers have made, that this hospital shall be known as the Queen Elizabeth Hospital.

My Ministers are engaged in the preparation of the legislative and financial proposals which they deem it necessary to introduce during the coming financial year for the purpose of promoting the welfare and progress of My people.

Bills to give effect to these proposals will be submitted later for your consideration.

I now declare this Session open; and I pray that the blessing of Almighty God may sustain and guide you in your deliberations to the advancement of the welfare of the State.

ELIZABETH R.

At the last words of the speech, the muffled report of the first round of a 19-gun salute fired from the Torrens Parade Ground could be heard in the precincts of the Chamber. The assemblage stood as the Queen rose, stepped from the dais, and received from the Private Secretary two copies of the Royal Speech. The President and the Speaker bowed reverently as each received a copy of the speech from the hand of Her Majesty the Queen.

Black Rod advanced, bowed to the Queen and then turned and led the Royal procession slowly from the Chamber past bowing and curtseying members and guests.

With the ceremonial in the Legislative Council chamber completed, each House set about the preparation and adoption of an Address in Reply. The draft Address in Reply was drawn up in the Legislative Council by a Committee consisting of the Chief Secretary (The Hon. A. L. McEwin), Hon. F. J. Condon and the Hon. C. R. Cudmore, and in the House of Assembly by the Treasurer (The Hon. T. Playford), and Messrs. C. R. Dunnage, M. R. O'Halloran (Leader of the Opposition), T. C. Stott and F. H. Walsh, in the following terms:

MAY IT PLEASE YOUR MAJESTY:

We, Your Majesty's loyal and devoted subjects, the Members of the Legislative Council of South Australia, in Parliament assembled, proffer to Your Majesty our humble thanks for the Gracious Speech with which You have been pleased to open the Second Session of the Thirty-fourth Parliament of this State.

We desire to express our deep sense of pride and privilege at the great honour bestowed by Your Majesty on the people of South Australia by Your Visit to this portion of Your Majesty's Dominions.

We affirm our steadfast and affectionate loyalty to Your Majesty's Throne and Person. We are confident that the visit of Your Majesty and His Royal Highness the Duke of Edinburgh will still further strengthen the ties which bind us to our Mother Country.

We assure Your Majesty that our earnest consideration will be given to all matters placed before us and we join with Your Majesty in praying for Divine Guidance in all our deliberations.

Members privileged to speak in the limited time available for debating the motion for the adoption of the Address in Reply were the Hon. A. L. McEwin, the Hon. F. J. Condon and the Hon. C. R. Cudmore in the Legislative Council and the Hon. T. Playford and Mr. M. R. O'Halloran in the House of Assembly. The Addresses were adopted unanimously in both Houses.

Then, in turn, the President and the Speaker, accompanied by their respective Members and Officers, went to Government House; and there for the first time in the history of the State the Presiding officers had the signal honour of reading and presenting the Address in Reply to the reigning Sovereign. The Queen was graciously pleased to reply to the Address of both Houses as follows:

Mr. President and Members of the Legislative Council,

I thank you sincerely for your Address in reply to the Speech with which I opened the Second Session of the thirty-fourth Parliament.

I have received with great pleasure your expressions of loyalty.

I am assured that you will give earnest consideration to all matters placed before you; and I pray that God's blessing may rest upon your labours.

ELIZABETH R.

Thus was consummated the ceremonial opening of the second session of the thirty-fourth Parliament of South Australia.

The same evening, The Queen and the Duke of Edinburgh returned to Parliament House to attend a Parliamentary Banquet and Women's Parliamentary Reception.

2. Additional Note

By I. J. Ball, Clerk of the Legislative Council and Clerk of the Parliaments

The following extract from a letter received by the Premier of South Australia from the Private Secretary to Her Majesty the Queen was published in *The Advertiser* of 27th March, 1954:

The Legislative Council and the House of Assembly have already received the Queen's formal thanks for their Address-in-Reply, but they will, perhaps, be glad to know how grateful Her Majesty was for the special modifications which were made to have her any undue fatigue in opening Parliament.

I am sure that everyone will agree that this historical ceremony lost nothing in dignity by being carried out in this way.

The Queen also greatly enjoyed the Parliamentary banquet and she and the Duke of Edinburgh desire me to thank you and the people of S.A. once again for the splendid opals which you gave them and which they will treasure.

I believe I told you how much the members of the Royal Household appreciated the magnificent offices which we have been lent in Parliament House; I should like to repeat these thanks, if I may, because we have all benefited greatly from this kind and courteous gesture on the part of Parliament.

The reference to the "Special modification" in the letter relates to the dispensation of the traditional summons to the House of Assembly, the Members of which were seated on the floor of the Council before Her Majesty's arrival in order to obviate any delay in pro-

PARLIAMENTARY ASPECTS OF THE ROYAL TOUR, 1953-54 45
ceedings. Standing Orders of both Houses were amended in 1953 to enable this procedure to be adopted.⁶

The Royal Opening was the first occasion on which—

- (a) Presiding Officers and Officers of both Houses have worn wigs;
- (b) A Black Rod was used; and
- (c) Proceedings of this Parliament were broadcast. Recordings of this broadcast were made for preservation with other historic records.

WESTERN AUSTRALIA

Owing to an outbreak of poliomyelitis the only event connected with Parliament which occurred during the Royal Tour of Western Australia was an evening Reception held in the grounds of Parliament House on Saturday, 27th March. All Members and Officers together with their wives were received by Her Majesty and the Duke of Edinburgh.

CEYLON

By R. St. L. P. Deraniyagala, M.B.E., Clerk of the House of Representatives

Advantage was taken of the visit of Her Majesty Queen Elizabeth II to Ceylon in April, 1954, to have the Third session of the Second Parliament of Ceylon opened in person by Her Majesty.

Parliament was accordingly prorogued on 31st March by His Excellency Lord Soulbury, the Governor-General, and summoned to meet at 9.30 a.m. on Monday, 12th April, 1954, at the Independence Memorial Hall. The Independence Memorial Hall was chosen as the venue for the ceremony in view of the inadequacy of the Parliament Buildings to hold the members of the two Houses and all those who would have to be invited to this historic ceremony. Invitations were sent out by the President of the Senate (Senator Hon. Sir Nicholas Attygalle) and the Speaker of the House of Representatives (Hon. Sir Albert Peries, K.B.E.) to the spouses of the members of the two Houses, Diplomatic representatives and distinguished members of the public. The Hall was decorated in traditional Sinhalese style for receptions to Royalty. The Throne was placed on a dais at the head of the Hall and the seats for the members of the two Houses and invited guests faced the Throne.

On the morning of the 12th the two Houses met in their respective Chambers at 7 o'clock pursuant to resolutions passed earlier, and then suspended sittings to enable members to proceed in procession to the Independence Memorial Hall.

The spouses of members, Judges and their wives, the Attorney-General (Mr. H. H. Basnayake, Q.C.) and the Solicitor-General (Mr. T. S. Fernando, Q.C.) and their wives, and the Diplomatic representatives and their wives arrived at the Hall in processions of cars.

The processions of the members of the two Houses arrived last, a short time before the Royal Procession was due to leave Queen's House.

On arrival at the Hall the members entered the Hall in procession preceded in the case of the Senators by the Gentleman Usher (Mr. T. V. Dickman) and in the case of the members of the House of Representatives by the Serjeant-at-Arms (Mr. M. Ismail, M.B.E.). Each House was announced on entering.

The Royal procession drove from Queen's House, where Her Majesty resided, along a route lined by troops. A salute of 21 guns greeted Her Majesty on arrival at the Hall. Her Majesty and His Royal Highness the Duke of Edinburgh were met at the bottom of the main flight of steps by the Prime Minister (Hon. Sir John Kotelawala, K.B.E.), the Presiding Officers of both Houses and the Leaders of the two Houses and conducted in procession up the steps led by the Gentleman Usher, the Serjeant-at-Arms and the Clerks of the two Houses. At the Flag Mast Her Majesty took the Royal Salute, the Royal Standard was broken and the Flag of Ceylon unfurled. The procession then entered the Hall and passing between the members of the two Houses and invited guests went up to the dais where Her Majesty and His Royal Highness the Duke of Edinburgh broke away from the procession and took their seats on the dais. The Household Staff stood behind the Throne.

Proceedings commenced with the proclamation summoning Parliament being read by Her Majesty's Ceylonese Equerry (Colonel C. P. Jayawardana, O.B.E., E.D.), as follows:

In the Name of Her Majesty ELIZABETH the Second, Queen of Ceylon and of Her other Realms and Territories, Head of the Commonwealth.

PROCLAMATION

By His Excellency the Right Honourable Lord Soulbury, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Officer of the Most Excellent Order of the British Empire, upon whom has been conferred the Decoration of the Military Cross, Governor-General and Commander-in-Chief of the Island of Ceylon and its Dependencies.

Soulbury.
KNOW Ye that by virtue of the powers vested in me by section 15 of the Ceylon (Constitution) Order in Council, 1946, I, Herwald, Baron Soulbury, Governor-General, do by this Proclamation summon Parliament to meet at the Independence Memorial Hall, Torrington Square, Colombo, at nine-thirty in the forenoon of Monday, the twelfth day of April, 1954.

Given at Colombo this Eighteenth day of March, One Thousand Nine Hundred and Fifty-Four.

The Prime Minister advanced to the Throne and presented the Speech to Her Majesty which Her Majesty read:

MR. PRESIDENT AND MEMBERS OF THE SENATE, MR. SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES—

It gives me very great pleasure to be able to open this present Session of

Parliament in person. I thank you for the opportunity which has been afforded to me of meeting, in Parliament assembled, the Members of both Houses on this unique and historic occasion.

My husband and I had looked forward to our visit to your Island more than two years ago. When that visit had to be cancelled owing to the death of my Father, the late King George VI., I was greatly comforted by the assurances of sympathy and the messages of loyalty which I then received from Ceylon, and for which I again thank you.

We deeply appreciate the warmth of the welcome which has been accorded to us on this visit. We hope during our stay here to see some of the scenic beauty of this Island and your ruined cities with their archæological treasures—a silent and constant reminder of your ancient civilisation.

MR. SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES—

The Estimates of Revenue and Expenditure for the forthcoming financial year will be laid before you in due course. You will then have an opportunity of discussing in detail the policy of my Government. I do not therefore propose on this occasion to dwell at length on these matters.

MR. PRESIDENT AND MEMBERS OF THE SENATE, MR. SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES—

More than six years ago Ceylon took her place as an independent and fully responsible member of the Commonwealth of Nations. This international community of free and equal nations, enjoying common principles of government, forms a powerful instrument in safeguarding freedom and peace and the democratic way of life. I have no doubt that, as a member of the Commonwealth, you will make a valuable contribution, in a manner suited to the genius of your people, towards the pursuit of peace, liberty and progress. I am also certain that with mutual confidence and understanding a solution can be found to any problems that may arise.

Certain measures which lapsed in the last Prorogation of Parliament will be re-submitted for your consideration. I commend these matters to you for your deliberation and I trust they will receive your most careful consideration.

I extend to my people in Ceylon my best wishes for their future happiness and prosperity.

It being convenient for Her Majesty to receive Addresses of Thanks from the two Houses immediately, the Leaders of the two Houses (Senator Hon. Sir Oliver Goonetilleke, K.C.M.G., K.B.E., and Hon. J. R. Jayewardene) advanced to the Throne and presented the Addresses, the texts of which, apart from the designations of the respective Houses, were identical, viz.:

We the Members of the Senate of Ceylon [*or*, House of Representatives] beg to thank Your Majesty for the Gracious Speech with which Your Majesty has been pleased to open Parliament

after they had made their speeches. Her Majesty then said:

MR. PRESIDENT AND MEMBERS OF THE SENATE, MR. SPEAKER AND MEMBERS OF THE HOUSE OF REPRESENTATIVES—

I thank the Senate and the House of Representatives for the Loyal Addresses which they have presented to me,

and handed signed copies of her speech to the two Presiding Officers, who had advanced to the Throne to receive them.

The ceremony being now concluded, Her Majesty was conducted

in procession out of the Hall past the Flagstaff where she took the Royal Salute, to the Royal Car which had been drawn up at the steps.

The respective processions then left the Hall, the members of the two Houses leaving first.

The Houses resumed business in their respective Chambers at 2 p.m. and the Debates on the Address were commenced after some formal business was disposed of.

ADEN

On 27th April the members of the Legislative Council, together with other dignitaries of the Colony and Protectorate, were presented to Her Majesty at the Crescent Gardens. Loyal Addresses from representatives of the people of the Colony, and the Rulers and peoples of the Protectorate, were read in English and Arabic; copies of these Addresses were thereafter presented to Her Majesty in a casket of local wood, specially made for the occasion by pupils at the Aden Technical College.

MALTA, G.C.

By V. A. Dillon, M.B.E., Clerk of the Legislative Assembly and Clerk of the Executive Council

Her Majesty the Queen, during her visit to Malta, was graciously pleased to visit the Malta Branch of the Commonwealth Parliamentary Association, and on the 3rd of May, 1954, the Malta Branch had the signal honour of welcoming Her Majesty the Queen and Her Royal Consort the Duke of Edinburgh in the Tapestry Chamber, the Palace, Valletta.

An illuminated Address of Welcome was delivered by the President of the Branch, Mr. Speaker, Dr. the Hon'ble G. M. Camilleri, LL.D., M.L.A., who also presented to Her Majesty, on behalf of the Branch, a silver filigree model of a Malta "dghajsa" (passenger boat) to commemorate the gracious visit.

The Address reads as follows:

TO HER MOST GRACIOUS MAJESTY ELIZABETH THE SECOND, BY THE GRACE OF GOD, OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND OF HER OTHER REALMS AND TERRITORIES QUEEN, HEAD OF THE COMMONWEALTH, DEFENDER OF THE FAITH

May it please Your Majesty,

We, Your Majesty's most dutiful and loyal subjects, the Members of the Malta Branch of the Commonwealth Parliamentary Association, humbly beg leave to tender to Your Majesty our heartfelt and profoundest thanks for the signal honour rendered to the Malta Branch by the visit of Your Majesty to this Tapestry Chamber, and we humbly ask permission to express to Your Majesty and to Your Royal Consort, the Duke of Edinburgh, our most hearty welcome.

We beg leave to assure Your Majesty our undivided loyalty and to ask that Your Majesty will be pleased to accept this souvenir to commemorate this

gracious visit of our Most August Sovereign and Her Royal Consort.

May the Almighty shower abundant blessings on Your Majesty, Your August Consort and all the Royal Family and may He long spare Your Majesty to reign over us in peace and prosperity.

G. M. CAMILLERI,
President.

GIBRALTAR

On 10th May Her Majesty and the Duke of Edinburgh attended a civic luncheon by the Legislative Council and City Council in the Assembly Rooms. After luncheon the Hon. J. A. Hassan, M.V.O., J.P., the Senior Elected Member of the Legislature and Chairman of the City Council, delivered a short address of welcome, to which Her Majesty was graciously pleased to reply.

UNITED KINGDOM: ADDRESSES OF WELCOME ON HER MAJESTY'S RETURN

On 17th May, 1954, the Commons, and on 18th May the Lords, agreed unanimously—

That an Humble Address be presented to Her Majesty, assuring Her Majesty on the occasion of her return from her historic Commonwealth Tour, of the loyal and affectionate welcome of this House to Her Majesty and His Royal Highness The Duke of Edinburgh.⁷

Her Majesty replied to each House—

I thank you sincerely for your Address and for your loyal and affectionate greetings on My return from My tour in the course of which I and My Husband have visited many parts of the Commonwealth, including several of My Colonies and countries under My protection.

It has been a great joy to Me during the past six months to be able to meet so many of My Peoples and I and My Husband will always remember the lively and inspiring welcome which we have everywhere received.

I have been greatly moved by the warmth with which My Husband and I and our children have been welcomed on our return.⁸

¹ *Hans.*, Vol. 7, 3rd Series.

² L.A. V. & P., 4th February, 1954.

³ *Hans.*, Vol. 74, 2nd Series, p. 2759.

⁴ L.C. V. & P., 1953, No. 10,

Entry 5 at p. 66.

⁵ H.A. V. & P., 1953, No. 20, Entry 35 at p. 139.

⁶ L.C. Minutes, 6th October; H.A. V. & P., 30th September; approved by Governor, 8th October.

⁷ 527 *Com. Hans.*, 1698; 187 *Lords Hans.*, 642.

⁸ 527 *Com. Hans.*, 2063; 187 *Lords Hans.*, 809.

III. BLACK RODS, MACES AND SERJEANTS AT ARMS

GENERAL INTRODUCTION

Black Rod

The "Modus Tenendi Parliamentum", a pamphlet probably written about 1322, says that among the officials of Parliament is to be a man to keep the door, or porter. And it is, of course, common sense that there must always have been some such official in both

Houses. This article is devoted to those officials, their origins, functions and authority.

Historical articles on the offices of Black Rod and the Serjeant at Arms of the House of Commons have already appeared in previous volumes of this JOURNAL, by Lieutenant-General Sir Brian Horrocks (Black Rod) and Major-General I. A. P. Hughes (Deputy Serjeant at Arms) respectively.¹ The present article is intended to relate the history of these offices to the present practice of Parliament, and to serve as an introduction to accounts of the presentation of new Black Rods and Maces in British Columbia, Western Australia, the Federation of Rhodesia and Nyasaland and Tanganyika.

The oldest existing office of usher or serjeant at arms is probably that of the "Ostiarus" of the Convocation of the ecclesiastical Province of Canterbury, who keeps the "ostia" or doors of that assembly. Convocation was a part of Parliament until about 1400, and is still summoned and dissolved by the same machinery as the Parliament at Westminster: but its practical connection with Parliament ceased about three centuries ago, when the churchmen gave up voting their own taxes in Convocation.

French was for many years the official language of Parliament, and the French for a door (derived from the Latin "ostia") is *huis*; when a French or Belgian Chamber is in secret session, it is said to be sitting *à huis clos*. The attendants who keep order in the National Assembly and Senate in Paris are known as *huissiers*. The English word "usher" is derived from *huissier*, and it means, of course, a person who keeps the door at Court, in a law court, in a school or in church. In course of time ushers have acquired other duties: for example, the ushers in a court of law enforce the collection of debts, those in a school act as under-masters, and those at Court become Masters of Ceremonies.

In 1361 "the King charged his usher of the Free Chapel in Windsor Castle to bear the Rod in his presence in procession", and in 1522 this usher, who has since become the usher of the Order of the Garter, was made "chief of all the ushers of this Kingdom". In the statutes of the Order of the Garter of this time, it is laid down that he should carry a Black Rod before the Sovereign at the ceremonies of the Order, which Rod "serves instead of a mace and has the same authority to arrest such persons as shall be found delinquents . . . and if at the command of the Sovereign and Knights Companions (the usher) should apprehend anyone of the Order . . . it is to be done by touching them with this Black Rod".

Before the time of Henry VIII, the principal palace of the Kings of England was at Westminster. It is likely, therefore, that the Gentleman Usher of the Black Rod resided, or at any rate performed his functions as chief usher of the Kingdom, mainly at Westminster. Among those functions would have been that of regulating the ceremonial proceedings of the King's Court in Parliament; and by 1500

one might say that this function had turned into that of keeping order in the House of Lords. When Henry VIII bought Whitehall from Cardinal Wolsey and transferred his residence thither, it is reasonable to suppose that Black Rod stayed behind in the Palace of Westminster, that his other functions were transferred to different officials, and that he was left—as he is today—only with his duties in the House of Lords and in the Order of the Garter. But he remains to this day a member of the Court, appointed by the Sovereign and having certain of the perquisites of a Court official.

The division of functions at the Courts of the Middle Ages was very clearly marked; and the duties of Black Rod are, therefore, strictly confined to the House itself when it is sitting. When the House is not sitting, the premises are under the jurisdiction of the Lord Great Chamberlain, another early mediæval official; and the more important ceremonial occasions, such as the Opening of Parliament and the introduction of a Peer, are under the jurisdiction of the Lord Great Chamberlain and the Earl Marshal, the latter of whom is generally responsible for the ordering of the most important State ceremonies of all, such as Coronations. Moreover, Black Rod's jurisdiction when the House is sitting is confined to what might be called the public part of the House—that is, the part in front of the Woolsack and below the Bar and the galleries, etc. Black Rod's men also serve as doorkeepers to committees. That part of the House which lies behind the Woolsack is supposed to be under the jurisdiction of the Serjeant at Arms attending upon the Lord Chancellor.

Outside the House, the duties and powers of Black Rod are equally clearly limited. He is sent by Royal Authority to summon the Commons to the Bar of the Lords; but ordinary Messages from the Lords to the Commons are borne by one of the clerks. He is in charge of any prisoner or delinquent who may appear at the Bar of the House—in Criminal Appeals to the House of Lords, for example, the prisoner at the Bar is under the charge of Black Rod, and in times past he has been sent to arrest or apprehend both Peers and commoners. Stafford, for instance, before his execution was arrested and kept under restraint by Black Rod.

We may, therefore, sum up the history and present position of the Gentleman Usher of the Black Rod (and of his Yeoman assistant) by saying that he was originally the chief usher of the Court; that when the King's Court turned for business purposes into the House of Lords, the Gentleman Usher remained with that House; that he keeps order in that House by reason of the authority he derives from the Sovereign; that for the same reason he is sent with Royal Commands (but not ordinary Messages) from the Lords to the Commons; that his Rod is the emblem of the authority which is conferred upon him by Letters Patent from the Sovereign; and that his duties are normally confined to those times and places at which the House is sitting.

Serjeants and Their Maces

The word "serjeant" comes from the Latin *serviens*, and means a servant. The "bloody serjeant" who delighted our schooldays by his sudden appearance in the opening scenes of "Macbeth" was not a N.C.O., but more likely a "runner" of indeterminate rank. A very large number of people had services of various kinds to perform to the mediæval monarchs; and these services—such as the provision of arrows and fodder, and waiting upon the King at table, were known as "serjeanties". But the people who were permanently retained by the Sovereign to perform certain services became known more particularly as "serjeants", and of these, the two classes that have survived down to modern times are the Serjeants at Arms and the Serjeants at Law. Serjeants at Law were abolished about 1870; but the Serjeants at Arms remain. They were, of course, originally the King's bodyguard, and as such they must be by far the most ancient military corps in the Kingdom. Their specifically military duties, however, appear quite early to have passed to other hands, and it is likely that by the beginning of the thirteenth century they had turned into what may be described as civil or police bodyguards. For this purpose, they were armed with clubs or maces, less warlike weapons no doubt than those they had originally carried.

A ceremonial bronze mace-head, dating perhaps from the twelfth century B.C., has recently been dug up at Beyce Sultan, in Asia Minor; it is thought to have been in use at the court of a chieftain who lived about the time of the Trojan War. It is possible that the Roman Empire may have provided a link between this prehistoric object and the form of mace which, as the story goes, became fashionable in the early Middle Ages as a weapon for ecclesiastics, who might wish to take part in a battle without infringing that provision of canon law which forbade churchmen to shed blood; and in the twelfth century there seems to have been a small corps of Serjeants at Mace in attendance upon the French King. The English followed the French example, both at Court and elsewhere, and it became the custom for maces to be carried in this country not only at Court, but during the proceedings of the governing bodies of towns and other corporations. As these proceedings became less turbulent, and it became less and less necessary to knock people on the head while these bodies were deliberating, the knop or knob at the "business end" of the mace became smaller and smaller, and the device at the other end of the mace, which signified its ownership and the authority to whom it belonged, became larger and larger. In the case of the King's Serjeant, these devices were, of course, crowns; and in the maces of the present day they are five or six times as large as the knob at the other end.

During the time that Parliament met in the premises where the King himself was staying, the services (other than clerical) of both

Houses would naturally tend to be performed by officials of the Court; and it is therefore natural that the King should have detached or seconded two of his Serjeants at Arms to attend upon the Houses. The duties of these two Serjeants were, of course, somewhat different, for in the case of the Commons there was no other official who could exert the Royal Authority in keeping order in the House, keeping the doors, and arresting anyone who insulted the King by any contempt of those summoned to confer with him in Parliament. In the Lords, on the other hand, there already existed an official of high rank—Black Rod—who carried out these duties; and the Serjeant at Arms, therefore, confined himself to attendance upon the Lord Chancellor, who, as the greatest of the Great Officers of State, was of course well entitled to the services of such an officer.

When Henry VIII left the Palace of Westminster, these two Serjeants became to some extent detached from the Royal service, and permanently attached to the two Houses, which were henceforth to meet almost invariably in that Palace. And it seems, too, to have been Henry VIII who first delegated the wielding of the Serjeant's authority to the House of Commons. At any rate, when in 1543 one Ferrers, an M.P., was imprisoned in the City of London by the sheriffs of that Corporation, the House of Commons, encouraged apparently by the King and the Lord Chancellor to act on their own authority, sent their Serjeant down to the City to secure the release of their Member, and bring the offending officials of London to the Bar of their House, "by show of his mace", which was his authority. From that time, no one has disputed the power of the Commons to make use of their Serjeant in this way. But he continues to be appointed by Warrant of the Sovereign, and his mace is still Royal property.

There are two maces in the House of Lords; one of them is carried before the Lord Chancellor and laid upon the Woolsack while the House is sitting (it remains there when the House is in committee and during short adjournments, as for example, when the House adjourns in its judicial capacity at the end of the morning and sits again after lunch for public business). The other Lords' mace was originally provided, no doubt, for use when the Lord Chancellor, at times when the House was sitting, wished to carry out his functions, with his Serjeant and mace, as a Judge in the Court of Chancery. And on other occasions of ceremony, such as the Lord Mayor's Dinner, the Lord Chancellor's mace is carried before him.

At one time the corps of Serjeant at Arms was pretty numerous—there were, for example, twenty-four in the time of Charles II. And in the Tower of London there still exists quite a collection of Royal maces. But at the present moment Her Majesty only has two Serjeants at Arms other than those attending upon the two Houses of Parliament. They are Court officials; and they only appear these days at the Opening of Parliament. When the Queen moves in pro-

cession down the Royal Gallery from the Robing Room to the House of Lords in order to make her Speech from the Throne, her procession is flanked by two Serjeants at Arms. The Lord Chancellor has met her at the Royal Entrance with his Serjeant and mace, who, however, disappear on the arrival of Her Majesty. Her Majesty summons the Commons to attend her at the Bar of the Lords, and they come with their Serjeant and mace. But before entering the Parliament Chamber, the Serjeant lays aside his mace and appears without it at the Bar. There seems here to be the idea that the exercise of the Royal Authority, as embodied in the Serjeants and maces of the two Houses, and as delegated to the Houses, is inappropriate in the presence of the fount of that Authority Herself, and therefore the maces of the two Houses are laid aside when Her Majesty comes. In the same way, when the Commons are summoned by Royal Commission to hear the Royal Assent given to Bills, or for the prorogation of Parliament, they lay aside their mace upon entering the House of Lords; although in this case the Lords' mace, which ought no doubt also logically to be removed, remains upon the Woolsack. But Black Rod does not upon such occasions, either when Her Majesty is present or when she is acting by Commission, lay aside his Rod, because he is actually carrying out the Royal Commands.

The Serjeants then—to sum up—are Royal Officers attached to the two Houses so that the Royal Authority may be exercised where appropriate by those two Houses. They have become, as is natural, attendants also upon the presiding officers of the two Houses; and in this respect, of course, their functions differ, as do the functions of the Lord Chancellor and Mr. Speaker. And, of course, the Serjeant at Arms attending upon the House of Commons has, in the course of centuries, acquired many domestic duties in that House. But the primary purpose of the Serjeants at Arms remains the same as it always has been, to place at the disposal of the two Houses and their presiding officers the authority of the Sovereign.

They and Black Rod are the only executive officers directly available to each House. Their executive powers are now fortunately seldom used, and it is, of course, an essential part of our parliamentary constitution that the two Houses should not, in general, have executive powers. But in cases of contempt or disorder it is certainly necessary that a House of Parliament, like a court of law, should have some such power; and these three officers, with their ancient panoply, their dignified dress and the long traditions and prestige of the places that they hold, most appropriately provide it.

BRITISH COLUMBIA: PRESENTATION OF A NEW MACE

By E. K. de Beck, Clerk of the Legislative Assembly

The Legislative Assembly in the Province of British Columbia at the last session adopted a new Mace. The following procedure was

followed: the Mace was first exhibited to the Lieutenant-Governor and he in his address to the Legislature giving the cause of summons gave the necessary approval in the following words:

Since last you met a new Royal mace has been made and exhibited to me. It is a magnificent example of the silversmith's art, locally designed and fabricated, and I am pleased to sanction its substitution for the present one.

In the House, immediately following the introduction of Bill No. 1 and the Motion that the message of His Honour the Lieutenant-Governor be considered, by leave of the House, the Provincial Secretary made a statement concerning the Maces of British Columbia, in the following words:

There have been five maces in the history of British Columbia: (1) Original mace of Colony of Vancouver Island, (2) makeshift mace used at establishment of Colony of British Columbia, (3) mace of the Colony of British Columbia, (4) first mace used as a Province of the Dominion, and (5) present mace made for the new buildings.

(1) Original Mace of Colony of Vancouver Island: The first Legislative Assembly of the Colony of Vancouver Island was convoked on 12th August, 1856. With the union of the Island and mainland colonies on 19th November, 1866, this body was abolished. The mace used during the ten years, however, survived and it was sold at public auction in December, 1936. Shortly thereafter it was acquired by Mr. B. A. McKelvie who subsequently presented it to the Shawnigan Lake Boys' School.

(2) Makeshift Mace: The mainland Colony of British Columbia was instituted at a ceremony held at Fort Langley, 19th November, 1858, when James Douglas was sworn in as Governor by Matthew Baillie Begbie. Evidently at the late moment, the rude makeshift mace was prepared. It subsequently became the property of Sir Henry P. P. Crease and in 1947 was secured by Mr. Noel Booth, Reeve of Langley, who subsequently deposited it for safe-keeping with the Provincial Archives.

(3) Mace of the Colony of British Columbia: The first Session of the Legislative Council of the mainland Colony of British Columbia was formally opened by Governor Douglas at New Westminster on 21st January, 1864. The mace used by this body continued to be used after the union of the island and mainland colonies in 1866 and until the colony became a Province of the Dominion of Canada. This mace cannot be located.

(4) First Mace of the Province of British Columbia: At the opening of the first Session of the First Parliament of British Columbia after Confederation on 17th February, 1872, the newspapers of the day noted the new mace: "It is a very handsome article made of wood, is gilded, and about three feet long. It is surmounted by an excellently carved crown and Grecian cross. The carving was executed by Mr. C. Bunting, the gilding by Mr. Keohan, and reflects credit on them as first-class workmen."

(5) Present Mace of the Province of British Columbia: At the time of the building of the new Parliament Buildings—1896 to 1898—it was felt that a new mace would be more in keeping with the dignity of the new building. This mace was made by Winslow Brothers, a firm of art metal-workers in Chicago, and, according to the Public Accounts of 1896-7, they were paid \$150 "for mace and ink-pot covers". It was first used at the opening of the Legislature on 10th February, 1898, which ceremony coincided with official opening of the Parliament Buildings.

This was followed by a Motion made by the Premier, in the following words:

That the new Royal Mace, now resting in the Speaker's Chambers, be substituted for the present one as the emblem of Mr. Speaker's authority, and that the present one be then consigned to the Provincial Archives.

Mr. Speaker then declared a recess and retired from the Chair, the Mace being placed under the table. He immediately returned, preceded by the Serjeant-at-Arms bearing the new Mace at shoulder, which was then placed upon the table. The old Mace was taken from the brackets and duly delivered to the Provincial Archivist, who received it at the Bar.

WESTERN AUSTRALIA: PRESENTATION OF A BLACK ROD TO THE LEGISLATIVE COUNCIL

By J. B. Roberts, Clerk Assistant and Usher of the Black Rod

An interesting ceremony took place in the Legislative Council of Western Australia on 18th March, 1954, when a new Black Rod was presented to that House.

The presentation was made by His Excellency the Governor, Lieutenant-General Sir Charles Gairdner, K.C.M.G., C.B., C.B.E., on behalf of the donor the Hon. Harry Hearn, O.B.E., a Member of the House.

The gift was associated with the visit to the State of Her Majesty the Queen, and the presentation took place a week before Her Majesty's arrival.

A special meeting of the House was called for the occasion, and the Judiciary, Heads of the Armed Services, Members' wives, Members of the Legislative Assembly and their wives, together with many other distinguished visitors occupied the galleries.

At the commencement of the ceremony the President (Hon. Sir Harold Seddon) was announced and took the Chair. The Speaker of the Legislative Assembly (Hon. A. J. Rodoreda) and his officers were then admitted through the Bar to seats on the Floor of the House.

His Excellency the Governor was then escorted to his seat on the dais and the Clerk of the Legislative Council (Mr. A. B. Sparks) made an announcement giving the reason for the special sitting.

The President then called on the Hon. Harry Hearn to address the House. In the course of his address Mr. Hearn traced the history of the office of Black Rod from its inception in the House of Lords and gave much detail new to many of those present. Concluding his speech Mr. Hearn requested His Excellency to make the presentation.

In presenting the Black Rod to the President His Excellency said:

Mr. President, I am delighted to have the opportunity of being present this afternoon to carry out such an important duty in connection with this ceremony. After listening to Mr. Hearne's speech, I feel sure we must all be possessed of much greater knowledge of the traditions and significance of the Black Rod, together with the implications in its association with Parliament. It was indeed a happy thought on the part of the donor to have this presentation made at a time when Her Gracious Majesty the Queen and His Royal

Highness the Duke of Edinburgh are visiting Australia. Mr. President, I have much pleasure, on behalf of Mr. Hearn, in handing to you this Black Rod.

The President then handed the Rod to the Usher with the following words:

Black Rod, I hereby entrust to your care this Black Rod, the emblem of your office in the Legislative Council of the Parliament of Western Australia. I sincerely trust that whilst it is in your charge you will perform your duties with the care and attention that their importance demands.

His Excellency then retired and the senior Minister in the House, the Hon. G. Fraser, Chief Secretary and Minister for Local Government and Town Planning, moved a vote of thanks. This was supported by the Hon. C. H. Simpson and the Hon. Sir Charles Latham.

The Rod was designed and manufactured to the order of Mr. Hearn by Messrs. Garrard and Co., of Regent Street, London. It measures 3 ft. 3 in. in length and is surmounted by the emblem of Western Australia, a swimming Swan. The Rod is decorated with silver-gilt embellishments at the base and in the centre, and altogether is a fine example of the jewellers art.

The following is inscribed at the base of the Rod—

Presented to the Legislative Council of Western Australia by the Hon. Harry Hearn, O.B.E., M.L.C., on the occasion of the visit to the State of Her Majesty Queen Elizabeth the Second—March, 1954.

RHODESIA AND NYASALAND: PRESENTATION OF A MACE TO THE FEDERAL ASSEMBLY BY A DELEGATION FROM THE UNITED KINGDOM HOUSE OF COMMONS

By Colonel G. E. Wells, O.B.E., E.D., Clerk of the Federal Assembly

On 10th September, 1954, a Delegation from the House of Commons visited the Federal Assembly to present a new Mace. As such presentations are rare, the exact procedure followed is set out below.²

In preparing the details of the ceremonial to be observed at the presentation, the Clerk of the Federal Assembly was greatly assisted by Mr. T. G. B. Cocks, O.B.E., Second Clerk-Assistant of the House of Commons, who accompanied the Delegation which presented a Mace to the Australian House of Representatives, and a Speaker's Chair to the New Zealand House.

(a) Arrangement of Chamber

Seats for the Delegation were placed in the Chamber in front of the cross benches. Otherwise the Chamber was arranged as for a normal sitting. The box containing the new Mace was placed near the seats of the Delegation, on the right side of the Chamber.

(b) Presentation Ceremony

After Prayers, Mr. Speaker stated:

I have to inform the House that I have received a letter from the Speaker of the Commons House of Parliament of Great Britain and Northern Ireland which I will now read.

When Mr. Speaker had read the letter, the Serjeant-at-Arms, at the Bar, reported—

Mr. Speaker, I have to report that a Delegation sent by the Commons House of Parliament of Great Britain and Northern Ireland to present a Mace to the Federal Assembly of the Federation of Rhodesia and Nyasaland, is enquiring if this honourable House will be pleased to receive them.

Mr. Speaker then asked:

Is it the wish of the House that the Delegation be received?

To this question Members replied by crying "Aye! Aye!"

Mr. Speaker thereupon ordered the Serjeant-at-Arms to admit the Delegation. The Delegation was led to the Bar of the House by the Serjeant-at-Arms, who halted at the Bar, bowed to Mr. Speaker and announced:

Mr. Speaker, the Delegation from the House of Commons.

Thereupon, all Members rose in their places. The Members of the Delegation moved forward to their seats, led by the Serjeant-at-Arms. Standing at their seats, they bowed to Mr. Speaker, who requested them to be seated. The Delegation and Members being seated, the Serjeant-at-Arms took up a position to the right of Mr. Speaker's Chair. Mr. Speaker then made a brief speech of welcome, ending:

I now call upon the Rt. Hon. Walter Elliot, Leader of the House of Commons Delegation, to address the House.

The Rt. Hon. Walter Elliot then addressed the House, and at the conclusion of this speech, the Train Bearer opened the box as Mr. Elliot moved towards it, and all Members of the Delegation rose. Mr. Elliot lifted the Mace from the box and handed it to the Serjeant-at-Arms, who, holding it in the downward position, advanced to the foot of the Table, and there awaited the removal of the old Mace.

When the Serjeant-at-Arms faced Mr. Speaker, the Chief Messenger advanced to the front of the Table, bowed, removed the old Mace and bowed again. He left the Chamber by the door in rear of the Chair, carrying the Mace in the downward position. As soon as the old Mace was lifted from the Table, the Serjeant-at-Arms raised the new Mace to his right shoulder, advanced to the Table and laid the Mace upon it. Members of the Delegation then sat down, and the Serjeant-at-Arms returned to his seat. Mr. Speaker then made an address, accepting the gift on behalf of the House.

(c) Motion of Thanks

The Prime Minister moved a motion of thanks, which was supported by an opposition Member, in the following terms:

We, the Members of the Federal Assembly of the Federation of Rhodesia

and Nyasaland in Parliament assembled, express our thanks to the Commons House of Parliament of Great Britain and Northern Ireland for the Mace which, by direction of Her Majesty the Queen, it has presented to this House. We accept this generous gift as a token of the friendship and goodwill of the House of Commons towards the Federal Assembly and all the peoples of the Federation. This Mace will ever serve to remind us of the great traditions of parliamentary government which we, as Members of the British Commonwealth, have inherited from the Parliament of the United Kingdom.

When the motion had been put and agreed to, the Clerk and the Speaker signed the Resolution, which had been printed on vellum. The Clerk then handed the Resolution to the Leader of the Delegation, Mr. Speaker saying as he did so:

Members of the Delegation, will you please accept the Resolution of the House, and convey it to the House of Commons.

(d) Conclusion of Ceremony

The Delegation rose and the Leader said:

Thank you, Mr. Speaker, we shall certainly do so.

As he did so, all members of the Delegation bowed to Mr. Speaker. Mr. Speaker and all Members rose. The Serjeant-at-Arms advanced, bowed to Mr. Speaker, bowed to the Delegation, and led them to seats in the Strangers' Gallery. He then returned to the Bar. On the motion of the Prime Minister, the House thereupon adjourned.

(e) Souvenir Hansard

To mark this historic occasion, a limited number of special souvenir Hansards were printed and bound in red morocco leather.

TANGANYIKA: PRESENTATION OF THE MACE TO THE LEGISLATIVE COUNCIL

By A. C. W. Lee, Clerk of the Legislative Council

Her Majesty the Queen having been graciously pleased to receive and accede to a prayer from the Legislature that a Mace should be permitted to be used in Council, the presentation was made on 13th October, 1954, by His Excellency the Governor Sir Edward Twining, G.C.M.G., M.B.E.

The Mace of silver-gilt and of traditional House of Commons design was borne into the Council Chamber by an Aide-de-Camp attendant upon the Governor, who was conducted to the Speaker's chair in procession by the Speaker preceded by the Clerk and the Serjeant-at-Arms. There followed a short and impressive ceremony as befitted the occasion, at the culmination of which the Governor handed the Mace to the Speaker, who in turn handed it to the Serjeant-at-Arms. The latter then placed it on the Table of House where it was covered in recognition of the authority which it represented, until the Governor had left the Chamber, and Council had resumed its normal business.

The Mace itself, hand-made in London and a handsome example of the jewellers' craft, incorporates the seal of Tanganyika in relief on the head of the mace on one side with the E I R CIPHER and Crown on the other. At the base of the head, which is supported by giraffes of the same design as that in the territory's badge, there is engraved a Tudor Rose, and on the reverse side the protea of Africa. The Royal Arms are shown on the cushion inside the Crown, and the whole fire-gilded to a brilliant texture.

¹ See TABLE, Vol. XIX, 128; Vol. XX, 133.
3237-48; V. & P., 10th September, 1954.

² 1954 *Federal Assem. Hans.*

IV. DEBATE ON MATTERS *SUB JUDICE*

ANSWERS TO QUESTIONNAIRE

The Questionnaire for Volumes XVII and XXII contained the following item:

What are your rules and practice regarding debate on a matter which is *sub judice*? How do you define such matters?

Replies have been received from 41 Members. In analysing these, a distinction may conveniently be made between those legislatures whose practice in this respect is governed by Standing Order and those whose practice is either not so governed or (in common with many other residual matters) is equated by Standing Order to that of the House of Commons of the United Kingdom.

1. Practice governed by Standing Order

(1) The most concise example of this is Standing Order No. 96 (vi) of the House of Representatives of *Ceylon*, which reads:

No Member shall refer to any matter on which a judicial decision is pending.

(2) Somewhat more elaborate are the following Standing Orders of the *Bombay* Legislative Assembly, which apply the provision in detail to (a) words spoken in debate, (b) the wording of questions to Ministers, and (c) the wording of Motions:

32 (2). A Member while speaking must not—

(i) refer to any matter of fact which is under adjudication by a Court of Law having jurisdiction in any part of India;

61 (2). No question shall be asked—

(a) in regard to any matter which is under adjudication by a Court of Law having jurisdiction in any part of India.

84. Subject to the restrictions contained in these rules, a resolution may be moved on a matter of general public interest:

Provided that no resolution shall be admissible which does not comply with the following conditions, namely:

- (d) it shall not relate to any matter such as is mentioned in clauses (i) . . . of sub-rule (2) of rule 32.

We have received texts of Standing Orders not materially different from these, and not supported or qualified by any rulings from the Chair, from the following Assemblies other than those whose Orders we have already quoted:

Category (1): Manitoba, Union of South Africa (Senate), South-West Africa, Nigeria (House of Representatives and the three Regional Houses of Assembly), Northern Rhodesia, the Sudan and Trinidad.

Category (2): Bombay (Legislative Council), Pakistan (Constituent Assembly), East Bengal, Singapore.

The following accounts of instances in which the Standing Orders contain more elaborate provisions, or have been supported or qualified by rulings from the Chair, have been compiled by the Clerks of the respective Legislatures:

New Zealand:

While matters pending adjudication in the Courts must not be debated in the House, nor any motion made in regard to them (S.O. 176), the general principle involved in a case affected by a Bill before the House may be discussed, but not the particular case.¹

The House is not debarred from discussing a matter that is before a Royal Commission without judicial powers as would be the case if the matter were before a Court.² The proceedings of a Royal Commission whose Report is not tabled (but copies of which have been circulated to and published in newspapers) may be discussed.³ Reference in the House to subjects before a Commission is not out of order, being rather a question of propriety, but Members should avoid embarrassing the Commission by any statements they make.⁴

Standing Order 176 which precludes discussion of matters pending adjudication is based on House of Commons principles and was laid down here to ensure that nothing said in debate should prejudice, however slightly, the decision of any Court; discussion of antecedent circumstances (in this case the acquisition of certain private papers) is disallowed.⁵

Union of South Africa: House of Assembly:

Standing Order No. 73 provides that a member shall not refer to "any matter on which a judicial decision is pending". In practice the rule is interpreted to mean that a member must not refer to any matter on which a judicial decision is pending in such a manner as to prejudice a fair trial of the case. On occasions when Mr. Speaker has been doubtful as to whether or not a trial was pending in regard to the matter under discussion in the House he has asked the Minister in charge for confirmation or otherwise.⁶

Cape Provincial Council:

Rule 62 provides ". . . nor shall a Member refer to any matter upon which a judicial decision is pending". Debate on such a matter would be ruled out of order. In practice the rule is interpreted to mean that a member must not refer to the matter in such a manner as to prejudice a fair trial of the case.

The rule would be applied in reference to courts of law, including a coroner's court.

India: Lok Sabha:

The Rules of the Lok Sabha provide that questions, adjournment motions, resolutions or motions shall not deal with any matter which is "under adjudication by a Court of Law having jurisdiction in any part of India".⁷ The Rules also provide that a Member while speaking shall not refer to any matter of fact on which a judicial decision is pending.⁸

2. The Rules also provide that questions or motions or resolutions shall not deal with any matter which is pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any Commission or Court of Enquiry appointed to enquire into or investigate any matter, but may refer to matters concerned with procedure or subject or stage of enquiry, if it is not likely to prejudice the consideration of the matter by the Tribunal or Commission or Court of Enquiry.⁹

3. The provisions of the above-mentioned rules are enforced by the Speaker in practice.

Bihar Legislative Assembly:

If a Member tries to raise a debate or move a resolution or ask a question on a matter which is sure to be brought before a Court of Justice on appeal, it is not allowed, being contrary to the public interest involved and in the interest of the proper administration of justice. It has also been held that it would not be right to disallow a debate on a matter merely on the ground that legal proceedings are possible at some future date and that unless there are actual legal proceedings there is no reason why discussion should be barred on this possible contingency. The principle which really governs such cases in this State Legislature is whether or not the discussion on the floor of the House would tend to obstruct the course of justice and if the House or the Speaker is satisfied that it would not obstruct the course of justice, it is not forbidden in the House. But if it is clearly known that such discussion will prejudice the course of justice, it is not allowed.

Any matter of fact on which a judicial decision is pending becomes *sub judice*. The expression *sub judice* is of wide application and connotes the stage right from the very beginning up to the final end. A legal proceeding starts from the lowest rung of the judicial ladder, *i.e.* either a Magistrate or a Munsif or even a Gram-Panchayat Judge, and can extend up to the Supreme Court. It would, therefore, appear that so long as the matter is pending in any of these Courts, or has even been disposed of by one but is pending in the other, or there is yet time for an appeal in law, the matter must needs be considered to be *sub judice* and no reference to it can be made at all in any proceedings of the House.

Madhya Pradesh Legislative Assembly:

Rule 133 (i) of the Madhya Pradesh Legislative Assembly provides that a Member while speaking shall not refer to any matter of fact on which a judicial decision is pending. This has been further explained by a ruling given by the Speaker to the effect that facts which had direct and proximate relation to the incident under judicial enquiry could not be referred to, but the facts which had a remote bearing to the incident could be referred to.

Madras Legislature:

Under the rules of the Legislature a question or resolution must not relate to a matter which is under adjudication by a Court of Law, and a member

while speaking' must not give his opinion about or refer to any matter on which a judicial decision is pending. In applying these rules it has been held that the matter is *sub judice* only when the court is *in seisin* of it. Some of the rulings showing degrees, principles and tests of *sub judice* are appended.

A resolution recommending the constitution of a committee to enquire into the affairs of a temple was not allowed to be moved when it was pointed out that the matter was the subject of adjudication by Courts.¹⁰

2. An adjournment motion was allowed in regard to the action of the Government in sanctioning a prosecution for sedition. In doing so it was held that the matter *sub judice* was whether the speeches constituted sedition, and not the expediency of the sanction accorded. In discussing that motion reference to materials of the prosecution was not allowed and Members were asked to confine themselves to the circumstances under which Government had to exercise their discretion in granting sanction or to the conduct of the Government in granting sanction.¹¹

3. An adjournment motion, to discuss the action of the police in issuing copies of Bharathi Songs was similarly allowed to be discussed without touching the question which was *sub judice*, viz., whether the songs were seditious or not.¹²

4. Objection was raised to a motion for referring the Madras Maintenance of Public Order Bill to a Select Committee on the ground that it would affect the cases of certain persons who had been arrested under the Maintenance of Public Order Ordinance, but it was held invalid on the ground that it was possible to have a full consideration of the Bill without touching on the pending cases.¹³

5. In regard to the Maintenance of Public Order (Amendment) Bill an objection was raised that it was *sub judice* on the ground that the matter was likely to come before the Federal Court. But it was ruled out on the ground that it would be *sub judice* only when the matter was actually before the Court.¹⁴

6. Supplementary questions on a matter pending before the Court were disallowed.¹⁵

7. In connection with a point of order raised by a Member stating that a motion in regard to charges against Ministers which were pending consideration by the Congress High Command was *sub judice*, the Speaker ruled that it was not *sub judice* as the High Command was not a Court of Law.¹⁶

8. In connection with the admissibility of an adjournment motion regarding police firing in Tuticorin and Dalmiapuram, an objection was raised that the matter was *sub judice* on the ground that a Committee constituted by the Government was enquiring into the matter. The Speaker ruled as follows:

"Only when the matter is before the Court it is *sub judice*. This is merely an enquiry. The Committee is not going to give a judgment. So the matter is not *sub judice*."¹⁷

Uttar Pradesh Legislative Assembly:

Sub judice matters cannot be raised in the House by means of questions (Rule No. 32 (10)) or by means of resolutions (Rule No 79 (10)). A Member while speaking or answering a question shall not express any opinion or make any comment on any matter of fact on which a judicial decision is pending. The term *sub judice* has not been specifically defined in the Rules of Procedure of the U.P. Legislative Assembly, but ordinarily it is taken to mean matters which are under adjudication by a Court of Law having jurisdiction in any part of India or matters on which judicial decision is pending. On a point of order that no reference should be made to a matter which is before the Court, raised by Dr. Sampurnanand, Home Minister, U.P., on May 22,

1952, the Hon. the Speaker ruled that matters under the consideration of Courts should not be referred to in the House.¹⁸

West Bengal Legislative Assembly:

No matter which is *sub judice* can be discussed in the House. The following ruling by Mr. Speaker Jalan¹⁹ will show when the matter is considered to be *sub judice*:

" . . . As soon as a person is arrested on a criminal charge, the matter becomes *sub judice*. I would quote here a passage from a judgment of the Calcutta High Court in *Emperor v. J. Choudhuri* 51 C.W.N. 700:

It seems to be now fairly well settled that in criminal cases, for a proceeding to be pending, so as to give jurisdiction to punish for contempt, it is not necessary that the accused should be committed for trial or even brought before a magistrate; it would be sufficient if he had been arrested and was in custody.

. . . in deciding whether a matter is *sub judice* or not I think the same principle as laid down in the case cited above should be applied both outside and inside the House. . . ."

2. When a judgment is open to appeal but no appeal has yet been filed the subject matter of the dispute is not considered to be *sub judice*.²⁰

Southern Rhodesia:

The rule is stated in S.O. No. 74, which reads: ". . . nor shall a Member refer to any matter on which a judicial decision is pending." The practice has been to avoid criticism or discussion of any case before judgment or verdict has been given by the court, either of first instance or appeal, the main object being to ensure that no outside influence should be brought to bear on the verdicts and judgments of the courts.²¹

2. Practice not governed by Standing Order

(1) *United Kingdom:* The general practice of the United Kingdom Parliament, as stated in May,²² is that matters awaiting the adjudication of a court of law should not be brought forward in debate. The first precedent quoted dates from 1844, when Mr. O'Connell's case was pending in Ireland, and the Queen's Speech delivered on 1st February contained the words:

I forbear from observation on events in Ireland, in respect to which proceedings are pending before the proper legal tribunal.²³

A similar forbearance was exercised in the speeches of Lord John Russell²⁴ and Sir Robert Peel, the Prime Minister.²⁵

No ruling on the matter appears to have been given from the Chair until 1889. On 2nd May, a Member rose to state that he had wished to move for the adjournment of the House to discuss the arrest and prosecution of two Members, but in view of the fact that the matter is now under magisterial investigation, and in deference to the opinion expressed by you, Mr. Speaker, I propose to defer the matter till after the magisterial investigation is concluded.²⁶

Nevertheless, a few days later (6th May), in referring to the same incident, Mr. Speaker observed,

I am not aware that there has been any definite and distinct expression on

the part of the House that pending trials should not be alluded to. Nor am I aware of any distinct and definite ruling from the Chair, though I am aware of frequent expressions of opinion both from Ministers in this House and other Members with regard to the impropriety of alluding to pending trials in such a way as to prejudice a fair trial of the case. With these remarks I shall leave the subject in the hands of the House.²⁷

Later in the same debate, however, when one of the prosecuted Members was speaking, Mr. Speaker said,

I am reluctant to call the hon. Gentleman to order, but he is not now discussing the conduct of the police. The hon. Gentleman is clearly defending himself against charges which may be said to be pending against him.²⁸

Thenceforward the practice was consistently enforced by the Chair.

It has been ruled that it is not in order to discuss alleged bribery and corruption at an election before the expiration of the period during which an election petition could be lodged.²⁹ On the other hand, it has been ruled that a matter which has been decided by an inferior court, but is still open to appeal, is not *sub judice* until notice of an appeal has in fact been given.³⁰

By a series of rulings³¹ similar restrictions have been placed upon the content of questions to Ministers. The Speaker has ruled privately that questions relating to a sentence passed by a judge, and to the circumstances under which rules of court have been made and issued by the Lord Chancellor, are inadmissible.

There is no restriction on the introduction or discussion of Bills, in either House, relating to matters which are *sub judice*. Thus, when in 1953 a bookmaker named Knight carried to the House of Lords his case against the proprietors of Epsom racecourse for having charged him a shilling for entry into an enclosure, the Member for Epsom (Mr. McCorquodale) was able to introduce a "private Member's hybrid" Bill, while the case was still pending in the Lords, settling the matter in favour of the racecourse owners. But the Bill was not proceeded with—possibly for the technical reason that it would not have been possible to comply in time with the relevant Standing Orders—and the case continued in the Lords.³² Further, when a Mr. Prescott sued the Birmingham Corporation for illegally charging cheap fares to aged and infirm citizens on the Corporation's buses, the Corporation carried the matter to the Court of Appeal, and the case was there heard between the 23rd and the 30th November, 1954. On the latter day judgment was given for Mr. Prescott, and leave to appeal to the House of Lords was granted.³³ On the 27th November a Petition for leave to bring in a Private Bill settling the point in favour of the Corporation was deposited in the House of Commons. (This is the date prescribed by Standing Orders for the commencement of all Private Bills.) This Bill (the Birmingham Corporation Bill) ran its course until it was rejected by a Select Committee of the House of Lords on the ground that it had been superseded by a Public Bill

making the same provision for all local authorities, which was introduced on the 15th December by Mr. Short (a private Member) and received the Royal Assent on the 6th May, 1955.³⁴ Neither House, therefore, has any objection, on the grounds of order, to the attempted reversal by Bill of a judgment in the courts, even though the matter may be *sub judice* on appeal during the passage of the Bill.

There is no certainty, however, that the same can be said of delegated legislation. The proceedings in the High Court and Court of Appeal which are the subject of the Article by Sir Edward Fellowes and Mr. Barlas in this volume, show that the United Kingdom Government were not prepared to bring forward for affirmative resolution in the House of Commons a draft Order in Council which on that very day had been the subject of proceedings in the Court of Appeal. The following table brings out the sequence of events in this case:

1954	
30th November	52 parliamentary constituencies' draft Orders laid, for affirmative resolution, before each House.
14th December	Two boroughs move in the High Court for injunction against the Home Secretary: injunction refused.
16th December	Lords approve all 52 draft Orders: Commons approve the first 20. ³⁵
17th December	Leader of the House announces that the Commons will resume consideration of the remaining draft Orders on the 20th. ³⁶
	Two electors in Manchester move in the High Court for an injunction restraining the Home Secretary from presenting to Her Majesty one of the Orders which had been approved by the Lords, but not yet by the Commons: injunction granted.
20th December	Leader of the House of Commons announces the postponement of consideration of the remaining draft Orders. He says—

"The granting of an interim injunction by a judge of the High Court in the matter . . . has undoubtedly raised an issue of constitutional importance. It must not be assumed that Her Majesty's Government accept the view that this is a justiciable matter and not one for Parliament itself. Nevertheless, so far as today's business is concerned, Her Majesty's Government have come to the conclusion that it will be preferable not to proceed this afternoon with the consideration of the remaining draft Parliamentary Constituencies' Orders."³⁷

judice matters before boards (e.g., the Labour Relations Board) or commissions of a quasi-judicial nature, appointed under Provincial statute, until the board had published its decision or the commission reported its findings. For example, on 19th February, 1940, Mr. Speaker Agar ruled out comment on matters which had been referred to a Royal Commission of a judicial nature, until "the Report of the said Royal Commission" was "properly before the House".⁴⁰

Australia: Senate:

There is no specific Standing Order of the Senate which covers debate on matters which are *sub judice*, but the practice of the Australian Senate is not to allow debate on a question awaiting determination by a court of law. This practice is based on rulings which have been given by the Chair and which have not been disapproved by the Senate, and the following, given by President Givens on 3rd August, 1921,⁴¹ clearly illustrates the Senate's accepted policy:

"The point of order raised by the Minister for Defence (Senator Pearce) is, of course, a very important one, and, although our Standing Orders are silent in this connection, fortunately we have ample precedents to guide us. As honourable senators are aware, where our Standing Orders are silent, this Senate, as well as all other Parliaments or branches of a Legislature, are guided by the practice of the House of Commons. The whole question turns on whether the matter is *sub judice* or not. From the statements of the Minister for Defence, speaking on behalf of the Repatriation Department, and of Senator Elliott, it appears to me that the terms upon which this business was handed over by the Repatriation Department to the trustees is a matter which is now awaiting settlement by the Court, because certain parties, according to the statement by Senator Elliott, have initiated proceedings to prevent the trustees from taking any action in regard to it. Therefore, the whole question, in my opinion, is involved in litigation. The last edition of May, on page 296, clearly lays down the practice of the House of Commons. That ruling has been followed by innumerable others, and it is obviously a good one, because it would be highly improper for any person occupying a position of privilege in this Senate to seek to prejudice a case which is awaiting judgment by a Court. Therefore, as I gather from Senator Elliott's remarks that the terms upon which this property was handed over is a matter that will come before a Court, by whom it will, no doubt, be weighed, and a judgment given, and as the case is still awaiting adjudication, following the practice of the House of Commons, I must rule that the honourable senator is out of order."

Similar rulings have been given by other Presidents.

New South Wales: Legislative Assembly:

Any matter which is pending consideration by, or actually before, a Court of Law, a judicial tribunal, or a body invested with the powers of a judicial tribunal (e.g., Royal Commissions) is considered *sub judice*.

When an Honourable Member rises to order and takes the point that the discussion on any proposed motion would infringe the *sub judice* rule, he must give Mr. Speaker an authoritative assurance that the *exact* subject matter of the motion is either actually being considered by a Court or other body having judicial status, or is pending before it. It is not sufficient for an Honourable Member to affirm that a statement "relates" to a matter before the Court. He must assure Mr. Speaker that the *exact* matter is before the Court in order

that Mr. Speaker may be in a position to determine whether the motion or statement objected to does or does not infringe the *sub judice* rule.

The late Sir Daniel Levy on 7th September, 1932, ruled that it was "not for the Speaker to microscopically sift the relevant from the irrelevant evidence, but to liberally apply the *sub judice* rule in such a way as to prevent the mischief which that rule was intended to obviate".

The scope of the rule covers, not only a Court of Law, but also Royal Commissions, the Arbitration Court, the Industrial Commission, and, in fact, any and every tribunal with judicial powers.

Further, on 1st March, 1950, Mr. Speaker Lamb said: "In view, however, of the announcement (made in the House the previous day) by the Premier of the intended appointment of the Royal Commission, I feel that in spirit it (the matter to be referred to the Commissioner) should be regarded as *sub judice* because it was pending."⁴²

Queensland:

Our practice in regard to matters considered to be *sub judice* is as follows:

A matter presently before the Court—either Magistrates, Supreme or Arbitration, and also before a Royal Commission or other Court of Inquiry—not to be discussed or referred to by way of question.

A matter upon which judgment has been delivered by the Court is still considered to be *sub judice* if there is any possibility of an appeal arising therefrom.

A question sought to be asked in regard to the holding of a public inquiry into a recent railway accident was disallowed as *sub judice* because a citizen was before the Court in connection with it.⁴³

During debate on the appointment of a Chairman of Committees a Member referred to certain scurrilous election matter published during the election campaign and was asked by Mr. Speaker to desist as the matter was *sub judice*. A writ had been issued during the election campaign some months before—but it was not proceeded with. It was held that as proceedings could follow the matter was still *sub judice*.⁴⁴

A question in regard to picketing clashes with police during a strike was disallowed because of pending police court proceedings.⁴⁵

Western Australia: Legislative Assembly:

This Parliament follows as closely as possible the practice outlined in May's *Parliamentary Practice*. Some years ago debate occurred regarding the words used in that work "should not" compared with the meaning some Members wished to use of "shall not". The Speaker decided the issue. In 1947 the question was raised on two occasions, when Bills seeking to alter the administration of two departments were before the House. As it happened that Royal Commissions had been appointed to inquire into each of these departments, opponents of the Bills declared it was wrong for the Government to introduce such Bills, as the matters were *sub judice*. Mr. Speaker North in each case ruled that a Royal Commission was not in any sense a court of law and that the Bills could proceed.⁴⁶

3. Conclusion

It is clear from the foregoing that although there are minor differences between the legislatures in the detailed interpretation of this principle, the principle itself is nowhere in dispute. The privilege of freedom of speech carries with it grave obligations, and it is not surprising that responsible legislatures have steadfastly refused to

exercise it in such a way as to put in jeopardy the rights of a private individual whose case is in due process of trial.

In this respect, perhaps the most fortunate Assembly within our membership is the Legislative Assembly of *Malta, G.C.*, whose Clerk writes:

When a matter is still being dealt with by a Court of Law it is considered as *sub judice* and no divergence of opinion has ever arisen in the House as to the interpretation of this expression.

¹ 1928, Vol. 217, p. 1000. Statham, Property Law Amendment Bill, 1928.

² 1934, Vol. 240, p. 367, Statham.

³ 1934, Vol. 240, p. 367, Statham.

⁴ 1924, Vol. 203, p. 974, Statham.

⁵ 1949, Vol. 287, p. 1638, McKeen.

⁶ *Cape Hansard*, 1902, pp. 39-40, 77-78; V. & P. 1910-11, p. 511; 1922, p. 354;

1931-32, p. 535; 1935, p. 461; Debates, Vol. 22, col. 1104; Vol. 31, cols. 879-883;

Vol. 51, cols. 2035-2045; 81, cols. 1120-1122. ⁷ *Vide Rules* 47 (2) (xviii),

62 (v) (ii), 161 (v) and 173. ⁸ *Vide Rule* 249 (i). ⁹ *Vide Rules*

47 (2) (xxii), 62A, 162A and 174A. ¹⁰ Vol. II, 3rd August, 1921, p. 243.

¹¹ Vol. XLIX, 6th and 7th August, 1949, pp. 49, 212, 218-9. ¹² Vol. XLIV,

8th October, 1928, pp. 60-65. ¹³ Vol. IV (Legislative Assembly), 3rd March,

1947, pp. 169-70. ¹⁴ Vol. XIV (Legislative Assembly), 10th August, 1948,

pp. 26-7, 39-40. ¹⁵ Vol. VI (Legislative Assembly), 25th September, 1947,

p. 341. ¹⁶ Vol. XXI (Legislative Assembly), 9th November, 1949, p. 213.

¹⁷ Vol. IX (Legislative Assembly), 21st July, 1953, p. 884. ¹⁸ U.P.L.A.

Proceedings, Vol. CI, p. 84. ¹⁹ B.L.A. *Hansard*, III, No. 3, pp. 22-9.

²⁰ Ruling of Mr. Speaker Nausher Ali: B.L.A. Proceeding, Vol. LXVI, No. 1,

p. 38. ²¹ *Hansard*, 1933, cc. 60, 1624, 1864, 1874; 1935, cc. 572, 574; 1937,

c. 797. ²² 15th Edition, p. 437. ²³ *Hans.* (1844) 72, c. 5.

²⁴ *Ibid.*, cc. 85-6. ²⁵ *Ibid.*, c. 98. ²⁶ *Hans.* (1889) 335, c. 992.

²⁷ *Ibid.*, c. 1255. ²⁸ *Ibid.*, c. 1267. ²⁹ *Hans.* (1898) 64, c. 868.

³⁰ *Hans.* (1945-46) 420, c. 303. ³¹ *Hans.* (1901) 96, c. 1365; (1906) 167,

c. 148; (1907) 177, c. 1614. ³² 25th February, 1953—Epsom Grand Stand

Association Ltd. v. Knight—Petition for leave to appeal presented in the House of

Lords and referred to the Appeal Committee. 3rd March, 1953—Epsom and Walton

Downs Regulation (Amendment) Bill presented by Mr. McCorquodale. 12th March,

1953—Epsom Grand Stand Association Ltd v. Knight—Report from Appeal Com-

mittee giving leave to appeal. 24th March, 1953—Epsom and Walton Downs

Regulation (Amendment) Bill withdrawn. 1st July, 1953—Epsom Grand Stand

Association Ltd. v. Knight referred to the Appellate Committee (judgment was

given in 1954). (See H.L. Minutes and H.C. V. & P. for the dates in question.)

³³ 1954, 3 Weekly Law Reports, p. 990 ff. ³⁴ Birmingham Corporation

Bill, H.C. V. & P., 27th November, 1953; H.L. Minutes, 21st July, 1954. Public

Service Vehicles (Contract Carriages, etc.) Bill, H.C. V. & P., 15th December, 1954.

Title changed to Public Service Vehicles (Travel Concessions) Act, 1954, H.L.

Minutes, 6th May, 1955, 3 & 4 Eliz. II, c. 26. ³⁵ 190 *Lords Hans.*, 485 ff.:

Com. Hans., 1987 ff. ³⁶ 535 *Com. Hans.*, 2289. ³⁷ 535 *Com. Hans.*,

2441. ³⁸ For references to all these judicial proceedings, see Sir Edward

Fellowes's article. ³⁹ 3rd Edition, citation 246, p. 104. ⁴⁰ Journals, 1940,

pp. 38-40. ⁴¹ *Hans.*, Vol. 96, pp. 10677-8. ⁴² Votes and Proceedings,

p. 351. ⁴³ *Hans.*, 24th October, 1947, p. 949. ⁴⁴ *Hans.*, 7th August,

1947, p. 28. ⁴⁵ *Hans.*, 17th March, 1948, pp. 2060-1. ⁴⁶ W.A. *Hans.*,

1947, pp. 2132, 2642.

V. HOUSE OF LORDS: REVISION OF THE STANDING ORDERS

On 26th June, 1952, the Lords appointed a Select Committee "to consider the Standing Orders of the House with a view to amendment or revision of the same". The Committee reported on 21st July, 1953.¹ Debate on the Report was adjourned until 28th January, 1954, when it was referred to the Select Committee on Procedure of the House. The latter Committee made its report on 6th April, 1954;² and on 11th May the House resolved itself into a committee to consider this Report.³ The Committee went through the draft Standing Orders, as contained in the Report of the Select Committee, and made some amendments. The Report with the amendments was received on 1st June⁴ and a further amendment made. Then the Chairman of Committees moved—

That the Standing Orders, as revised by the Select Committee on Procedure of the House and subsequently amended by the House, be the Standing Orders of the House for the conduct of public business; *agreed to*, the said Standing Orders to be *printed*.⁵

The Standing Orders of the House of Lords were first entered on a Roll in 1621, under the title "Remembrances for order and decency to be kept in the upper House of Parlyament by the Lords when His Maiestie is not there leaving the Solemnities belonging to his Maiesties coming to bee marshalled by those to whome it more properly appertaines". This first Roll has recently been printed in Volume X of the House of Lords Manuscripts Series;⁶ it contains the original set of thirty-four Standing Orders, with the eighty added between 1621 and 1712.

There was a considerable revision of the Standing Orders in 1715, after which they remained unchanged, except for additions, until 1866. In the seventeenth and eighteenth centuries, the Standing Orders were not printed, but various delightful little manuscript copies in book form of this period are in the Library. The Standing Orders were first printed after the next major revision and rearrangement in 1866; and they then remained without substantial alteration until 1954.

Owing to the conservative character of the House, the revision of 1866 did not displace many Standing Orders which were in reality obsolete at that time; and the code as it existed in 1954, therefore, contained many interesting relics of parliamentary practice and procedure of the seventeenth and eighteenth centuries. The first Select Committee (that set up in 1952) wished, in order that these interesting records might not be lost, to retain them in an appendix; but the Select Committee on Procedure of the House took a more ruthless

view, and decided that a Standing Order must either be in force or be left out. Accordingly some twenty-five Standing Orders dealing with such matters as the behaviour of the judges in Parliament; the privilege (abolished by statute in the eighteenth century) by which members of either House were, to some extent, immune from being sued in the courts; the obsolete practice by which Peers gave written "protections" conferring some degree of parliamentary privilege on their domestic servants, those employed on their estates, and even their tailors, solicitors and doctors; and the procedure of voting by proxy (which was in effect abolished by Standing Order in 1866)—all these interesting relics were swept away. None the less there still remain in the revised and rearranged code a number of the original Standing Orders of 1621, dealing with such matters as the arrangements for the Royal Opening of Parliament, admission to the House, conduct of debate, committees, privilege and the reading of Bills.

The new Standing Orders, of which there are now seventy-five, are arranged under the following heads:

Arrangements when Her Majesty is present	...	1
Lords and the manner of their introduction	...	2 to 9
The House and its arrangements	10 to 15
Speaker of the House	16 and 17
General observances	18 to 23
Debates	24 to 33
Arrangement of business	34 to 40
Bills	41 to 45
Divisions	46 to 53
Committees	54 to 59
Parliamentary Papers	60 to 62
Proceedings at opening and close of a Parliament or session	63 and 64
Committee for Privileges and Claims of Peerage	...	65 to 70
Privilege	71 to 74
Making or Suspending of Standing Orders	75

In addition, the Act of 1539, which Henry VIII passed to regulate the order in which the Royal Family, the Peers, the Judges and others were to sit in the House, is annexed as an appendix.

The most substantial alterations were made in that part of the Standing Orders which deals with the arrangement of business. Since there is no provision, in the House of Lords, for cutting short debate in any way, or for altering, at the instance of the Government, the order of business, this part required most careful consideration. Unless the Standing Orders relating to the order of business are suspended (which is normally done in the last few days preceding the summer and Christmas recesses), the business of the House, which may be set down up to a month ahead, must be taken in the order in which it appears on the Order Paper. This is a most necessary

feature of the conduct of business in the Lords, since many Peers regulate their attendance by the nature of the business before the House, and some of them have to travel long distances to Westminster.

Many members of the Society may perhaps be more familiar with the Standing Orders of the House of Commons; and it therefore may be permissible to sum up this article by remarking upon the main features which distinguish those of the Lords. These are: a pre-occupation with ceremony, precedence and the physical arrangements of the House; an absence of Orders dealing with the time at which business is to be taken, or with punitive measures for the enforcement of order; and the inclusion of no fewer than ten Orders dealing with the behaviour of Peers in debate, and of a small number of Orders on parliamentary privilege.

¹ H.L. 113 (1952-53); Min. of Proc., No. 126 (1952-53). ² H.L. 74 (1953-54);
Min. of Proc., No. 75 (1953-54). ³ 187 *Lords Hans.*, 455. ⁴ *Ibid.*, 1030.
⁵ H.L. 112 (1953-54). ⁶ H.L. 35 (1952-53).

VI. PROCEEDINGS IN THE HIGH COURT IN DECEMBER, 1954, IN RELATION TO REPORTS OF THE BOUNDARY COMMISSION FOR ENGLAND AND TO DRAFTS OF ORDERS IN COUNCIL ALTERING THE AREAS OF CONSTITUENCIES

BY SIR EDWARD FELLOWES, K.C.B., C.M.G., M.C.,

Clerk of the House of Commons

AND R. D. BARLAS, O.B.E.,

A Senior Clerk in the House of Commons

Under the provisions of the House of Commons (Redistribution of Seats) Act, 1949 (a consolidating measure), four permanent Boundary Commissions are established for England, Scotland, Wales, and Northern Ireland respectively. Members of the House of Commons or of either House of the Northern Ireland Parliament are disqualified from membership of a commission.

It is the duty of each Boundary Commission to keep under review the representation in the House of Commons for the part of the United Kingdom with which they are concerned and to submit periodic reports to the Home Secretary giving their recommendations as to any alterations required in the area or number of constituencies to give effect to rules laid down in a schedule to the act; such periodic reports may recommend that no alterations should be made.

The Home Secretary is required to lay the report before Parliament together with (except where no alterations have been recommended) drafts of orders in council for giving effect, whether with or without modifications, to the recommendations contained in the report. Section 3(4) of the Act provides that "if any such draft is approved by resolution of each House of Parliament, the Secretary of State shall submit it to His Majesty in Council". His Majesty in Council may thereupon make an order in the form of the Draft.

The rules laid down in the second schedule to the Act which the Commissioners are required to take into account in their recommendations may be summarised as follows in so far as they are relevant to the proceedings in the High Court in December, 1954:

(i) Rule 1. The number of constituencies shall be not substantially greater or less than 613 in Great Britain of which Scotland shall have not less than 71 and Wales not less than 35. Northern Ireland shall have 12.

(ii) Rule 5. The electorate of any constituency shall be as near the electoral quota as is practicable having regard to the foregoing rule.

(iii) Rule 7. The electoral quota means in relation to a constituency in Great Britain a number obtained by dividing the electorate for Great Britain by the number of constituencies in Great Britain existing at the time that a Commission publishes a notice that they intend to consider making a report (called "the enumeration date").

On 18th November, 1954, Reports of each of the Boundary Commissions were laid before Parliament, together with 52 Draft Orders in Council relating to Constituency alterations.

On 14th December, before the Draft Orders in Council had been considered in either House, the Corporations of two London Boroughs moved before Harman, J., in the Chancery Division for an order to be made by the High Court enjoining the Boundary Commission for England to intimate to the Home Secretary that their Report was a nullity on the grounds that they had not observed the rules prescribed for them in making that Report in particular as regards the constituencies affecting their boroughs.²

In his judgment, Harman, J., recited the plaintiff's submission of the manner in which it was alleged that the rules had been broken, but stated that for the purposes of the motion he did not intend to decide that matter; he was content to assume that the Commission had, by inadvertence, transgressed the rules. But if they had made a mistake, the Home Secretary would not be bound to take notice of their formal admission of error even if they were ordered to make such an admission. Any mistake of theirs could be cured either by a modification made by the Home Secretary in the Draft Order in Council giving effect to a particular recommendation of the Commission, or by the House refusing to approve the Order in Council. It did not seem to him that it was for the Courts at all to interfere by injunction, or advice or declaration or in any other way with the recommendations of the Commission. It was for Parliament to say

if a mistake had been made. Parliament could, of course, overlook the omission if it liked, as it was omnipotent, and could make the resolution law even though the Commission was mistaken in the basis of its recommendations. He therefore refused the motion.

On 16th December, 1954, 20 resolutions were agreed to by the House of Commons approving 20 Draft Orders in Council including that relating to constituencies in Manchester, Oldham and Ashton-under-Lyne; similar resolutions were agreed to in the House of Lords on the same day. On 17th December two electors in Manchester moved *ex parte* before Roxburgh, J., in the Chancery Division for an interim injunction restraining the Home Secretary from presenting the Manchester, Oldham and Ashton-under-Lyne Order to Her Majesty in Council.³ The interim injunction was granted by the judge, who did not of course hear argument from counsel representing the Home Secretary as defendant. In his judgment, Mr. Justice Roxburgh said that he had concluded from his reading of the Act that it was contemplated that the procedure should be subject to the jurisdiction of the Court until Her Majesty had made the Order in Council. Secondly, he was persuaded that the Secretary of State when he presented a draft order to Her Majesty in Council was not doing it in his general capacity as Secretary of State, but as a person to whom the duty was delegated by the Act. The Crown Proceedings Act, 1947, did not therefore apply to this case. Thirdly, if a mistake had been made in the application of the rules to the Commissions' recommendations, the resultant draft order in Council would not be a draft proper within the meaning of the Act to be laid before Her Majesty in Council. Being satisfied⁴ that a *prima facie* case existed that a mistake had been made, he would issue an interim injunction, and leave the motion to be argued in full with both parties present before him the following week.

On 20th December the Attorney-General for the Home Secretary moved in the Court of Appeal (Master of the Rolls, Jenkins, L.J., and Hodson, L.J.) for an order to discharge the interim injunction; Sir Andrew Clarke appeared for the Plaintiffs.

The Attorney-General argued that Mr. Justice Roxburgh had no jurisdiction to grant an injunction against a Minister of the Crown submitting a document to Her Majesty in Council for approval; and proceedings were analogous to proceedings on a bill. Secondly, the provisions of sections 17 and 21 of the Crown Proceedings Act, 1947, prevented the bringing of an action of this type against a Minister of the Crown. And lastly, the Commission were justified in their recommendations, which proceeded from a desire to keep as strictly as possible to a total of 506 seats for England, since Rule 5 as to the electoral quota was expressed in the Act to be applied only in so far as was practicable having regard to Rule 1.

Sir Andrew argued that the English Commissioners had misdirected themselves by an incorrect calculation of the total number of

seats required for England in the redistribution. They had regarded it as of paramount importance that the numbers should be as near as possible to 506 as laid down in Rule 1; they were thus working on a different electoral quota from that laid down in the Act, and this had resulted in a reduction and redistribution of the number of Manchester seats whereby the plaintiffs' franchise was injured. Sir Andrew cited as authority to show that it was competent to the court to issue an injunction restraining the Home Secretary from presenting the Draft Orders to Her Majesty, the case of *Attorney-General for New South Wales and others v. Trethowan and others* (1932 Appeal Cases at page 52), where *ex parte* injunction was granted against the leader of the House of Representatives to restrain him from presenting a Bill for Royal Assent, a decision ultimately upheld by the Privy Council.

Judgment was given by the Master of the Rolls (Jenkins and Hodson, L.JJ., concurring). He thought that the case was a striking one coming near to involving the privileges and powers of Parliament; but the Courts had never been reluctant or afraid to exercise their powers where they were satisfied that such powers resided in the courts. He then examined the recommendations of the Commissioners in relation to the rules shown in the Act. He was impressed with the fact that the Act and the rules gave wide discretion to the Commissioners; and a certain primacy was indicated in the Act to Rule 1. In the circumstances there were no grounds for saying that the recommendations involved a substantial or indeed any departure from the rules which the Commission had to have in mind. Their whole method was exposed upon the fact of the report, and if the method was one which Parliament did not like, Parliament could reject it. Apart from this, his reading of the Act and of the Rules led him to suppose that Parliament never contemplated that the Courts should be competent to determine whether the Commission had followed the right line or not. The cause of action was therefore destroyed *in limine*. In this connection he agreed with the opinion (described above) which had been expressed by Mr. Justice Harman.

As regards Trethowan's case cited by Sir Andrew Clarke, this referred to a legislature having limited legislative functions according to a written constitution; it was not relevant to proceedings in a Sovereign Parliament.

The Court accordingly made an order that the *ex parte* injunction granted by Mr. Justice Roxburgh should be discharged.

The point that is of interest to members of our Society is the apparent confusion between the sphere in which Parliament is omnipotent and that in which the two Houses are acting under powers conferred on them by statute.

In fact, the issue was only remotely connected with the relationship of the Courts and the two Houses, and was not in effect concerned with Parliament at all. Parliament, as such, has no concern with

delegated legislation except in so far as the power to make such legislation is originally delegated by an Act of Parliament. The power to make the legislation is delegated sometimes to the Queen in Council, as in this case, and sometimes to a Minister; and in important cases the parent act requires an affirmative resolution of both Houses as a condition precedent to the making of the Order. But neither House is concerned in "making" the order in the same way that they are concerned in "making" an Act. In other words it was not the omnipotent Parliament engaged in legislating, but each House, acting independently, was performing a strictly limited function, not, it is true, under a written constitution but under a written Act of Parliament. The function of making the Order belongs entirely to the Queen in Council, again within the limits of powers circumscribed by Act; and Her Majesty is in no way acting as the Queen in Parliament. It is doubtful, therefore, whether a similar case could successfully rest solely upon the argument which was brought forward in this instance that the procedure was in substance the same as in relation to a Bill, and that, just as no one can interfere to stop a Bill being presented for Royal Assent, so no one could stop the Draft Orders being presented to the Queen in Council. The Queen in the Parliament of the United Kingdom and Northern Ireland is indeed omnipotent; but where her delegated powers of legislation are circumscribed by the very exercise of her omnipotent function (*i.e.*, by Act of Parliament), the case nearly approaches the circumstances of *Trethowan's* case where under a constitution settled by Act certain essential preliminaries are required before a Bill may be submitted for Royal Assent.

It was indeed argued that it would be odd if each House of Parliament had expressed its approval of draft Orders which the Courts then held to be bad. Such a contention is, however, but an attempt to refight battles which have been fought and lost, long since; and it is doubtful whether either House would have wished to make a stand on this particular case had the matter been *res integra*. *Stockdale v. Hansard* (1839) (9 A. and E. 1) settled the point, so far as the Courts were concerned, that neither House can legislate by resolution; and in the sphere of taxation, *Bowles v. the Bank of England* ([1913] 1 Ch. 57) made the position quite clear. The opinion of either or both Houses is, in consequence, of no legal validity, and could not deter the Courts from giving a contrary judgment. But what form is the judgment to take? An injunction cannot be issued to restrain either House; such an action would be a plain breach of privilege, and has never been attempted, let alone proved successful, even at the height of the struggle between the Commons and the Courts.

It is quite clear that the Courts may exercise surveillance over delegated legislation after it is made except in cases where they are expressly forbidden to do so by Act; and there are not a few instances where a decision on the *vires* of an instrument has been given

by the House of Lords on appeal.⁵ But, in this case, once the Orders were made, the parent Act expressly provided that their validity was not subject to the jurisdiction of the Courts; in consequence, as was observed during the appeal, if the orders were not attacked while they were still in draft, the opportunity was lost for ever. And it is by no means clear what opportunities are open to the Courts to intervene, while a draft instrument is in process of preparation and submission. The difficulties are largely those of machinery; the problem is to find someone who is answerable to an order of the court, in circumstances where the court's order can be effective.

In the Boundary Commission case the Court of Appeal indicated that they would not be deterred from doing their duty if they thought that there was a proper case for their intervention. Yet in view of the lack of opportunity for their intervention before a statutory instrument actually comes into operation, it would appear that this was little more than a dignified expression of opinion. It will be interesting to see whether a future plaintiff has any better fortune in devising some alternative means of attacking while it is still in draft a statutory instrument the *vires* of which cannot be questioned once it is made.

¹ It should be noted that Great Britain means England, Wales and Scotland; the United Kingdom means England, Wales, Scotland and Northern Ireland.

² Metropolitan Boroughs of Hammersmith and Fulham *v.* the Boundary Commission for England. *The Times*, 15th December, 1954. ³ Harper and another *v.* Secretary of State for the Home Department (1955) 1. A. Cl. E.R. 331.

⁴ The grounds on which Roxburgh J. expressed himself satisfied are not given here as they were included in the argument of Sir Andrew Clarke to the Court of Appeal. ⁵ *R. v. Halliday ex parte Zadig* [1917] A.C. 260. *Minister of Health v. the King* (on the prosecution of Yoffé [1937] A.C. 494.

VII. SELECT COMMITTEES ON HOUSE OF COMMONS ACCOMMODATION, ETC., SESSIONS 1952-53 AND 1953-54

BY R. S. LANKESTER,

A Senior Clerk in the House of Commons and Clerk to the Select Committees on House of Commons Accommodation, etc.

It is hard to name a time when accommodation for its Members and the employment of staff to serve it have not occupied the attention of the House of Commons. As early as 1739, for example, the Board of Works were directed by the Lords Commissioners of the Treasury to wait on the Speaker with designs for a new House of Commons. In this respect the Select Committees on House of Commons Accommodation, etc., the first of which was appointed on the 19th May, 1953,¹ and the second on 4th November, 1953,² are the

latest of many similar enquiries. They each had the same order of reference:

(a) the arrangements made in regard to the allocation of ACCOMMODATION in this House, the authorities by whom that accommodation is allocated, and the use at present made thereof;

(b) the AMENITIES necessary to enable MEMBERS to carry out efficiently the services required of them;

(c) the desirability of appointing a SESSIONAL COMMITTEE to review and report from time to time on the findings and recommendations which may be made by the Select Committee; and

(d) the methods of APPOINTMENT of the STAFF at all levels in the employment of this HOUSE;

Accommodation and Amenities

On 16th October, 1834, the Royal Palace of Westminster, which then, as now, housed both Lords and Commons, was largely destroyed by fire. It was thus possible to build a new palace designed specifically to provide for the then needs of both Houses of Parliament.

With the passage of time, the developing needs of Members have become progressively less satisfied by the accommodation and facilities offered. Following the destruction of the Commons Chamber in 1941, a Select Committee on House of Commons Rebuilding in 1944³ was able to incorporate in the plans for a new chamber additional accommodation to help to meet some of the existing unsatisfied needs. At the same time a Joint Committee of Lords and Commons reviewed the general position of the accommodation in the Palace of Westminster. The Report of this Committee⁴ was not formally considered by either House, and while some of its recommendations were, in fact, implemented, others, especially the more far reaching, were not.

In 1950, the Commons occupied their newly completed chamber and were able to test by use the efficacy of the plans of the Rebuilding Committee. Meanwhile, the Parliaments elected in that year and in 1951 comprised Government and opposition parties so nearly matched that unusually large numbers of Members were in regular and enforced attendance in the building. This overcrowding gave rise to a demand for a re-appraisal of the situation—a re-appraisal which would have been valuable in the normal course of events.

When the first Accommodation Committee was set up on 19th May, 1953, little more than two working months of that session remained, and the Committee decided to concentrate in the first place on accommodation, where the strain was most acutely felt, by considering how "to make better use of the existing accommodation with such minor structural alterations as could speedily be accomplished". The limitations of this course were fully realised. The Joint Committee in 1945 had reported:

It will be seen that, although the Committee have been able to find some

accommodation by reallocation and by making parts of the building more accessible, no great increase is possible in a Palace already used to its full capacity and of the age and structure of the Palace of Westminster. The needs of legislators in a modern democratic assembly are likely to grow rather than to diminish and these can only be met by new buildings or by taking in and converting other houses outside the present precincts.

The present Committee re-echoed this:

Your Committee have not taken into consideration major alterations to give a standard of amenity equal to that enjoyed by Members of Parliaments elsewhere in the Commonwealth. It is clear, however, that while minor modifications might be carried out to improve amenities and the amount of individual accommodation which some Members desire, no substantial progress can be made to this end except by extensive building operations.

They, therefore, reluctantly forswore grand plans in favour of minor, but immediate improvements—not, however, without first looking beyond their order of reference and suggesting that “other users of the palace” had an unduly large share of the building.

The various specific recommendations of the Committee were essentially minor and solely of domestic interest.

Sessional Committee

The custody and control of the Royal Palace of Westminster is entrusted by the Crown by letters Patent to the Lord Great Chamberlain, an hereditary officer of State. He is required, when Parliament is sitting, to surrender control of those parts of the Palace assigned to the House of Commons for their use. Control over its own part is exercised for the Commons by its Serjeant at Arms, and “on the appointment of each new Serjeant at Arms, the Lord Great Chamberlain issues a warrant to him handing over all those buildings required for the use of the House of Commons”.⁵ On days when Parliament is not sitting, including Saturdays and Sundays during sessions, the Lord Great Chamberlain has an absolute control over the buildings of both Houses. In exercising his control of accommodation the Serjeant at Arms, in fact, acts under the Speaker's direction.⁶ Whilst allocating most of the accommodation in detail, he hands over *en bloc* to the Minister of Works, for detailed distribution, those rooms which are to be allocated to Ministers.

Neither the Lord Great Chamberlain nor the Serjeant at Arms, except for the purpose of cleaning certain parts of the building, has any authority to incur expense on upkeep, maintenance or alterations. All such works are carried out by the Minister of Works, who accounts for the Vote for Houses of Parliament Buildings. This responsibility falls on the Minister of Works in two ways. He is Keeper of the Old and New Palaces, and more generally it is his duty to provide and maintain Government Buildings. The Lord Great Chamberlain issues each year a warrant authorising the Minister to

carry out "such alterations and repairs against meetings of Parliament as may be necessary for the public service".⁷ All plans to improve the accommodation or amenities therefore require to be sponsored by the Minister of Works and approved by the Treasury.

This diversity of control has aroused criticism. The Joint Committee of 1945 recommended the setting up of a Sessional Committee of the House of Commons to advise the Speaker on the allocation of the accommodation under his control. Questions affecting the accommodation of both Houses could be settled as they arose by *ad hoc* Joint Committees.

The first Accommodation Committee in 1953, while reviewing accommodation, took this difficulty into consideration. Evidence was given to them by both the Serjeant at Arms and the Speaker, that while the existing arrangements worked well enough in practice, some unified control of the Palace would have advantages. The Committee reported in favour of a Committee to act in accordance with the 1945 recommendation. They added that:

This "House" Committee should be empowered to form, with the corresponding Committee of the House of Lords, an "ad hoc" Joint Committee when any question affecting accommodation as between the two Houses arises . . . It might be advantageous for this contemplated House Committee to exercise wider functions than those relating solely to accommodation. . . Your Committee are strongly of the opinion that the setting up of the House Committee should await a final report on all the matters contained in their order of reference. . . They recommend, therefore, that no immediate steps be taken to implement this interim recommendation, but that a House Committee be appointed as soon as the examination of all the matters contained in their order of reference has been completed.

This concept was developed by the Committee in the next session after they had taken up their reference to staff.

Appointment of Staff

In the year 1800, the attention of the House appears to have been directed to the large amount of Fees and Emoluments of the Clerk attending the House and an Act was passed to regulate the salaries of the Clerk, the Clerk Assistant and the Serjeant at arms.⁸

Thus began the application of "economical reform" to the staff of the House of Commons.

This Act was superseded in 1812 by a House of Commons Offices Act⁹ under which all salaries, fees, etc., which would have been due to the Clerk or Serjeant were to be paid into a fee fund. The fee fund was to be administered by Commissioners "for regulating the offices of the House of Commons", who were named as the Speaker and the holders of certain Ministerial and judicial offices, provided they were also Members of the House. The Clerks and the Serjeant at Arms were to be remunerated by the Commissioners "as may be just and proper" out of the fee fund.

As a result of subsequent Committees during the nineteenth cen-

tury, the principle of remuneration by salary out of the fee fund, rather than by fees and emoluments, was extended to all staff, the establishment was regulated and the proper activities of servants of the House defined.

No change was, however, made in the method of appointing staff. The 1812 Act declared that the power to appoint and dismiss staff in their departments was to be exercised by the Clerk and Serjeant as formerly. The Speaker's right to make certain appointments was not in question. Power was, however, given to the Speaker to require the dismissal of any member of the staff in the departments unfitted by misconduct or otherwise.

While this remains the legal position, in practice the methods of selecting staff have changed. For the recruitment of Clerks, the Clerk of the House has availed himself of the competitive examination for entry to the administrative class organised by the Civil Service Commission. An internal staff board gives recommendations for the filling of office staff vacancies in their respective departments to the Speaker, Clerk and Serjeant. For the appointment of Library staff the Speaker takes advice from a selection board, which includes a Civil Service Commissioner and an "outside" librarian as well as officers of the House.

While certain specific questions relating to certain of the staff have been enquired into, no select committee had enquired into the staff in general during this century. The Speaker had, on two occasions, in 1918 and 1945, set up informal committees to advise him on staff, and as a result of their recommendations changes were made in the establishment, pay and conditions of service of the staff and in departmental organisation. These reports had not been published.

The Accommodation Committee in 1953-5 examined the position of the staff with care. In their report they thought that "the present methods of appointment should be clearly stated", and at the same time they considered it useful to publish with their report the reports of the two Speaker's Committees. After making certain detailed recommendations on staff appointments, none of which were seriously critical of the existing methods of appointment, the Committee considered the position of the Commissioners for Regulating the Offices of the House of Commons and expressed the opinion that

the time has now come when the duties of the Commissioners should be entrusted to a more representative body of Members with less onerous responsibilities outside the House than those borne by the Commissioners, who, with the exception of Mr. Speaker, are all Ministers.

Recurring to the earlier recommendation for a "House" Committee to advise Mr. Speaker on accommodation, they envisaged expanding this into a single authority with a general oversight of all the services and staff required by the Commons. They considered that the Commissioners should be replaced by "a body of

experienced Members drawn from the House who would undertake not only the present functions of the Commissioners with regard to staff, but also wider duties in relation to the accommodation and management of the House". Since the Commissioners were appointed by statute, legislation would be required to alter their constitution. This new Commission was also to take over the functions tentatively attributed to the "House" Committee in the previous Report. It was to carry out the present duties of the Commissioners, and

advise Mr. Speaker in regard to the Estimates for the House; the allocation of accommodation; the Library; and the facilities and services necessary to enable Members to discharge their duties; and should control the arrangements for the Kitchen and Refreshment Rooms.

For certain of these purposes it was to be empowered to set up sub-committees to which it would co-opt other Members. It was further recommended that all

items relating to expenditure in that part of the Palace of Westminster occupied by the Commons, at present borne on the Vote of the Ministry of Works and other Ministries should, in future, be borne on the Vote of the House of Commons.

The attention of the proposed Commission was directed to the question of Trade Union organisation of staff in view of a Speaker's ruling that the staff could not appropriately belong to Civil Service Unions.

As the Committee was appointed by only one House, these recommendations were of necessity limited to matters within the exclusive domain of that House. In the final paragraph of their Report, however, the Committee made it clear that the aim of securing a unified control of the whole Palace was not abandoned, and that

suitable steps should be taken to that end after the House of Commons Commission has been set up.

Subsequent Proceedings

The Reports of the Accommodation Committees were briefly debated on 22nd July, 1954, without, however, any decisions being taken on them, or any promises made. In answer to a Question on 30th June, 1955,¹⁰ the Prime Minister replied:

The Government are grateful for the careful thought which the Select Committee has given to these matters. They have reached the conclusion that what appear to have been the main objectives of the Committee could be substantially achieved in a simpler and speedier manner than by special legislation. In addition to the measures described to the House by my right hon. Friend the Member for Woodford (Sir Winston Churchill) on 24th March and in order to establish a channel through which hon. Members can make their views known on proposals for improving facilities and services available in the Commons part of the Palace of Westminster, the Government suggest,

as an experiment for this Session, that a Select Committee be set up with the following terms of reference:

To advise Mr. Speaker on matters concerning the facilities, including accommodation, available to Members in and about the Palace of Westminster.

This Committee, with the limited scope of those recommended by a Joint Committee in 1945 and the first Accommodation Committee in 1953, was appointed on 19th July, 1955.¹¹

¹ C.J. (1952-53) 226. ² C.J. (1953-54) 9. ³ H.C. 109 (1943-44);
see also TABLE, X, 19; XI-XII, 34, 265; XIII, 103; XIV, 141. ⁴ H.C. 54
(1944-45). ⁵ H.C. 309, p. 112 (1953-54). ⁶ See H.C. 64, p. 17
(1944-45), Qs. 873-4. ⁷ H.C. 309, p. 113 (1953-54). ⁸ H.C. 648, p. 5 (1833).
⁹ 52 Geo. 3, c. 11. ¹⁰ 543 *Hans.*, 502 (unbound). ¹¹ V. & P., 19th July, 1955.

VIII. HOUSE OF COMMONS: MEMBERS' EXPENSES

BY A. A. BIRLEY,

*A Senior Clerk in the House of Commons and Clerk to the Select Committee
on Members' Expenses*

On 16th July, 1953, a Select Committee was appointed, subsequently to be known as the Select Committee on Members' Expenses, etc.¹ The Committee was charged with a double task: first, to investigate the working of the Members' Fund, a fund which provides for ex-Members of Parliament who are in need and for the widows and children of deceased Members where necessary and which is financed by compulsory annual contributions from Members; and secondly, to report upon the expenditure incurred by Members in the course of their Parliamentary duties and upon the methods by which similar expenditure is met in Commonwealth and foreign countries. Before the Session ended the Committee held three meetings, but as there was insufficient time for the taking of the necessary evidence the Committee reported to the House that they had not been able to complete their enquiry and recommended the setting up of a Committee on the same subject in the following Session.²

Another Committee was duly appointed in the next Session with the same membership and the same terms of reference.³ Twelve meetings were held, and oral evidence was given by the Chairman of the Board of Inland Revenue, the Government Actuary and the Accountant of the House of Commons (who also spoke as Secretary of the Members' Fund). Written evidence was supplied in the form of answers to a questionnaire sent out by the Committee to all Members

with the exception of the Speaker and the Prime Minister. This questionnaire asked for specific information to be given in confidence by Members on such detailed items of expenditure as living expenses away from home, postage, stationery, telephone calls, secretarial assistance, and travelling expenses. 377 Members returned the questionnaire completed.

Information about the expenses of Members of Parliament in Commonwealth and foreign countries was also supplied to the Committee in the form of written answers to a questionnaire and was appended to the text of the Report.

The Committee's Report, which was agreed to without division and without amendment, was published on 2nd February, 1954.⁴ The Committee found, as a result of their examination of the replies to their questionnaire, that on average Members had to spend £750 a year on their Parliamentary expenses, and concluded that the present salary was insufficient to keep Members and their families in reasonable circumstances. Various methods of alleviating the position were discussed. The Committee rejected the idea of extending free services to Members on the ground that such extension would be hard to control, and they also decided against the payment of monetary allowances for specific items of expense, such as the employment of a secretary, as tending to benefit some Members in particular rather than all alike. Finally, they recommended a straightforward increase in salary from £1,000 to £1,500 a year.

The Committee also made detailed recommendations for a pension scheme for Members, and expressly stated that the figure to which they had recommended that salaries should be raised had been determined on the assumption that their pension scheme would be put into effect. The scheme, which was to be non-contributory, allowed for graduated pensions for ex-Members above a certain age on the basis of length of service in the House beyond a certain period: it also made provision for widows. The existing Members' Fund was to be continued to cover those cases in which relief was already being granted and such fresh ones as failed to come within the scope of the new scheme; and subscriptions to the Fund were to be doubled to enable more generous provision to be made in all cases.

A further recommendation of the Committee was that all Ministers should receive the same payment as other Members in respect of their Parliamentary duties. Under Income Tax law Members of Parliament are able to claim relief from Income Tax on expenses incurred in respect of their Parliamentary duties up to the limit of their salaries, viz.: £1,000 a year. Senior Ministers, however, receive no payment as Members of Parliament and junior Ministers only £500 a year. The former are thus able to claim no income tax relief on their Parliamentary expenses, and the latter only up to £500 a year, and the object of the recommendation was to ensure that all Members should be treated alike in the matter. The Committee

recognised that the implementation of this proposal might necessitate adjustments in the salaries of Ministers as such, but made no further comment on that subject as it was not within their terms of reference.

The House considered the Report of the Committee on 13th May on a motion for the adjournment of the House.⁵ The motion was formally moved by the Government Chief Whip, and the debate was opened by an Opposition back-bencher.

This debate, which was of an exploratory character, showed the Opposition united in favour of the Report, but Government supporters divided in their opinions. It was succeeded by a further debate on a Supply Day (24th May), when another member of the Opposition moved a motion in the following terms:

That this House, having considered the Report of the Select Committee on Members' Expenses, &c., is of the opinion that the recommendations in respect of pensions should be referred to the Trustees of the Members' Fund for further consideration and report; that the Members' allowances should be raised by £500 per annum; and that Her Majesty's Government should, at an early date, introduce legislation to improve the financial position of junior Ministers.⁶

An amendment to this motion was moved by a Government back-bencher. This amendment proposed to substitute for the Opposition motion the words

that in the opinion of this House it is expedient to make provision for the reimbursement to honourable Members within a limit calculated at the rate of £500 for each financial year, of expenses wholly, exclusively and necessarily incurred by them in the performance of their duties as such.⁷

The Government spokesman in the subsequent debate was the Chancellor of the Exchequer, who stated that in the present circumstances the Government were in favour of an expense allowance rather than a direct rise in salary, but that they would await the guidance of the House before reaching a final decision. The Chancellor also gave the Government view on the two other matters referred to in the main Motion. He said that the Government could not accept the scheme for non-contributory pensions recommended by the Select Committee, but that he would place himself in touch with the Trustees of the Members' Fund and consult with them as to the best method of relieving the existing hardship. He indicated general approval of the proposal to improve the financial situation of junior Ministers, and undertook that the Government would promote the necessary legislation to deal with the matter, without committing himself to a date for the introduction of such legislation. At the close of the debate the amendment was defeated by 276 votes to 205, and the original motion was agreed to by 280 votes to 166. Both divisions took place upon a free vote.⁸

On 24th June the Prime Minister stated to the House that in the opinion of the Government, despite the result of the division on 24th May, there was not the wide degree of approval which was desirable for implementing the proposed increase in salary from

£1,000 a year to £1,500. He recognised, however, that many Members were in serious financial difficulties, and proposed that the Government should meet Opposition leaders to try and find an alternative way of dealing with the problem. This announcement met with a hostile reception from the Opposition, but an attempt to move the adjournment of the House under Standing Order No. 9 for the discussion of the matter was disallowed by the Speaker.⁹

The Prime Minister made a further statement on the subject on 8th July. In it he announced that the Government had decided to institute a sessional allowance for Members, which would be payable at the rate of £2 per day for every day (other than a Friday) on which the House sat. Members would still be eligible to claim the full amount of Income Tax relief upon their existing salaries.¹⁰

A supplementary estimate of £126,000 to give effect to this proposal was agreed to by the House on 26th July.¹¹

¹ C.J. (1952-53) 273, 276

² H.C. 300 (1952-53).

³ C.J. (1953-54) 9.

⁴ H.C. 72 (1953-54).

⁵ 527 *Hans.*, 1439-1561.

⁶ 528 *Hans.*, 30.

⁷ *Ibid.*, 50.

⁸ *Ibid.*, 150-8.

⁹ 529 *Hans.*, 595-600.

¹⁰ *Ibid.*, 2347-9.

¹¹ C.J. (1953-54) 295.

IX. APPLICATION OF *SUB JUDICE* RULE TO PROCEEDINGS OF A ROYAL COMMISSION

BY A. G. TURNER,

Clerk-Assistant, House of Representatives, Australia

On 13th April, 1954,¹ the Prime Minister made a ministerial statement in the House of Representatives in reference to the granting of political asylum to a Third Secretary of the Soviet Embassy in Australia, and announced the proposed appointment of a Royal Commission to investigate espionage activities.

On the following day² a short Royal Commission Bill was introduced into the House and passed by the Parliament that day. This Act empowered the Governor-General to appoint a Royal Commission to inquire into and report upon the commission of acts of espionage, of acts prejudicial to security, and related subjects, and gave the Commission all the powers specified in the principal Royal Commission Act 1902-1933.³ Letters Patent were issued on the 3rd May appointing the Commissioners.

In the course of the Commission's proceedings doubt arose as to its authority and powers, particularly in relation to witnesses refusing to testify, and on the 11th August⁴ a comprehensive Royal Commission on Espionage Bill⁵ was introduced in the House, designed to put beyond further question the validity of the Commission and to make its powers effective. On the following day⁶ the debate on the second

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reading was resumed by the Leader of the Opposition (Mr. Evatt) who, shortly after he had commenced his speech, referred to the refusal of a witness before the Royal Commission to answer a question regarding authorship of a document known as Exhibit J (the contents of which had not been made public).

Mr. Speaker then ruled that it would not be in order to discuss the proceedings of a Royal Commission.

Mr. Evatt rose to order and claimed that on the 25th February, 1949, during a second reading debate on a Bill introduced for the purpose of placing beyond doubt the power of a Royal Commission on the New Guinea Timber Rights to compel witnesses to attend and answer questions, statements based upon facts and evidence before the Royal Commission were made, and that there was no question at any time of the right of the Parliament to discuss the Commission and its terms of reference. Mr. Evatt said the present Royal Commission was not a court of justice but an administrative agency and that, as one of the reasons for the introduction of the legislation was the refusal of a witness to answer, he was entitled to deal with that matter.

A private Member, speaking on the point, suggested to Mr. Speaker that where the matter before the Commission was of such a character that it must necessarily be discussed for the proper appreciation of the Bill before the House, it should be possible to do so.

Mr. Speaker, in dealing with the point of order, said:

My view of the position is that the previous Parliament passed an act to establish a royal commission and handed over to that commission powers to make a certain investigation. It appears that there was some lack in the powers, as I think the Prime Minister foresaw there might be when the bill was introduced. Consequently, the Government now seeks to remove any doubts on the validity of the powers of the commission. I am prepared to allow full debate—in fact, I must do so—on the question whether the commission shall or shall not have these powers, but I am not prepared to allow any reference to the proceedings before the commission itself. Proceedings which took place before a justice of the High Court and are now completed are open to discussion, but that freedom will not apply to proceedings before the commission until it has completed its work. I think we should leave it to the commission to carry on.

Dissent from the ruling was then moved and, after debate, negatived on division. Before putting the question, Mr. Speaker reiterated some of his earlier observations and concluded by saying that, until the Royal Commission reported, he would be failing in his duty if he allowed any discussion about matters that had been deliberately handed to the Commission for investigation.

¹ V. & P., 1954 (20th Parliament), p. 44; *Hans.*, 13/4/54, pp. 325-6.

² V. & P., 1954 (20th Parliament), pp. 49 and 52; *Hans.*, 14/4/54, pp. 379-81.
422. ³ Act No. 2 of 1954. ⁴ V. & P., 1954 (21st Parliament), p. 19; *Hans.*, 11/8/54, pp. 156-62. ⁵ Act No. 28 of 1954. ⁶ V. & P., 1954 (21st Parliament), pp. 21-2; *Hans.*, 12/8/54, pp. 216-23.

⁷ *Hans.*, Vol. 201, pp. 705-21.

X. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE UNION HOUSE OF ASSEMBLY, 1954

By J. M. HUGO, B.A., LL.B., J.P.,

Clerk of the House of Assembly

A. House of Assembly

Rule of anticipation.—On the opening day of the session several notices of motion were given which dealt with the same subject as notices of motion given earlier on that day. The notices of motion which were blocked were subsequently withdrawn, and one of them moved as an amendment.¹

Public bill affecting rights of private persons.—On the motion for leave to introduce the *Natives' Resettlement Bill* Mr. Speaker was asked whether, in view of the fact that the rights of private individuals as distinct from the public at large were being adversely affected, the bill should not be introduced and proceeded with as a hybrid measure. Mr. Speaker pointed out that the bill applied to an area so large in extent and practically unlimited and affected a class of persons so numerous and unknown, that it must be treated as a measure of public policy. Furthermore, in view of the large numbers of persons affected, most of whom were unknown and untraceable, it would be quite impossible and impracticable to comply with the requirements of the Standing Orders relating to private bills, particularly those involving the service of individual notices on the persons affected and the preparation of returns showing their agreement or otherwise with the legislative proposals.²

Vacancy occurring on same day as member declared elected.—On 27th April Miss R. E. Alexander was declared elected for the electoral circle of Cape Western in the room of Mr. Bunting, who had ceased to be a member in terms of the Suppression of Communism Act, 1950.

Immediately after announcing her election Mr. Speaker further announced that he had been notified by the Minister of Justice in writing in terms of section *five bis* of the Suppression of Communism Act, 1950, that Miss Alexander was incapable of being chosen as a member, and that a vacancy had accordingly occurred in terms of the Act. (During the session the Suppression of Communism Act, 1950, had been amended so as to provide that no person who, while falling under the provisions of the Act is nominated as a candidate for election, shall be capable of being chosen and, if chosen, of sitting as a member.)³

Motion of censure upon Mr. Speaker.—On 24th May the Leader of the Opposition (Mr. Strauss) gave notice that on the following day he would move:

That this House disapproves of the manner in which Mr. Speaker (the Honourable J. H. Conradie) discharges his functions as presiding officer and places on record its emphatic disapproval of his action last Friday evening in naming the honourable member for Salt River (Mr. Lawrence) during the debate on the motion for the Second Reading of the *Separate Representation of Voters Act Validation and Amendment Bill* as such action was in the circumstances unjustified.

On the following day the motion, which was given precedence, was moved by the Leader of the Opposition and seconded by the Chief Opposition Whip (Mr. Higgerty).

The Leader of the House (Mr. Havenga), seconded by the Prime Minister (Dr. Malan), then moved the following amendment:

To omit all the words after "That" and to substitute "this House expresses its full confidence in the Honourable J. H. Conradie as Speaker of the House of Assembly. This House further expresses its appreciation of the dignified and impartial manner in which Mr. Speaker has discharged his duties since his assumption of the high office, and regrets that the Official Opposition last Friday evening failed to support and to protect the authority of Mr. Speaker".

After a debate lasting for about six hours the amendment was adopted by 84 to 46 votes. During the whole of this debate the Chair was occupied by the Deputy-Speaker. The hon. member for Salt River (Mr. Lawrence) was absent during the debate.⁴

B. Joint Sitting

Appointment of Joint Committee.—

- (1) At the Second Joint Sitting of both Houses of Parliament which had been convened during the session of 1953 to consider the *Separate Representation of Voters Act Validation and Amendment Bill* a Joint Select Committee consisting of eighteen members was appointed before Second Reading to inquire into the subject matter of the Bill. The Committee reported the same day recommending the appointment of a Commission to proceed with the inquiry during the recess.⁵
- (2) The Commission (consisting of the same members) sat during the recess and submitted a report on 21st January, 1954.⁶ As the Commission was unable to complete its inquiry during the recess, it made no recommendations.
- (3) At the commencement of the 1954 session a Joint Committee (also consisting of the same members) was appointed by the two Houses sitting separately to continue the inquiry into the subject matter of the Bill. On the 8th April this Committee, to whom the report of the Commission had been referred, sub-

mitted to both Houses an amended Bill as a basis for legislation.⁷

Joint Sitting convened.—The Governor-General by message convened a Joint Sitting of both Houses of Parliament on 17th May. The Joint Sitting met on 10 sitting days.

Rules for Joint Sitting.—The rules adopted for the Joint Sitting were the same as those that applied to the Second Joint Sitting of the 1953 session.⁸

Member named.—On 21st May during the debate on the Second Reading of the Bill the hon. member for Salt River (Mr. Lawrence) was ordered by Mr. Speaker to withdraw from the Joint Sitting for the remainder of the day's sitting for not respecting the authority of the Chair, and upon the hon. member interjecting "I shall obey your order and carry it out, but I shall bring a motion of no confidence in you tomorrow", Mr. Speaker named him for disregarding the authority of the Chair. The Leader of the House (the Minister of Finance) then moved: "That Mr. Lawrence be suspended from the service of the Joint Sitting," which, after a division, was agreed to.

Under the Standing Orders of the House of Assembly the suspension from "the service of the Joint Sitting" was for one week, and as the Joint Sitting met on only one sitting day of such week it was held that Mr. Lawrence would be entitled to attend the sittings of the House of Assembly during the week. He did not do so, however.⁹

Alteration in division lists.—In view of the fact that a considerable number of Government members are seated on the cross-benches to the right and to the left of the Chair it had for convenience become the practice to allow the members sitting on the cross-benches and who intended voting in the majority to remain seated in the cross-benches both to the right and to the left. At the next meeting of the Joint Sitting Mr. Speaker announced that he had been notified by an hon. Senator that in the division on the suspension motion, referred to above, he did not realize until too late that by remaining on the cross-benches to the left of the Chair he was voting in favour instead of against the motion. At Mr. Speaker's suggestion the Joint Sitting thereupon ordered that his name be recorded with the "Noes".¹⁰

C. Select Committees

Leave to sit on days over which House adjourned.—Owing to the sittings of the Joint Session, leave was granted to all Select Committees to sit, without the consent of all their members, on days over which the House stood adjourned, notwithstanding the provisions of Standing Order No. 242.

Titles of Bills changed by Select Committees.—As a result of an agreement having been arrived at between the promoters and opponents of the *South African National Life Assurance Company (Mutual) Incorporation (Private) Bill*, certain amendments were made in the

Bill which necessitated a consequential amendment in the preamble and the title. This amendment was specially reported to the House.¹¹

In the case of the *Professional Boxing and Wrestling Control Bill* the Select Committee submitted a new Bill entitled the *Boxing and Wrestling Control Bill*.

Constituents of member appointed to serve on Select Committee having local interest in Hybrid Bill.—One of the members appointed to serve on a Select Committee on a Hybrid Bill, which was opposed in the first instance, pointed out that some of his constituents might have a local interest in the Bill and he would therefore not be able to sign the declaration prescribed by Standing Order No. 57 (Private Bills). Before the Committee commenced its sittings, he was accordingly discharged and another member appointed in his stead.¹²

Same members appointed to serve on Select Committees on Hybrid Bills.—Four of the Hybrid Bills referred to above dealt with the distribution of water in certain irrigation schemes and the same members were appointed to serve on the four Select Committees to which the Bills were referred for consideration.

Appointment of Chairman of Sessional Committee as Deputy-Chairman of Committees of the whole House.—During the session the Chairman of the Select Committee on Railways and Harbours was appointed Deputy-Chairman of Committees of the whole House. As the Select Committee had almost completed its enquiry at the time the appointment was made, he continued to serve as Chairman until the Committee reported to the House. Normally it is not the practice for either the Chairman or Deputy-Chairman of Committees of the whole House to serve on sessional Select Committees.

Indulgence granted by House for non-compliance with Standing Orders.—In the case of three Hybrid Bills the Examiners in their reports pointed out that the provisions of the Standing Orders (Private Bills) relating to the serving of notices on persons affected had not been complied with and that in two instances the notices had been wrongly addressed and were returned by the Post Office marked "Unknown". On the proposal of the Minister in charge of the Bills the House granted indulgence for the non-compliance with the Standing Orders and the measures were proceeded with.¹³

The House also granted indulgence to certain petitioners in opposition to the *Great Fish River Irrigation District Adjustment Bill* for the presentation of a petition after the expiry of the period laid down for the presentation of such petition. The petition was then referred to the Select Committee on the Bill and the petitioners were subsequently heard by the Committee upon the grounds set forth in their petition.

Changes in the form of Appropriation Bills and of the Estimates of Expenditure.—In previous articles¹⁴ I drew attention to certain resolutions adopted by the Select Committees on Public Accounts and on Railways and Harbours, which laid down that no change in the form of Appropriation Bills and material changes in the form of the Esti-

mates should be introduced without the proposals having been submitted to and approved of by the Select Committees on Public Accounts and on Railways and Harbours respectively, and pointed out that, notwithstanding these resolutions, in the Railways and Harbours Appropriation Bills of 1952 and 1953, clause 3 was introduced in an amended form and authorised the Minister of Transport to utilise savings on any of the sub-heads set out in the first and second schedules for expenditure on an item or sub-head specified under the same head in the Estimates of Expenditure but against which no moneys had been appropriated.

I further pointed out that the matter had formed the subject of enquiry by the Select Committees on Railways and Harbours during 1952 and 1953, but in view of the terms of section *three* of the Railways and Harbours Appropriation Act, adopted in 1952 and 1953, the Committees felt that they could not take the matter any further. The General Manager of Railways, in evidence before the 1953 Select Committee, stated that the matter would be pursued during the parliamentary recess in discussions between himself and the Controller and Auditor-General, and with this proposed course of action the Select Committee of that year agreed.

In moving the Second Reading of the Railways and Harbours Appropriation Bill, 1953, the Minister of Transport also referred to this matter and informed the House that although clause 3 was being retained in the form adopted in 1952, it was to be understood that its retention did not constitute a precedent for the future. When the Railways and Harbours Appropriation Bill, 1954, was under consideration, the Minister of Transport indicated that clause 3 had been altered to what was the position prior to 1952 and that the Select Committee on Railways and Harbours had now been satisfied.

It is gratifying to report that a satisfactory solution has now been arrived at in regard to such an important financial matter, and that the recognised principle of Parliamentary control over expenditure has been re-affirmed.

Joint Committee.—The following points of procedure occurred during the sittings of the Joint Committee on the subject of the *Separate Representation of Voters Act Validation and Amendment Bill*.

When the hearing of the evidence had been completed, a motion was moved that a general discussion should first take place before any definite proposals were submitted to the Committee. To this motion an amendment was moved, and carried on a division, that the Committee first discuss and lay down the general principle on which the proposed legislation should be based, but that any resolution taken should not be regarded as final.

A motion was then moved approving of the principle of separate representation, to which two amendments were moved, the first that a draft report submitted on the subject of separate representation be

taken into consideration, and the second that the *status quo* of the Coloured vote be retained.

At the next meeting the Chairman, in a considered ruling, disallowed the first amendment on the ground that it was not a proper and relevant amendment.

The mover of this amendment then asked that Mr. Speaker's ruling be obtained on the point, which was agreed to by the Committee. A few days later the Chairman laid before the Committee a letter from Mr. Speaker upholding the Chairman's ruling. The same member who had moved the amendment which was disallowed, then asked the Chairman's ruling whether the acceptance of a motion approving of the principle of separate representation would debar a member from moving a motion or amendment opposed to that principle or a motion relative to the desirability of introducing legislation embodying such principle.

The Chairman at the next meeting stated that he could not give a ruling on hypothetical questions, and that the question of the desirability of introducing legislation could be discussed on the consideration of the motion for the approval of the principle of separate representation before the Committee, or at a later stage of the proceedings when a further motion for taking the original Act as a basis for discussion was proposed.

Subsequently the following further amendment was proposed: "To omit all the words after 'That' and to substitute: 'this Committee is opposed to the principle of separate representation of white and Coloured voters in the Cape on the grounds set out in the draft report hereunto annexed, marked "A", and is accordingly of the opinion that it is undesirable that there should be legislation to give effect to the principle of separate representation of white and Coloured voters in the Cape or for abolition of the common roll in the Cape or for the termination of registration of Coloured voters in Natal, and that the Committee report accordingly to the House in terms of the said draft report hereunto annexed, marked "A", to the consideration whereof it do now proceed'."

At the next meeting the Chairman stated that the first part of the amendment was in order, but that the reasons for disapproving of the principle of separate representation should be incorporated in the amendment itself in a concise and readily understandable form and not by reference to an attached draft report comprising some 150 typed pages. He went on to say further: "This part of the amendment must therefore be amended suitably or the words 'on the grounds set out in the draft report hereunto annexed marked "A"' will have to be deleted . . . The second part of the amendment is in my opinion quite irrelevant at this stage. It is only after the Committee has decided either to accept or to reject the principle of separate representation and has disposed of any further proceedings resulting from its decision that a motion should be moved to the effect that

the Chairman report accordingly to the House. I regret therefore that I have to rule the second part of the amendment out of order. I must point out that if the first part of the amendment should be agreed to, the hon. member would be able to move the latter part of the amendment when the Committee has completed the task entrusted to it by the House. I may add for the information of members that an exhaustive enquiry has been made in regard to the procedure followed by Select Committees in this connection in the past, and I am advised that the practice is for the motion 'That the Chairman report to the House the decisions arrived at by the Committee', to be moved *only after* the Committee has finally disposed of the work which has been entrusted to it by the House.' Mr. Speaker, upon being appealed to, upheld the Chairman's ruling.

The first part of the amendment was then with leave withdrawn by the mover and a new amendment proposed, opposing the principle of separate representation and advancing reasons for such opposition. This amendment was rejected on a division, and the original motion, approving of the principle of separate representation, was then agreed to on a division.

Subsequently a further motion that the original Act, No. 46 of 1951, be accepted as a basis for discussion was moved, to which an amendment was moved that the draft report referred to above, be considered. The Chairman, in ruling the amendment out of order, stated that unless the decision on the principle be re-opened and negated by a majority vote, he could not accept the amendment. A motion that Mr. Speaker's ruling be obtained on the point was then moved and agreed to, and at the next meeting the Chairman informed the Committee that Mr. Speaker had agreed with the decision given by him on the previous day.

D. Mr. Speaker

Speaker's position in Table of Precedence.—By Government Notice No. 249 of 12th February, 1954, the rules for the Official Table of Precedence were amended by making it permissible for the host "on occasions at which the position of Parliament particularly comes into prominence, such as for example the annual State banquet at the Opening of Parliament, at his discretion to intersperse persons appearing in Rubrics 4, 5 (a) and (b), 6 and 7". At the State banquet on the occasion of the Opening of Parliament in January of this year, Mr. President and Mr. Speaker, who appear in Rubrics 6 and 7, were placed immediately after the Chief Justice appearing in Rubric 3.

¹ V. & P., pp. 12-14; see also TABLE, Vol. VI, 209; Vol. VIII, 123; Vols. XI-XII, 212, 217; XIII, 193. ² V. & P., p. 150. ³ See s. 5 bis of Act No. 8 of 1954, and TABLE, Vol. XXI, 194; Vol. XXII, 83. ⁴ V. & P., pp. 494-7; 86 Hans., 5599. ⁵ See TABLE, Vol. XXII, 87. ⁶ U.G. 20-54 and 21-54. ⁷ J.C. 1-54. ⁸ J.S. Minutes, p. 3; see also TABLE, Vol. XXII, 87. ⁹ J.S. Minutes, pp. 13-14; J.S. Debates, 1954, c. 361. ¹⁰ J.S. Minutes, p. 16. ¹¹ S.C. 3-54. ¹² S.C. 4-54. ¹³ V. & P., 347-8 and 372. ¹⁴ See TABLE, Vol. XXI, 170; Vol. XXII, 84.

XI. FEDERATION OF RHODESIA AND NYASALAND: STEPS IN SETTING UP THE NEW FEDERAL ASSEMBLY

BY COLONEL G. E. WELLS, O.B.E., E.D.,

Clerk of the Federal Assembly

The following points among the many which arose in the setting up of the new Federal Assembly may be of some interest:

After carrying on with staff functioning smoothly and everything else in full working order, it was something of a shock to find the number of problems, big and small, which presented themselves when starting a completely new Parliament from the grass roots. Well before the new constitution came into force a small working party, consisting of experienced Parliamentary officials from the territories which were to federate, was set up to give thought to the steps which would be necessary for the establishment of the new House. That working party proved to be quite invaluable as it was able to ensure an early start on essential buildings and other necessary preparations. Augmented, as will be seen later, it also prepared a draft set of Standing Orders. With the consent of the Territorial Parliament concerned, a member of its staff was seconded to act as Clerk of the new Parliament, and when this done the functions of the working party were taken over by him.

Buildings

It was known that the Federal capital would be in Salisbury, the seat of the Southern Rhodesian Government, at any rate until such time as the Federal Parliament decided otherwise. The Southern Rhodesia Legislative Assembly very kindly offered its "entire facilities" for the first meeting of the Federal Assembly, including the use of its mace.¹ It was appreciated, however, that the Federal and Territorial Legislatures would have to meet contemporaneously within a few months and that completely separate facilities would be necessary within a very short time. A three-storey building, based on minimum requirements, was commenced in November, 1953, and taken over in June, 1954. This new building is adjacent to that of the present Legislative Assembly of Southern Rhodesia so that it is possible for the two Houses to share the excellent facilities provided by the Legislative Assembly Parliamentary Library.

Staff

Three officials were released by the Southern Rhodesia Legislative Assembly to form the nucleus of the new staff, and civil servants in

all three Territories of the Federation were invited to apply for the remaining vacant posts. A small, keen, though largely inexperienced staff was collected in this way about two months before the Federal Assembly met for the first time.

Mace

As stated above, the new Parliament was authorised to use the Mace of the Southern Rhodesia Legislative Assembly for its first sittings,¹ but it was necessary to make immediate provision for a Mace for the Federal Assembly after that time. Owing mainly to the time factor, it was decided to make the new Mace of wood. It was then arranged that Nyasaland should provide the wood; that the machining should be carried out in Northern Rhodesia; and that the hand carving and finishing should be done in Southern Rhodesia. A design was prepared following traditional lines as far as the material would permit. The approval of Her Majesty the Queen for the use of this Mace was sought and most graciously given. The wooden Mace was taken into use on the 28th June, 1954, when Mr. Speaker made the following announcement:

I have to inform the House that a new and very beautiful Mace, made of wood, has been taken into use to-day with the most gracious approval of Her Majesty the Queen. Her Majesty's approval was conveyed to me by His Excellency the Governor-General in the following Message:

"Salisbury,
Rhodesia.
2nd June, 1954.

Mr. Speaker,

I have to advise you that, in conformity with your request, I have sought the permission of Her Majesty the Queen for the use of a wooden Mace in the Federal Assembly.

Her Majesty has now advised me through the Secretary of State for Commonwealth Relations that she has been graciously pleased to approve the use of this Mace in your Assembly.

LLEWELLIN,
Governor-General."

All members of the House are greatly honoured by Her Majesty's gracious act in sanctioning the use of this Mace.

The new Mace, in addition to its great traditional significance, symbolises in its design and fabrication the coming together of the three Territories of the Federation. Carefully selected wood for the Mace was supplied by the Government of Nyasaland, machine work was carried out in the workshops of the Public Works Department in Northern Rhodesia, while the design and general supervision of the manufacture was entrusted to Mr. J. A. Richardson, Assistant Director of Public Works in Southern Rhodesia.

The beautiful carving on the Mace is the devoted work of an African wood-carver, Mr. Job Kekana, of St. Faith's Mission, Rusape.

The Mace is of traditional design and the head has on its four faces the Royal Ciphers and the Shields of Arms of the three Territories of the Federation.

On behalf of the House I sincerely thank all who have contributed towards the production of the Federal Mace.

Honourable Members are no doubt aware of a statement in the House of Commons to the effect that a new Mace is to be presented by that House to the Federal Assembly. That magnificent gift will be suitably acknowledged in due course when the presentation takes place.

Up to the present, the Federal Assembly has had the use of the Mace of the Legislative Assembly of Southern Rhodesia, and I understand that it is the intention of the Prime Minister to move an expression of thanks for this and other assistance accorded by that House.

The Prime Minister then moved:

That this House desires to place on record its sincere thanks to the Speaker and the Members of the Legislative Assembly of Southern Rhodesia for their kind and generous action in permitting this House the use of their Mace, their Chamber, administrative offices and their Library; thus making it possible for the Federal Assembly to be inaugurated at short notice and to function smoothly from the start.

That this House also records its thanks to the staff of the Legislative Assembly of Southern Rhodesia for their great assistance and co-operation so freely given at all times.

This House further desires this expression of appreciation and thanks to be conveyed by Mr. Speaker to the Speaker and Members of the Legislative Assembly of Southern Rhodesia.²

A few days later, Mr. Speaker, accompanied by the principal officers of the House, went to the Chambers of the Speaker of the Legislative Assembly of Southern Rhodesia and presented to him a copy of the Resolution, printed on vellum.

It will be noted that by the time the wooden Mace was taken into use it had been announced that a silver-gilt Mace was to be presented by the House of Commons. A description of the ceremony at which it was presented is given elsewhere in this issue.

Kind of Type and Binding for Hansard and Other Parliamentary Publications

The selection of type for *Hansard* and other publications and decisions on their general style and format, proved very interesting. The choice was not an entirely free one as matrices for certain types were not readily available and would, it was said, take some time to obtain. After full consideration it was decided to use Ideal News in 8-point as the basic type for *Hansard*, to be changed to 9-point Times Roman when available. The selection of material for bindings led to an unexpectedly long quest. Experience suggested, and a glance at Library shelves confirmed, that the problem of maintaining standard bindings over the years was such that the greatest care was necessary in the selection of colour and materials. What we were looking for was a suitable, pleasing, and distinctive colour in paper, cloth, rexine and leather, in material which it was hoped would always be available. Finally, a pale shade of grey was chosen. Time alone will show whether the optimistic assurances as to availability of the various types of material were in fact justified.

Standing Orders

The small working party which was concerned with preparations for the new Parliament undertook the task of preparing draft Standing Orders. For this work it received invaluable reinforcement by the addition of Mr. E. A. (now Sir Edward) Fellowes, then Clerk-Assistant of the House of Commons, who made the long journey to the Federation for this purpose. His unique experience in the preparation of Standing Orders for Parliaments overseas proved to be of incalculable value. By working most uncivilised hours at great pressure, the work was completed in about three weeks. The working party based their draft on the Standing Orders of the Southern Rhodesia Legislative Assembly, while giving full consideration to the Standing Orders of both Nyasaland and Northern Rhodesia. Standing Orders of other Parliaments in the Commonwealth were also examined. In submitting their draft, the working party were able to express the belief that in general it was in accordance with House of Commons practice. The Standing Orders provide that in cases of doubt the practice of the House of Commons is to be followed.³

¹ 1953 S. Rhod. Votes, 193.

² 1954 Votes, 113-114.

³ S.O. No. 216.

XII. RHODESIA AND NYASALAND FEDERAL ASSEMBLY: OPENING OF FIRST SESSION, FIRST PARLIAMENT, 1954

BY COLONEL G. E. WELLS, O.B.E., E.D.,

Clerk of the Federal Assembly

The Constitution of the Federation of Rhodesia and Nyasaland came into force on the 23rd October, 1953; a general election for the Federal Assembly was held on the 15th December, 1953; and Parliament was summoned to meet for the first time on the 2nd February, 1954, the official opening being fixed for the following day. Buildings for the new Federal Assembly were under construction but were far from ready for use at that time. The Legislative Assembly of Southern Rhodesia had very kindly placed its "entire facilities" at the disposal of the new Parliament for its first meeting.

Proceedings on the First Day of the Session

Pursuant to Proclamation,¹ Members met at 11 o'clock a.m. on the 2nd February, 1954, the Clerk of the House acting as Chairman for the occasion as provided by Standing Orders.² The Mace was brought in and placed under the Table. The Clerk of the House first read the Proclamation summoning Parliament to meet and then inti-

mated that the House would proceed to elect a Speaker. Throughout this phase the procedure observed at Westminster for the election of a Speaker was closely followed, the Clerk indicating Members who rose to speak, by rising and pointing to them. One person only having been proposed and seconded as Speaker, he was called to the Chair of the House without question put.

It is necessary here to explain that, under the Constitution, the Speaker may be elected from among Members of the House or from outside.³ If a Member is elected and agrees to serve as Speaker, he thereupon vacates his seat as a Member. In the present case, a person from outside was elected, the gentleman concerned being present and sitting below the Bar of the House. He came to the Bar, expressed his thanks and was conducted to the Chair by his proposer and seconder and, after again expressing his grateful thanks took his seat on a chair on the floor of the House to the right of the Chair. A Member was then proposed and seconded as Deputy Speaker and, as there were no further proposals, declared duly elected.

Mr. Speaker then took the chair and the Mace was laid upon the Table. Mr. Speaker announced his intention of presenting himself to the Governor-General and invited Members to accompany him. Business was suspended and the Speaker was then led from the Chamber by the Serjeant-at-Arms, the Mace remaining upon the Table.

Ten minutes later, Mr. Speaker, wearing bob wig and a black silk gown, led by the Serjeant-at-Arms bearing the Mace in the downward position and accompanied by Officers of the House and Members, entered his waiting car for the drive to Government House. At Government House a Procession was formed, led by the Serjeant-at-Arms carrying the Mace in the downward position. Guided by a member of the Governor-General's personal staff, the procession entered the Reception Room, the Mace being left outside the room. On the entry of the Governor-General, all bowed to him. Mr. Speaker reported his election and presented himself to His Excellency, as required by Standing Orders,⁴ making the following statement:

May it please Your Excellency. I have to report that the Federal Assembly, in the exercise of their undoubted right and privilege, have proceeded to the election of a Speaker. Their choice of Speaker having fallen upon me, I now present myself, with all humility, to Your Excellency.

Having congratulated Mr. Speaker on his election, the Governor-General administered the Oath of Allegiance, which was subscribed by Mr. Speaker. Mr. Speaker then laid claim, by humble petition, to the constitutional rights and privileges of the House. The Governor-General then presented Mr. Speaker with a Commission authorising him to administer the Oath of Allegiance to Members.

Proceedings became informal and later Mr. Speaker (led by the Serjeant-at-Arms carrying the Mace on the right shoulder), Members

and Officers rejoined the waiting cars and returned to the Federal Assembly. Business was resumed; Mr. Speaker reported that he had presented himself to the Governor-General and that he had made claim, on behalf of the House, to all "your constitutional rights and privileges, freedom of access to His Excellency at all reasonable times; and that the most favourable construction should be placed upon your proceedings". He further reported that he had taken the Oath of Allegiance and that he had been appointed to administer it to Members. Mr. Speaker repeated his thanks to the House for the great honour conferred upon him by his election.⁵ Members then came up to the Table, in pairs, and took the Oath.

The Prime Minister informed the House that the Governor-General would declare the causes of his calling the Parliament together on the following day and the House then adjourned.⁶

The Official Opening

Next day, the 3rd February, 1954, the House met in a large room in the building, ten minutes before the time appointed for the Opening. A Guard of Honour, with band, was drawn up outside the main entrance to the building to await the arrival of the Governor-General. There, too, was a group of the senior officers of the armed services and members of the Governor-General's personal staff, who were later to form part of His Excellency's Procession.

In the meantime, those who had been invited to the Ceremony had taken their seats in the Chamber, early comers and other members of the general public in the vicinity being entertained by a band in one of the courtyards. At five minutes to the appointed time, Mr. Speaker, Officers and Members entered the Chamber in procession, led by the Serjeant-at-Arms carrying the Mace.

His Excellency, accompanied by Members of his Procession, entered the Chamber to a fanfare of trumpets and the Mace was covered. As he placed his foot on the first step of the dais, the first gun of a salute of 19 guns was heard. On reaching the top of the dais, His Excellency turned and faced the House and the National Anthem was played. His Excellency took his seat and then invited others to be seated.

The Speech from the throne was then handed to the Governor-General by the Prime Minister and read by His Excellency. Arrangements were made to relay the Speech to members of the public in the vicinity of the House by loudspeaker, though a broadcast was not permitted. At the conclusion of the Speech the Governor-General's Secretary advanced, received the copy of the Speech from His Excellency and delivered it to Mr. Speaker. His Excellency then left the Chamber, the Mace being uncovered as he did so. Mr. Speaker and Members returned to the room in which they had first met.

Certain formal business was concluded,⁷ and Mr. Speaker then reported that he had attended the ceremony of the Opening of Parliament and that His Excellency had been pleased to deliver an Opening Speech, of which, for greater accuracy, he had received a copy.⁸ After certain papers had been tabled, the House adjourned.

¹ Proc. 5, 1953.

² S.O. No. 2.

³ Constitution of the Federation of

Rhodesia and Nyasaland, art. 16 (2).

⁴ S.O. No. 7.

⁵ 1954 Votes 2.

⁶ *Ibid.*, 3.

⁷ *Ibid.*, 5.

⁸ *Ibid.*, 6.

XIII. THE GOLD COAST CONSTITUTION, 1954

By virtue of the Gold Coast (Constitution) Order in Council, 1954,¹ dated 29th April, the existing constitution² was amended in several material respects, which are briefly summarised here.

The Executive

A Cabinet of at least eight Ministers is established as the principal instrument of policy, under the leadership of a Prime Minister; the Ministers are all to be Members of, and collectively responsible to, the Assembly.³ The reserve powers of the Governor are restricted to matters of defence, external affairs, the police and Togoland.⁴ The Governor is enjoined to observe the constitutional conventions of the United Kingdom in the appointment and dismissal of Ministers.⁵ Provision is also made for the appointment of Ministerial Secretaries (to a number not exceeding that of Ministers), Permanent Secretaries and a Secretary to the Cabinet.⁶

The Legislative Assembly

The Legislative Assembly is to consist of 104 elected Members and a Speaker elected by them (not necessarily from among their own number);⁷ provision is also made for the election of a Deputy Speaker, who must be a Member.⁸ Qualifications for Membership are (a) British (or British-protected) nationality, (b) attainment of the age of 25, and (c) a sufficient proficiency in speaking and reading English to permit active participation in the Assembly's proceedings.⁹ The usual disqualifications and provisions for vacation of seats are applied,¹⁰ the latter including (a) absence without leave from two consecutive meetings and (b) election as Speaker. Decisions as to questions of membership are to be determined by the Supreme Court.

Legislation and Procedure in the Assembly

The Assembly may make, amend and revoke its own Standing Orders.¹¹ The provisions regarding quorum and voting are the same as for the old Assembly.¹² Classes of bills for which the recommendation or consent of the Governor is required to be signified are listed,¹³ and include bills imposing a charge, altering the salary, allowance, conditions of service, etc., of public officers, or relating to matters for which the Governor or Attorney-General is responsible. If the Assembly fails to pass a bill which the Governor considers ought to be passed in the interests of public order, public faith or good government, the Governor may declare it to have effect as if it had been passed.¹⁴ The Governor may reserve bills for the signification of Her Majesty's pleasure, and a law to which the Governor has given assent may be disallowed by Her Majesty through a Secretary of State.¹⁵

The Privileges of the Assembly and its Members are not to exceed those of the House of Commons;¹⁶ the Assembly may not refrain continuously from sitting for a period longer than 12 months,¹⁷ and must be dissolved after four years.

The Public Service and the Judiciary

Part VI of the Order¹⁸ sets up a Public Service Commission, to which the Governor may refer for advice on any question relating to the appointment, promotion, transfer, termination of appointment, dismissal or disciplinary control of public officers (other than Supreme Court Judges, judicial officers and the Auditor-General) or any other matter affecting the public service. Detailed regulations regarding the working of the Commission are set forth in the Public Service Commission Regulations, 1954.¹⁹ A similar Commission, called the Judicial Service Commission, is set up under Part VII of the Order²⁰ in respect of the Judiciary, and is regulated in its operation by the Judicial Service Commission Regulations, 1954.²¹

Finance and Miscellaneous

Part VIII of the Order²² deals with the authorisation of public expenditure, proposals for which are to be contained in estimates and submitted to the Assembly's vote by means of Appropriation or Supplementary Appropriation Bills; the Assembly may refuse assent to any head of estimate or expenditure in such a bill, but may not vote for an increased amount, a reduced amount or an alteration of destination. If an Appropriation Bill has not become law by the first day of the year to which it relates, the Finance Minister may, with Cabinet approval, authorise expenditure on any service to an amount not exceeding one-quarter of that amount voted for the preceding year.

Provision is made for the appointment of an Auditor-General,²³ removable only on an address of the Assembly carried by two-thirds of its total membership, and subject to a maximum retiring age of 55.

A penalty of £20 per day is laid down for sitting and voting in the Assembly by an unqualified person.

Commencement

Apart from the provisions relating to the Executive,²⁴ the setting up of the Public Service Commission²⁵ and the Judicial Service Commission²⁶ and the disposal of powers vested in the Governor,²⁷ the Order in Council was brought into operation on 5th May.²⁸ Ss. 4-21 and 70 came into operation on 18th May²⁹ and Ss. 56 and 63 on 31st July, 1955.³⁰

The proclamation announcing the first general election under the new Constitution was made on 5th May, 1954,³¹ and the new Parliament assembled on 27th July.³²

¹ S.I., 1954, No. 551. ² See TABLE, Vol. XX, 184-94; Vol. XXI, 149.
³ Ss. 4-5. ⁴ Ss. 6 and 17 and 2nd Schedule. ⁵ S. 7. ⁶ Ss. 19-21.
⁷ Ss. 24-5. ⁸ S. 26. ⁹ S. 29. ¹⁰ Ss. 30-1. ¹¹ S. 38.
¹² See TABLE, Vol. XX, p. 192. ¹³ S. 43. ¹⁴ S. 44. ¹⁵ S. 46.
¹⁶ S. 48. ¹⁷ S. 49. ¹⁸ Ss. 52-9. ¹⁹ Supp. to Gold Coast Gazette No. 50, dated 24th July. ²⁰ Ss. 60-4. ²¹ Supp. to Gold Coast Gazette No. 85, dated 29th December. ²² Ss. 65-8. ²³ S. 67. ²⁴ Ss. 4-21.
²⁵ S. 56. ²⁶ S. 63. ²⁷ S. 70. ²⁸ Gazette No. 27 of 1st May; Subsidiary Legislation Nos. L.N. 170, 171 and 172. ²⁹ Gazette No. 40 of 18th June; Subsidiary Legislation No. L.N. 242. ³⁰ Gazette No. 2 of 1st January, 1955; Subsidiary Legislation No. L.N. 1. ³¹ Gazette Extraordinary No. 28 of 5th May. ³² Gazette Extraordinary No. 48 of 13th July.

XIV. GOLD COAST: COMMISSION OF ENQUIRY INTO THE RESIGNATION OF A MINISTER

On 25th November, 1953, Mr. J. A. Braimah, the Minister of Communications and Works, tendered his resignation from that office in person to the Governor. In a further interview on the following day he handed in a written statement, in view of which the Governor suggested that he should give a statement to the police. Mr. Braimah complied with this suggestion on 27th November, admitting *inter alia* that he had accepted the sum of £2,000 in four instalments from Mr. Aksor Kassardjian, a contractor.

The Governor accordingly decided, on 3rd December, to set up under S. 2 of the Commissions of Enquiry Ordinance, a Commission of Enquiry consisting of Mr. Justice K. A. Korsah, C.B.E. (Chair-

man), Sir Leslie M'Carthy and Mr. Myles Abadoo, to enquire and report upon

(a) the circumstances which caused Mr. J. A. Braimah to resign his seat in the Cabinet; and

(b) the truth of any allegations, relevant to such circumstances, which come to light in the course of the enquiry.¹

The Report of the Commission² was agreed to on 12th April, 1954. It was stated therein that evidence from seventy witnesses had been taken on thirty-one days between 11th December, 1953, and 2nd March, 1954.³ The Commission had decided, as far as was suitable and convenient, to conform to the procedure adopted by the "Lynskey Tribunal",⁴ and had requested and obtained the assistance of the police and Solicitor-General, Mr. A. G. Forbes, throughout the enquiry.⁵

At the opening of the enquiry they had issued the following note on procedure for the information of witnesses and counsel:

(a) At the discretion of the Commissioners, witnesses who appear to have an important interest in the matters under enquiry will be allowed to be represented by counsel.

(b) An officer of the Law Officers' Department will call all witnesses and examine them in chief on any statements they have made.

(c) Each witness may then be cross-examined by the same officer of the Law Officers' Department.

(d) Counsel appearing for other witnesses will next be allowed to cross-examine each witness on matters affecting their clients.

(e) After this cross-examination, if a witness giving evidence is represented by counsel, his counsel will then be given the opportunity of examining him.

(f) An officer of the Law Officers' Department will then conduct a final examination of the witness.

Witnesses not represented by counsel were also permitted to exercise rights of cross-examination.⁶

The Commission considered that since there was no issue between parties and no defendant to be tried, their task was to find the facts:⁷ the legal implications of this decision are outlined in the two following paragraphs:

We found from examination of two statements made by Mr. Braimah and set out in full in paragraphs 13 and 14 below that a large number of the allegations he referred to were based on rumours. During the course of our enquiry further allegations arose and some of these also were admitted to be the result of rumours. As Mr. Braimah stated that one of the reasons for his resignation was the existence of these rumours about prominent persons in the Gold Coast, we considered it to be a part of our task to enquire into rumours of this nature, which being unsubstantiated, would not normally have been a matter for an enquiry of a judicial or quasi-judicial nature.

Had there been time for adequate police investigation to be made before our enquiry opened, it is probable that it would not have been necessary to hear evidence on mere rumours. Seeing that Mr. Braimah resigned from the Cabinet on 25th November and we were appointed on 3rd December 1953 to enquire into his resignation, it was however inevitable that almost all the investigations by the police had to be carried out on our behalf as the enquiry

proceeded and in some cases as new allegations came to light in evidence given before us.*

The Commission accordingly set themselves to examine the following questions:

Our terms of reference led us to direct our attention to the following questions:

(a) What were the circumstances in which Mr. Braimah resigned his seat in the Cabinet?

(b) What were the reasons which caused him to resign?

(c) Whether there was any truth in the allegations or rumours mentioned by Mr. Braimah in the statement set out in paragraph 13 below or which arose during the course of our enquiry?

(d) What were the circumstances of the transactions, and the part of the individuals mentioned in the allegations and rumours which we had to consider?*

The results of the examination are set forth in the remainder of the Report, which is 352 paragraphs long. It is neither necessary nor desirable to recount here the details of the allegations—the great majority—which the Commission found to be either without substance or unproved, although it should be mentioned in passing that the Report dismissed as quite unfounded a number of allegations of corruption which Mr. Braimah had made concerning the Prime Minister (Dr. K. Nkrumah). Unfavourable comment was, however, made upon the conduct of three individuals, namely, Mr. Braimah, Mr. Krobo Edusei, M.L.A. (the Chief Government Whip), and Mr. Kassardjian.

Mr. Braimah

It was admitted by Mr. Braimah that in January, 1953, Mr. Kassardjian had offered him through an intermediary a gift of £2,000 if the contract for the building of Pusiga Training College were assigned to Mr. Kassardjian. The contract was in fact so assigned, though not owing to any improper influence of Mr. Braimah. On four occasions thereafter Mr. Braimah accepted gifts of £500 from Mr. Kassardjian, a fact that was not denied by the latter. Although Mr. Braimah averred that he had received the last gift in September, the Commission were satisfied that he had in fact received it not later than May. Mr. Braimah gave to the Governor, the police and the Commission a number of conflicting explanations of the motives which had prompted him to resign; but the Commission concluded that it was primarily the fear of exposure which produced in him "a state of mind in which he became unnerved and unbalanced."¹⁰

The report on Mr. Braimah concluded:

We do not believe that this state of mind could have developed from innocent acceptance by Mr. Braimah of gifts of money from Mr. Kassardjian. The circumstances of his acceptance of large sums from a contractor who was holding and seeking government contracts and who, according to Mr. Braimah, had previously attempted to bribe him and some of his ministerial colleagues, make it impossible for us to accept this version, which indeed

cannot be reconciled with his earlier statements. It may well be that at no time did Mr. Braimah intend to use his position for Mr. Kassardjian's benefit and that he repeatedly told him so, but in our view Mr. Kassardjian expected to derive favours in return for his gifts, and we have no doubt that Mr. Braimah must have known this from the beginning.

Among the factors that tell strongly against Mr. Braimah's later version is the long delay in reporting the gifts, after he admittedly realised that Mr. Kassardjian expected favours from him. This realisation . . . must have been not later than 13th June, 1953. Another point is his inconsistency with regard to the fourth gift. At one stage he stated that it was not until two months after receipt of this that he realised that Mr. Kassardjian expected favours in return for it. Yet in cross-examination he said that he did not accept it as a free gift and that he took it so that he could produce it in evidence.

Whether Mr. Braimah in fact realised the true nature of the gifts in May, June, or even July, the question is why he delayed until November before taking action. The answer in our opinion is that he could not satisfactorily explain his acceptance of the three earlier amounts of £500. When eventually . . . he was moved by fear of exposure to make open admission of his receipt of the £2,000 he did so making a clear confession of having abused his trust. At the same time he took the opportunity of adding to his self-accusation numerous allegations affecting his ministerial colleagues. Mr. Braimah at times attributed conduct on his part which called for explanation to his habit of compromise and vacillation. Although these possible characteristics may partially explain his conduct in this matter, they do not constitute, in our opinion, a valid excuse.¹¹

Mr. Krobo Edusei

Of the eight allegations made concerning Mr. Edusei, the Commission found seven either unproved or unfounded. It was, however, alleged that he had caused a letter to be sent by Mr. Braimah's department (but without his knowledge) to a Mr. Köster, a business man in Germany, from whom Mr. Edusei had in the past received substantial hospitality while in Germany in September, 1953: the letter indicated that Mr. Braimah would be willing to receive representations in connection with a hostel which, Mr. Köster had told Mr. Edusei, the German Government had planned to build for the Gold Coast, if the Gold Coast Government were willing to share the cost. Though Mr. Braimah did not make a specific allegation of corruption against Mr. Edusei, in the Commission's opinion he obviously wished it to be inferred that Mr. Edusei's efforts on behalf of Mr. Köster were not disinterested.¹² The report concluded:

Mr. Edusei's position as Government Chief Whip, it need hardly be stated, gives him no right to interfere with matters falling within the province of the Ministry of Communications and Works and the departments controlled by that ministry. The basis for this allegation lies in the fact that, as Chief Whip, he is necessarily in close touch with Ministers and Ministerial Secretaries, and that at least he might be in a position to help a foreign businessman by securing attention for a proposal to do business with the Government. This is clearly illustrated by the facts which are given above, though in this case the results were completely negative. There is no evidence that Mr. Edusei went to Germany to effect a deal with Mr. Köster. It is possible that even if Mr. Edusei had not accepted so many benefits from Mr. Köster he

would still have acted for him as he did on his return to the Gold Coast, but on the other hand it is difficult to suppose that Mr. Köster viewed Mr. Edusei's visit otherwise than from a business point of view.

The evidence does not justify us in holding that Mr. Edusei acted corruptly, but conduct such as his in this matter must inevitably lead to suspicion. It falls below any acceptable standard for men in the public service, and it is strongly to be deprecated.¹³

Mr. Kassardjian

Although Mr. Kassardjian did not deny that he had given £2,000 to Mr. Braimah, he averred that he did so as a contribution to Mr. Braimah's election expenses; he did not, however, suggest that Mr. Braimah had indicated that he was in need of any money for that purpose, nor could he have known when Mr. Braimah would have next to fight an election, or what money he would need for the purpose. Moreover, when questioned by the police, Mr. Kassardjian had at first flatly denied that he had ever paid any money to Mr. Braimah. The Commission therefore reported:

We have come to the conclusion that Mr. Kassardjian's version of the £2,000 being given for election purposes must be rejected. We have no doubt that the money was given for the purpose of influencing Mr. Braimah to see his position in Mr. Kassardjian's favour.¹⁴

Results of the Enquiry

No specifically parliamentary proceedings ensued from the Report of the Commission, which was not debated in the Assembly; it is, however, of interest to note that both Mr. Braimah and Mr. Krobo Edusei retained their seats in the Assembly until the dissolution later in the year, although Mr. Edusei resigned his office as Ministerial Secretary.

Mr. Kassardjian was prosecuted for attempting to corrupt Mr. Braimah (who appeared as a witness for the prosecution) and sentenced to two year's imprisonment with hard labour; a subsequent appeal, however, on the ground that by making use of part of the money involved Mr. Braimah had become an accomplice, was allowed by the West African Court of Appeal and the conviction was quashed.

¹ Gazette No. 80 of 2nd December, 1953. ² Published (unnumbered) by the Government Printing Department, Accra. ³ Report, para. 2.
⁴ See TABLE, Vol. XIX, 132-76. ⁵ Report, paras. 3-6. ⁶ *Ibid.*, para. 8.
⁷ *Ibid.*, para. 9. ⁸ *Ibid.*, paras. 10 and 11. ⁹ *Ibid.*, para. 12.
¹⁰ *Ibid.*, para. 62. ¹¹ *Ibid.*, paras. 63-5. ¹² *Ibid.*, para. 216.
¹³ *Ibid.*, paras. 217 and 218. ¹⁴ *Ibid.*, para. 244.

XV. PAPERS LAID: A REVIEW OF THE STATUTORY PROVISIONS FOR THE CONTROL OF SUBSIDIARY LEGISLATION IN KENYA WITH SUGGESTIONS FOR THEIR SIMPLIFICATION

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As with all Legislatures, the Kenya Legislative Council delegates the power to enact rules and regulations to other bodies from time to time. This delegated power is always limited to enacting such subsidiary legislation of the enactment for the better carrying into effect of the provisions of the enactment conferring it. In some cases, however, the Legislative Council provides in the principal enactment that the subsidiary legislation authorised shall be brought to its notice, and in other cases the Council requires that it shall be given an opportunity to express an opinion concerning the subsidiary legislation after it has been made or even to ratify it before it comes into force.

The Kenya Legislature retains supervision of delegated legislation in three principal ways, over and above its general power of altering or revoking the actual delegation.

Firstly, rules or regulations may be required to be laid before the Legislative Council. Various forms are used. Sometimes the phrase is "shall be laid on the Table of the Legislative Council" *simpliciter*. More generally it is required that they be so laid "within fourteen days after the making thereof", with special provisions in the event of the Council not sitting at the time the rules are made. Another alternative used is "at the next ensuing meeting" of the Council. The purpose of this requirement is not clear in the light of the other forms of laying as it must be assumed that since no provision is made for a resolution annulling the rule or regulation concerned, this step cannot be contemplated by Members of the Legislature when they are laid before them. The matter would be simplified if there were an overall provision requiring that all rules or regulations brought into force under statutory authority should be laid before the Legislative Council. At the present time it would appear that some are picked out for this treatment without any clear indication of the reason.

Secondly, rules or regulations come into force when made, but are required to be laid before the Council as soon as possible thereafter and if a resolution is passed by the Council praying that they be revoked they are so revoked. This is the most popular form, and is the most reasonable in normal circumstances having regard to the

fact that Council does not sit frequently enough or for sufficiently long periods to ensure that the administration will not be hindered in its work if prior ratification by the Legislature is required.

Three points should be noted in connection with this form. First, the period during which the Council may resolve upon revocation has until recently varied for no apparent reason between forty and thirty days. Second, there have been instances where power to amend have been included. Third, sometimes the revocation is expressed to be without prejudice to anything previously done, and sometimes is without prejudice to anything previously done or to the making of any new rule.

The period is important, and provided it is clear that all the days within the period are days on which the Council is sitting thirty days should be sufficient. This point has been met in the African Teachers Service Ordinance.¹ The provision for amending a regulation is undesirable in that it is difficult of application. The simpler method of revoking the whole regulation should be sufficient provided that such revocation does not prejudice the making of new rules or regulations.

Thirdly, rules or regulations may be made but do not come into force for a specified period after they have been laid before the Legislature and are subject to the terms of any resolution which may be passed thereon. There are five examples of this form in the Laws of Kenya, and the reason why it has been chosen is not apparent. It first appeared in 1947-1948, when the Select Committees on the Immigration (Control) Bill and the Hide and Skin Trade Bill both chose it.² The Weights and Measures Ordinance in 1951³ contains a similar provision, while the African Courts Ordinance⁴ of the same year reduces the period of waiting from thirty to fourteen days. The great advantage of this form is that it does give warning of the coming into force of the rules or regulations concerned; on the other hand, there is danger of serious delay, with consequent hardship to members of the public, if the Council is not sitting when they are made, and they may have to be held over for as much as three months before coming into force.

Fourthly, and finally, rules or regulations may be made and brought into force immediately, but are not allowed to continue in force after a certain period unless the Legislature so decrees. This form is rarely used. A case in point is the Emergency Powers Ordinance,⁵ and in this case the Legislature is specially charged with safeguarding the interests of the public. If necessary a special meeting of the Legislature would be called in the event of an emergency arising of a nature such as is visualised by this Ordinance.

A variation of this form occurs in the Auctioneers Ordinance,⁶ which requires that the rules provided for therein shall not come into operation unless they are approved by a majority of the Members of the Council present when they are submitted to it. This Ordinance was passed in 1912, and the provision referred to was inserted on the

strength of a recommendation by the Special Committee appointed to consider the Bill that "any rules made regarding surety bonds or other security shall be submitted to the Legislative Council". This is the first occasion that any requirement as to laying papers before Legislative Council appears in the Laws of Kenya and the form has never been repeated. Subsequent forms used required laying *simpliciter* until the Legislative Council Ordinance⁷ repealed in 1935, in which the Legislative Council was given forty days to raise objection. It may therefore be assumed that this variation is obsolete.

A perusal of the various forms used suggests that some simplification of method could be achieved with advantage, but before making recommendations in this connection it is useful to consider the practice in the United Kingdom and elsewhere. Broadly speaking, the methods of bringing subsidiary legislation to the notice of Parliament are similar except that Rules or Regulations requiring a resolution of either House before coming into force are usually laid in draft.

The great difference between the practice in the United Kingdom and in Kenya lies in the physical act of laying papers. In Kenya, as in all other Colonial Legislatures, the Minister responsible rises in his place and asks leave to lay the document in question at a time set aside in the Orders of the Day for the purpose. In the United Kingdom the matter is dealt with by Standing Orders as follows:

House of Lords: Standing Order No. 57 provides that

Where, under any Act of Parliament, a statutory instrument is required to be laid before Parliament after being made, the deposit of a copy of the instrument with the Clerk of the Parliaments in accordance with this Order at any time during the existence of a Parliament when the House is not sitting for public business shall constitute the laying of it before the House. . . . The Clerk of the Parliaments shall cause to be published, either in the Minutes of Proceedings or in some other manner, particulars of the deposit of statutory instruments under this Standing Order.

House of Commons: Standing Order No. 110 provides similarly that

Where under any Act of Parliament, a statutory instrument is required to be laid before Parliament, or before this House, the delivery of a copy of such instrument to the Votes and Proceedings Office on any day during the existence of Parliament shall be deemed to be for all purposes the laying of it before the House.

To remove doubts the Laying of Documents before Parliament (Interpretation) Act, 1948, provides that reference to the laying of a paper is "to be construed as a reference to the taking, during the existence of a Parliament, of such action as is directed by virtue of any Standing Order, Sessional Order or other direction of either House for the time being in force to constitute the laying of that document before that House, or as is accepted by the practice of that House".⁸

In Australia and elsewhere it is provided by Statute that all rules

and regulations made under powers conferred by the Legislature shall be laid before the Parliament. The relevant legislation in Australia, the Acts Interpretation Act, 1901-1937, Section 48(1), reads as follows:

Where an Act confers power to make regulations, then, unless the contrary intention appears, all regulations made accordingly—(a) shall be notified in the *Gazette*; . . . (c) shall be laid before each House of the Parliament within fifteen sitting days of that House after the making of the regulations.

Elsewhere the definition of "regulations" includes "rules".

The Interpretation and General Clauses Ordinance⁹ of the Laws of Kenya provides at Section 15:

Where an Ordinance confers power on any authority to make subsidiary legislation . . . (d) subsidiary legislation shall be published in the *Gazette* . . .

It would seem that if the United Kingdom practice of allowing papers which have to be laid to be deposited with the Clerk could be agreed to in Kenya a great simplification and procedural expedition would result.

With regard to cases where more specific control is desired the following form taken from *Legislative Drafting and Forms*, by Sir Alison Russell,¹⁰ appears to be adequate:

All rules made under this Ordinance shall be laid before the Legislative Council as soon as may be after they are made, and if the said Council within the next subsequent thirty days on which it has sat after any such rule is laid before it resolves that the rule shall be annulled, the rule shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new rule.

On the rarer occasions when it is desired either to delay the coming into force of subsidiary legislation until the Legislature has had an opportunity to consider and approve it or to cause it to cease to operate unless approved by the Legislature within a specified period the forms at present operating are adequate.

In making these suggestions consideration has been given to the recommendations of the Select Committee on Delegated Legislation of the House of Commons¹¹ and to the Statutory Instruments Act, 1946,¹² which however take into account the far more complicated procedure of Westminster and do not lend themselves to application to the far less involved formalities required in Kenya.

One final matter: there have been suggestions, and in fact in some parts of the Commonwealth it has become the practice, to establish a Committee of the Council to consider subsidiary legislation. In Kenya the time does not seem ripe for such a development as the amount of subsidiary legislation is not so great as to call for action of this nature, but if such a course should be deemed desirable care should be taken to define clearly the functions of such a Committee. These should exclude the right to judge the desirability of the sub-

subsidiary legislation and should be limited to considering whether it is *intra vires* the rule-making authority or offends against certain defined principles. A select Committee of the Australian Senate, has for example, stated the following principles for the guidance of such a Committee:

Regulations should be scrutinised to ascertain—

- (1) that they are in accordance with the Statute;
- (2) that they do not trespass unduly on personal rights and liberties;
- (3) that they do not unduly make the rights and liberties of citizens dependent upon administrative and not upon judicial decisions;
- (4) that they are concerned with administrative detail and do not amount to substantive legislation which should be a matter for parliamentary enactment.

¹ Cap. 3 of 1954, s. 6 (4). ² Caps. 51, s. 13 (2) and 209, s. 21 (2). ³ Cap. 49 of 1951, s. 51. ⁴ Cap. 65 of 1951, s. 55 (3). ⁵ Cap. 42, ss. 2 (1) and 3 (2).
⁶ Cap. 309, s. 18 (2). ⁷ Cap. 22 of 1919. ⁸ 11 & 12, Geo. 6, c. 59, s. 1.
⁹ Cap. 1. ¹⁰ P. 471 (4th Ed.). ¹¹ See THE TABLE, Vol. XXII, p. 51.
¹² 9 & 10 Geo. 6, c. 36.

XVI. FEDERATION OF MALAYA (ELECTIONS TO LEGISLATIVE COUNCIL)

Appointment and Report of Committee.—On 15th July, 1953, a Committee of 46, representing all communities in the Federation, was appointed by the High Commissioner with the following terms of reference:

- (i) To examine the question of elections to the Federal Legislative Council and constitutional changes in the Federal Government arising therefrom;
- (ii) to make recommendations and submit a report at the earliest possible date consistent with the importance of the task.

At its first meeting on 17th August, 1953, the Committee appointed a Working Party of 20 of its members, to perform the following tasks:

- (i) To consider and report to the Committee on any views submitted in pursuance of the invitation to the public to submit views and proposals;
- (ii) to study in detail the problems involved in the introduction of elections to the Federal Legislative Council and the constitutional changes arising therefrom and to report thereon to the Committee;
- (iii) to take any steps it considers necessary and within the competence of the Committee to facilitate the completion of the enquiry including—
 - (a) the hearing, if necessary, of any individual or association in explanation of any written views which they have submitted;
 - (b) the submission of interim reports on any matters which in the opinion of the Working Party require the early attention of the Committee;
- (iv) to consider whether any expert advice is required and, if so, to take steps to obtain such advice.

From 17th August to 21st January, 1954 (the date of signature of the Committee's Report¹), the full Committee met on three and the Working Party on twelve occasions. Written representations were received from numerous political and other organisations, but the Committee did not find it necessary to hear any oral evidence.

The Committee's recommendations may be briefly summarised as follows:

I. *Composition of the Council:*² The Committee unanimously recommended that the Council should include a Speaker, three *ex-officio* members, eleven State and Settlement Representatives, twenty nominated members for scheduled interests, three nominated members for minorities and two nominated officials (the Secretary for Defence and the Member for Economic Affairs). Unanimity was not reached, however, on the question of elected members, thirteen members of the Committee being in favour of prescribing sixty elected members, bringing the total membership of the Council to one hundred (Proposal "A"), while twenty-nine recommended that there should be forty-four elected members plus eight additional "reserve" members nominated by the High Commissioner (total membership, ninety-two) (Proposal "B").

II. *Qualifications of Candidates for Election:*³ It was unanimously recommended that candidates should be: (1) Citizens of the Federation, (2) ordinarily resident therein, (3) able to speak, read and write English or Malayan, and (4) 21 years of age or over. They should also comply with the requirements of an electoral law prescribing a deposit of between \$500 and \$1,000, returnable to candidates obtaining more than one-eighth of the votes cast. They should be free from the conventional electoral disqualifications; interest in a government contract or membership of a State or Settlement Council should not, however, be a disqualification. No unsuccessful candidate for election should normally be appointed to any of the nominated seats. A minority of the Committee (eighteen) were in favour of allowing civil servants to resign temporarily from office in order to contest an election; such resignation would be valid for four years, by the end of which period the person concerned would have to choose whether to re-enter the civil service (with benefit of increments and promotion which would have been available to him had he been serving in the normal way) or to make his resignation permanent.

III. *Method of Election:*⁴ The Committee recommended that there should be direct elections with common electoral rolls. Candidates should be elected by individual territorial constituencies delineated by a Constituency Delimitation Commission (this recommendation had been foreshadowed in an Interim Report of the Committee, dated 31st December, 1953). Such Commission should be directed to have regard to (i) the desirability of reasonable access by all electors to the registration and polling machinery, (ii) the weighting of rural areas and (iii) the desirability of single-member constituencies except, at

discretion, in urban districts. For single-member constituencies the Committee favoured the simple majority vote, but for multiple-member constituencies a majority of twenty-eight favoured the "limited vote" system, whereby each voter has the right to vote for only a proportion of the total number of seats to be filled.

IV. *The Speaker*:⁵ The Committee recommended that the Speaker should be appointed by the High Commissioner from among such persons (whether members of the Council or not) as appeared to him to be suitable to discharge the onerous duties of the office.

V. *Life of Council and Tenure of Office*:⁶ The Council should have a maximum life of four years, and be capable of dissolution by the High Commissioner at any time. Certain modifications were proposed to the existing provisions,⁷ prescribing the circumstances of vacation of seats, namely, that (i) in the case of elected members permission for leave of absence should be sought from, and resignation tendered to, the Speaker rather than the High Commissioner, (ii) elected members should not be subject to declaration of incapability or suspension by the High Commissioner, (iii) any question of right to be or remain an elected member should be determined by the Supreme Court, and (iv) appointment to the civil service should vacate a seat.

VI. *The Electorate*:⁸ The potential number of voters was estimated at 2.2 million.

VII. *Qualifications of Voters*:⁹ Voters should be citizens of the Federation and ordinarily resident in one of its constituencies, at least 21 years of age, and free from the conventional electoral disqualifications.

VIII. *Preparation of Register and Polling*:¹⁰ A register of voters should be prepared, subject to exhaustive legislative and administrative provisions set out in Appendices¹¹ to the Report. The form of application for registration as a voter should include a declaration of allegiance. Voting should be voluntary, but any election in which less than 25 per cent. of the registered voters actually voted should be void; in such a case the seat should be left vacant for six months and if a similar result was obtained in the ensuing by-election, the constituency should be represented by a nominated member until the next General Election.

IX. *The Executive Council*:¹² The Executive Council should consist of the High Commissioner, the *ex officio* members and such other persons not less than twelve or more than twenty-four as the High Commissioner may from time to time appoint. Appointments should be expressed to be during the High Commissioner's pleasure, and members should also be or become members of the Legislative Council. Departmental responsibility may be conferred by the High Commissioner, but, in the opinion of the majority of the Committee, only on elected or official members. Precedence between members of the Executive Council may be assigned by the High Commissioner, and

all members of the Executive Council should have precedence over other members of the Legislative Council.

X. *Date of Elections*:¹³ Some members recommended that elections should be held not later than November, 1954, whilst the majority considered that it would be impracticable to specify the date in view of the difficulty in estimating at that juncture the period required to complete the necessary legislative and administrative arrangements. All members agreed that the elections should be efficiently, effectively and fairly conducted and their introduction should not be delayed for the sake of delay.

Consideration of the Committee's Report by the High Commissioner and Their Highnesses the Rulers.—The Committee's Report was published on 1st February, 1954, and a period of nearly a month elapsed before discussions began between the High Commissioner and Their Highnesses the Rulers so that the reaction of the public to the issues involved could be taken into full account. The first meeting of the Rulers' Conference was held on 25th February, when a large measure of agreement on the proposals was reached; at a further meeting on 27th March full agreement was reached and the discussions concluded. Some petitions had, in the meantime, been submitted by certain political organisations reiterating certain of the minority views of the Federal Elections Committee (mainly in regard to the number of elected members in the new Council and the date of holding the elections) and these were taken in account before the High Commissioner reported to the Secretary of State for the Colonies on 10th April the outcome of his discussions with Their Highnesses the Rulers.¹⁴

Correspondence between High Commissioner and Secretary of State.—On 10th April the High Commissioner sent a despatch to the Secretary of State, which, together with the Secretary of State's Reply dated 20th April, was laid before the Federal Legislative Council as a Command Paper.¹⁵ In this correspondence, agreement was signified to the unanimous and majority recommendations of the Committee's Report, with the following exceptions:

1. With regard to the composition of the Council, the High Commissioner recommended, and the Secretary of State accepted, that the provision of *ex officio* and nominated members (excluding the Speaker) should be as follows: three *ex officio*, eleven State and Settlement Representatives, twenty-two members for scheduled interests, three members for racial minorities, and (in partial acceptance of Proposal "B"—see p. 114 above), seven nominated "reserve" members. As a concession, however, to the proposals of Proposal "A", the number of elected members was set at fifty-two, thus giving the Council an elected majority at the outset.

2. Government servants would be debarred from presenting themselves as candidates. Two concessions were, however, proposed so that officers in senior grades of the public service might retire with

pension at the age of 46 in order to stand for election, and that officers in certain junior grades, mainly those in Division IV of the service, might be permitted to take one month's leave without pay prior to polling day for the purpose of presenting themselves as candidates; a successful candidate would then be required to resign, but could be reinstated at any time within five years of resignation upon ceasing to be an elected member if he had previously completed not less than ten years' service.

3. The franchise would not be extended to include categories of persons other than Federal citizens. Since the right to vote at national elections is a valued privilege associated with an individual's position as a citizen it was thought that it would be illogical to make an exception by granting the privilege to persons who are not citizens.

4. The Secretary of State (though not the High Commissioner) disagreed with the Committee's recommendation that in any constituency where less than one-quarter of the registered voters actually cast their votes in an election, the election should be declared void (see p. 115 above). He expressed himself reluctant to believe that the electorate would prove so indifferent to its responsibilities as to allow such a situation to arise, and therefore preferred not to provide for this contingency at the start.

5. Members of the Executive Council might be drawn from the Legislative Council as a whole and their selection not limited, as recommended by a small majority of the Committee, to the elected members.

6. Since it was clearly impracticable to hold elections to the Council before the end of the year, it was proposed that they should take place as early as possible in 1955.

7. Finally, it was proposed that the members of the Executive Council who hold portfolios should, after the introduction of the elected majority into the Council, be given the title of "Ministers".

Subsequent Proceedings and Legislation.—The first legislative result of the proceedings described above was the Election Offences Ordinance¹⁶ published in the *Gazette* of 30th April, which laid down penalties in respect of defined electoral offences and corrupt practices, and made the customary provision for the nomination of election agents, the limitation of election expenses, and the trial of election petitions.

A Constituency Delimitation Commission, consisting of three members, was appointed on 2nd April and made its report¹⁷ on 11th June. With a few minor alterations, its recommendations were accepted in a Proclamation by the High Commissioner dated 20th September.¹⁸

Three further Ordinances were published in the *Gazette* of 15th September, namely (1) the Federation of Malaya Agreement (Amendment) Ordinance,¹⁹ which made such amendments to the Federation of Malay Agreement, 1948, as were necessary to carry out the agreed recommendations of the Committee, (2) the Registra-

tion of Electors Ordinance²⁰ (of 1954), and (3) the Legislative Council Elections Ordinance.²¹

- ¹ Published (unnumbered) by the Government Press, Kuala Lumpur.
² Paras. 11-38. ³ Paras. 39-59. ⁴ Paras 60-73. ⁵ Paras. 74-6.
⁶ Paras. 77-80. ⁷ Federation Agreement, c. 42. ⁸ Paras. 81-3.
⁹ Paras. 84-91. ¹⁰ Paras. 92-5. ¹¹ Nos. IX and X.
¹² Paras. 99-107. ¹³ Paras. 108-111. ¹⁴ For facts in this paragraph, see para. 7 of "Memorandum on the Introduction of Elections to the Federal Legislative Council," issued by command of H.E. the High Commissioner on 26th May, and published by the Government Press, Kuala Lumpur. ¹⁵ No. 21 of 1954.
¹⁶ No. 9 of 1954. ¹⁷ Published (unnumbered) by the Government Press, Kuala Lumpur. ¹⁸ Supp. No. 34 to Gazette No. 20, Vol. VII. ¹⁹ No. 27 of 1954.
²⁰ No. 28 of 1954. ²¹ No. 29 of 1954.

VII. THE NIGERIAN FEDERAL CONSTITUTION, 1954

On 21st May, 1953, the Secretary of State for the Colonies announced in the House of Commons that Her Majesty's Government had regretfully decided that the Nigerian constitution would have to be redrawn to provide for greater Regional autonomy and for the removal of powers of intervention by the Centre in matters which could, without detriment to other Regions, be placed entirely within Regional competence.¹ Invitations were accordingly issued asking representatives of each Region to a conference in London for a full exchange of views. The conference was held in July and August, and resumed at Lagos in January and February, 1954. Reports of the two portions of the conference were issued as White Papers.²

The first overt result of the conference was the announcement by the Colonial Office, on 8th July, 1954, that the Governor of Nigeria would in future be styled the Governor-General, and the three Regional Lieutenant-Governors would be styled Governors.³ On 3rd September the Nigerian (Constitution) Order in Council, 1954,⁴ was laid before Parliament; in it full effect was given to the recommendations of the conference. The new Constitution enacted by this Order in Council differs materially from the Constitution of 1951, which was fully described in a previous volume;⁵ the description which follows goes, therefore, somewhat beyond a mere catalogue of the differences between the two Constitutions.

1. Federation. Under S. 3 of the Order in Council, Nigeria is reconstituted as a Federation, consisting of the Northern, Western and Eastern Regions, the South Cameroons and the Federal Territory of Lagos, power being given to the Governor-General to divide each Region into a limited number of Divisions.

2. **The Legislative Houses:** (i) *House of Representatives.* In addition to the already existing Regional Legislative Houses, provision is made for a House of Assembly of the Southern Cameroons.⁶ The Membership of the Federal House of Representatives is revised to consist of (i) the Speaker; (ii) three *ex officio* Members (the Chief Secretary, Attorney-General and Financial Secretary of the Federation); (iii) ninety-two elected Members from the Northern Region, forty-two from the Western Region, forty-two from the Eastern Region, six from the Southern Cameroons and two from Lagos; (iv) up to six Special Members appointed by the Governor and (v) if necessary, Temporary Members appointed to take the place of incapacitated Special Members.⁷ The Speaker, who holds office at Her Majesty's pleasure, is appointed by the Governor-General from outside the membership of the Assembly, and the Deputy Speaker, who holds office during the Governor-General's pleasure, from within the membership.⁸ The Governor-General is empowered to make provision for all matters concerning the election of Representatives, including the qualifications and registration of electors, and may provide for different methods of election in respect of different parts of Nigeria. Similar qualifications for elected membership of, and vacation of seats in, the House of Representatives are enacted to those which were formerly applicable to members of Regional Houses of Assembly.⁹

(ii) *Northern Region.* The Membership of the Northern House of Chiefs is amended by the addition of those members of the Northern Region Executive Council who are Members of the Northern House of Assembly.¹⁰ The Governor may appoint a Deputy President from within or outside the Membership.¹¹ The elected Membership of the House of Assembly is increased from 90 to 131; up to five Special Members may be appointed (or Temporary Members in lieu thereof). The President may be appointed from within or outside the membership of the House.¹² In this and all other Regional Houses of Assembly, regulations on all electoral matters are made by the Governor.¹³

(iii) *Western Region.* The Membership of the House of Chiefs is amended by the addition of (a) those members of the Regional Executive Council who are members of the House of Assembly, and (b) as many as four Special Members (or Temporary Members in lieu), and the exclusion of the Governor.¹⁴ Both President and Deputy President are elected by the House, the President either from within or outside its Membership, the Deputy President necessarily from within.¹⁵ The composition of the House of Assembly is unchanged, except that the Speaker may be elected from within its Membership.¹⁶

(iv) *Eastern Region.* The Eastern House of Assembly is to consist of eighty-four elected Members,¹⁷ the Speaker being appointed by the Governor from within or outside its membership, and the Deputy Speaker being elected from within it.¹⁸

(v) *Southern Cameroons*. A new House of Assembly is created, of (i) the Commissioner, who acts as President; (ii) three *ex officio* Members; (iii) thirteen elected Members; (iv) six Native-Authority Members selected by the Governor-General; (v) up to two Special Members appointed by the Governor-General (or Temporary Members in lieu).¹⁹

(vi) *Official and Special Members*. Detailed provisions are made for the tenure and vacation of seats in all Regional Houses by Official, Special and Temporary Members.²⁰

3. Legislative Powers and Procedure. The Governor-General, with the advice of the House of Representatives, is given power to legislate in respect of any matter included in the Exclusive or Concurrent Legislative Lists (which are set out in Schedule I), and the Governors of Regions and their respective Legislative Houses are given similar powers in respect of matters not included in the Exclusive Legislative Lists; power regarding the latter category of matters is exercised in Lagos by the Governor-General and the House of Representatives.²¹ A Regional Legislature may, however, delegate by legislation to the Federal Legislature authority to make laws for that Region.²² Responsibilities are divided in detail between the Legislatures in respect of the implementation of treaties, external trade, the authorisation of loans, and the emoluments of officers in the Southern Cameroons,²³ and provisions are made for the continuance of existing laws and inconsistencies between laws enacted by different Legislatures.²⁴

Bills may be introduced by any Member of any Legislative House, with the exception of "money bills", which may not be introduced in any House of Chiefs.²⁵ Bills that charge the revenue may only be introduced on the recommendation of the Governor-General, Governor or Commissioner (as applicable).²⁶ The Governor-General, Governors and Commissioner are given powers to arrest the progress of any bill or motion for altering the salaries, etc., of any public officer or dependants thereof.²⁷ Such bills or motions are defined as "reserved", and a duty is laid upon the presiding officer of any House to consider whether any bill or motion should be so defined and, if so, to proceed no further with it save with the consent of the Governor.²⁸ Reserved powers are given to the Governor-General to declare effective any bill, not passed by the House of Representatives, which he considers necessary in the interest of public order, public faith or good government.²⁹ The Governor-General and Governors may either assent or refuse to assent to bills, or reserve them for the signification of Her Majesty's pleasure,³⁰ but any law to which assent has been given may be disallowed by Her Majesty.³¹

Failure by the two Houses of either the Northern or Western Regional Legislature to agree to a bill is resolved by a system of joint sittings.³²

All Houses are given discretion, subject to the approval of the

Governor-General, Governor or Commissioner, to frame their own Standing Orders.³³ In the event of the officially elected or appointed President, Speaker or Deputy being absent, the Chair may be taken by any Member that a House may elect for the purpose.³⁴ Quorums are laid down as follows, exclusive of the Chair: House of Representatives, fifty; Regional Houses of Chiefs, fifteen; Regional Houses of Assembly, twenty-five; South Cameroons House of Assembly, eleven.³⁵ The Chair has a casting, but not an original, vote; if, on an equality of votes, the casting vote is not exercised, the motion is lost.³⁶ No Member may sit or vote until he has taken the oath of allegiance, either before the House or, in certain defined circumstances, before a judge.³⁷

Each Legislature may determine and regulate its own privileges, immunities and powers, which must not in any case exceed those of the House of Commons.³⁸ The official language is English, except in the Northern Regional Legislature, where Hausa is also official. A penalty of £20 per day is prescribed in respect of sitting or voting in any House while knowingly unqualified.³⁹ Powers are given to the Governor-General and Governors to summon, address, prorogue and dissolve the respective Legislative Houses.⁴⁰

4. Executive Powers. Executive authority of the Federation and Regions respectively is extended to the execution and maintenance of the constitution and all matters with respect to which the respective Legislatures have the power to pass laws.⁴¹ The Federal Council of Ministers, consisting of the Governor-General, Chief Secretary, Attorney-General and Financial Secretary, three Ministers appointed from each Region and one from the Southern Cameroons, is to be consulted by the Governor on all matters unless otherwise provided.⁴² All Ministers must be members of the House of Representatives, and may be dismissed either by the Governor-General's direction on the ground of having failed to carry out the policy of the Council, or on the recommendation of the House of Representatives, signified by a vote of two-thirds of the total number.⁴³ Temporary Members of the Council may be appointed in the room of Ministers unable to act.⁴⁴ Questions of Membership are determined by the Governor-General,⁴⁵ who also presides at meetings of the Council as far as practicable.⁴⁶ Provisions are laid down as to quorum, voting and responsibilities assigned to individual Ministers;⁴⁷ the Governor is also empowered to appoint Parliamentary Secretaries (who must be members of the House of Representatives),⁴⁸ Permanent Secretaries,⁴⁹ the Secretary to the Governor-General and Council of Ministers⁵⁰ and to grant Ministers leave of absence.⁵¹ All Ministers must take the oath.⁵²

Similar provisions are made in respect of the Executive Councils of the Regions and Southern Cameroons, the main difference being that in each Region (but not the Southern Cameroons) one of the Ministers is styled the Premier, and advises the Governor on the appointment of the remainder of the Ministers. The number of Ministers

varies from Region to Region, and the Western and Eastern Regional Executive Councils have *ex officio* Members, apart from the respective Governors.⁵³

Provision is made regarding the administrative relations between the Federation and the Regions.⁵⁴

5. Judicial Powers. The Federal Supreme Court consists of a Chief Justice, two or more Federal Justices, and any necessary number of acting Federal Justices.⁵⁵ High Courts of Justice may be established in the Regions and Lagos and Courts of Justice in the Southern Cameroons by legislation enacted by the respective Legislatures. Detailed provisions are made as to jurisdiction.⁵⁶

6. Finance. It is not necessary for the purposes of this Journal to describe in any detail the rules relating to taxation, etc.⁵⁷

7. The Public Services. The Governor-General and Governors have control over the appointment and discipline of officers in the Federal and Regional public services respectively, each being advised in such matters by a Public Service Commission whose members are appointed by him (although not obliged to act in accordance with such advice).⁵⁸ Procedures are laid down for the transfer of existing offices and officers to the public service of the Federation, allocation of regions, assignment of officers, etc.⁵⁹ In appointing the Public Service Commissions the Governor-General and Governors must receive, but need not accept, the advice of their respective Executive Councils.⁶⁰ Provision is made for pensions, additional allowances and gratuities.⁶¹

8. Miscellaneous. The remaining sections⁶² are concerned with transitional and miscellaneous provisions. There are also four Schedules, sitting forth (1) the Exclusive and Concurrent Legislative Lists,⁶³ (2) the geographical delimitations of the constituent parts of the Federation, (3) offences involving disqualification for election, and (4) the method of calculating certain allowances and gratuities.

First Meeting of new House of Representatives.—The existing House of Representatives was dissolved on 22nd September,⁶⁴ and preparations were made for a General Election under the new Constitution.⁶⁵ Pursuant to Proclamation,⁶⁶ the House met on 12th January, 1955, the Chair being taken by Sir Frederic Metcalfe, K.C.B., a former Clerk of the House of Commons, on his appointment as Speaker of the House of Representatives during Her Majesty's pleasure.⁶⁷

¹ 515 *Com. Hans.*, 2263-4. ² *Cmd.* 8934 and 9059. ³ Confirmed in (Extraordinary) Official Gazettes; Federation, No. 54, Vol. 41, p. 1151, Northern, No. 24, Vol. 3, p. 115, and Eastern, No. 44, Vol. 3, p. 199, all of 1st October, 1954; Western, No. 42, Vol. 3, p. 169, of 4th October, 1954. ⁴ *S.I.*, 1954, No. 1146.

⁵ See TABLE, Vol. XX, 195-214. ⁶ *S. 5.* ⁷ *Ss.* 6, 11 and 12. ⁸ *S. 7.*
⁹ *Ss.* 9, 10 and 14. ¹⁰ *Ss.* 17, 19. ¹¹ *S. 20.* ¹² *S. 23.* ¹³ *Ss.* 37.
¹⁴ *Ss.* 24-7. ¹⁵ *S. 28.* ¹⁶ *Ss.* 29-31. ¹⁷ *S. 32.* ¹⁸ *S. 33.* ¹⁹ *Ss.* 34-6.
²⁰ *Ss.* 40-8. ²¹ *S. 51.* ²² *S. 52.* ²³ *Ss.* 53-6. ²⁴ *Ss.* 57-8. ²⁵ *S. 60.*
²⁶ *S. 61.* ²⁷ *S. 62.* ²⁸ *S. 63.* ²⁹ *S. 64.* ³⁰ *S. 65.* ³¹ *S. 66.*
³² *Ss.* 68-70. ³³ *S. 71.* ³⁴ *S. 72.* ³⁵ *S. 74.* ³⁶ *S. 75.* ³⁷ *S. 76.*

- ²⁸ S. 77. ²⁹ S. 78. ⁴⁰ Ss. 79-82. ⁴¹ Ss. 83-6. ⁴² Ss. 87-9.
⁴³ S. 90. ⁴⁴ Ss. 91-2. ⁴⁵ S. 93. ⁴⁶ S. 94. ⁴⁷ Ss. 95-8. ⁴⁸ S. 99.
⁴⁹ S. 100. ⁵⁰ S. 101. ⁵¹ S. 102. ⁵² S. 103. ⁵³ Ss. 104-34.
⁵⁴ Ss. 135-7. ⁵⁵ Ss. 138-41. ⁵⁶ Ss. 144-52. ⁵⁷ Ss. 153-71. ⁵⁸ Ss. 172-80.
⁵⁹ Ss. 181-8. ⁶⁰ S. 189. ⁶¹ Ss. 190-8. ⁶² Ss. 199-222. ⁶³ See S. 51.
⁶⁴ Nigerian Gazette, No. 52, Vol. 41, p. 1083, of 23rd September, 1954.
⁶⁵ Federation Official Gazette, No. 55, Vol. 41, p. 1153, of 7th October, 1954.
⁶⁶ *Ibid.*, No. 67, Vol. 41, p. 1473, of 23rd December, 1954.
⁶⁷ *Ibid.*, No. 3, Vol. 42, p. 27, of 13th January, 1955.

XVIII. THE SINGAPORE CONSTITUTION, 1954

On 21st July, 1953, the Governor announced in the Legislative Assembly the appointment of a Constitutional Commission with the following terms of reference:

To undertake a comprehensive review of the constitution of the Colony of Singapore, including the relationship between the Government and the City Council, and to make such recommendations for changes as are deemed desirable at the present time. The commission's attention is, in particular, drawn to:—

(a) The report of the Committee of Unofficial Members of the Legislative Council appointed to consider the advisability of increasing the number of Elected Members, having regard to the state of the Electoral Roll, and the appointment of a Speaker; and

(b) the motion agreed to by the Legislative Council on 19th May, 1953, which reads:

“ That this Council is of the opinion that a review should be made of the provisions of the Singapore Legislative Council Elections Ordinance, 1947, in conjunction with the intended review of the constitution of the Colony.”

The Commission will also take note of the appointment of the Joint Co-ordination Committee and will maintain such touch with that Committee as may be found necessary.

The Commission, under the chairmanship of Sir George Rendel, K.C.M.G., held 37 meetings between 6th November, 1953, and 22nd February, 1954, and in a Report¹ dated 22nd February, 1954, made a number of recommendations, which were summarised² in the Report as follows:

(i) An automatic system of registration of voters should be adopted to remedy the present dis-proportion between the numbers qualified to vote and those actually registered in the Electoral Roll. We have also considered the question of the qualifications required for the exercise of the franchise, particularly as regards national status.

(ii) The Legislative Council should be transformed into a mainly elected Assembly of thirty-two Members, of whom twenty-five would be Elected Unofficial Members, three would be *ex-officio* Official Members holding Ministerial posts, and four would be Nominated Unofficial Members. Two members of the Commission who subsequently supported the proposal for the creation of a second Chamber favoured continuing, as a temporary measure, the representation of the three Chambers of Commerce. The majority were unable to accept that view.

(iii) A Speaker should be elected by the Assembly from a panel of three to five candidates selected by the Governor from outside the Assembly.

(iv) A Council of Ministers should be constituted, of whom, at the outset, three would be *ex-officio* Official Members, and six would be Elected Members appointed by the Governor on the recommendation of the "Leader of the House", who would be the leader of the largest Party in the Assembly or of a coalition of Parties assured of majority support. We would not, however, exclude the possibility of one of these six Ministers being a Nominated Unofficial Member, provided his appointment was recommended by the Leader of the House.

(v) The Council of Ministers, which would be presided over by the Governor, should replace the existing Executive Council.

(vi) We attach great importance to the maintenance of the principle of collective Ministerial responsibility, and our detailed recommendations on this subject are given in paragraph 70 below.

(vii) A minority proposal for the creation of a second Chamber was considered but was rejected by the majority.

(viii) We consider that the functions of local and central government should be carried out by separate bodies, but that, in the special circumstances existing in Singapore, a new Island-wide authority should be created, to be called the "City and Island Council" to replace the present City Council and the Rural Board. The adjacent islands would, however, not come under the authority of this body and would be a direct responsibility of the central government and form a separate constituency returning a Member to the Legislative Assembly. Our detailed recommendations on the relationship between the City and Island Council and the Central Government are given in Section IX below.

(ix) Although strong pleas have been put forward that various other languages besides English should be given an official status, we have come to the conclusion that it would not be practicable to adopt any multi-lingual system and that English should therefore not only remain the official language of the Colony but also be the only language to be used in the Legislative Assembly and the City and Island Council.

(x) We have carefully considered the important question of the special position of the three United Kingdom Armed Services in regard to labour and social legislation in Singapore. We deal with this in Section XI below.

(xi) The question of the relations of Singapore with the Federation of Malaya is outside our Terms of Reference. We have nevertheless considered it essential to give our views on it, and these are set out in Section XII below.

On 17th May, 1954, the Secretary of State announced in the House of Commons, in a written reply to a question, his general agreement to the recommendations of the Rendel Report, subject to the exception that the appointment of the Speaker should be made in the first instance by the Governor, until a suitable method of election was evolved by the Legislative Assembly.³ Powers were accordingly given by the Singapore Colony (Electoral Provisions) Order in Council, 1954,⁴ to the existing Legislative Council to provide for the election of 25 members to the proposed Legislative Assembly. A bill making such provision was passed through all its stages by the Legislative Council on 2nd November;⁵ assent thereto was given by the Governor on 11th November.⁶

¹ Published (unnumbered) by the Government Printing Office, Singapore.

² Report, para. 2. ³ 527 *Com. Hans.*, 126-7.

⁴ S.I., 1954, No. 1377.

⁵ 2nd Leg. Co. *Hans.*, 4th Sess., pp. 328-35.

⁶ Ordinance No. 26 of 1954.

XIX. THE SUDAN: SELF-GOVERNMENT AND SELF-DETERMINATION

On 21st March, 1953, a Special Legislative Supplement to the *Sudan Government Gazette*¹ gave the terms of an agreement between the Governments of Egypt and the United Kingdom concerning self-government and self-determination for the Sudan, together with the text of the Self-Government Statute.

Agreement between the Governments

A transitional period is prescribed for the termination of the Anglo-Egyptian administration, during which the Governor-General is to be the supreme constitutional authority. His powers are to be exercised with the aid of a five-member Commission (the "Governor-General's Commission") consisting of two Sudanese, one Egyptian, one U.K. subject and one Pakistani. The two Sudanese are to be subject to approval by a Sudanese Parliament, when elected.²

The Governor-General is to remain directly responsible to the two Governments for external affairs, changes in the Self-Government Statute, and resolutions passed by the Commission which he regards as inconsistent with his responsibilities.³

A Mixed Electoral Commission is to be appointed, consisting of three Sudanese, one Egyptian, one U.K. citizen, one United States citizen and one Indian, the latter to be Chairman.⁴ A "Sudanisation" Committee is to be appointed, consisting of one Egyptian and one U.K. citizen, together with three Sudanese to be selected by the Governor-General from a list of five names submitted to him by the Sudan Prime Minister. They will be assisted, in an advisory capacity, by one or more members of the Sudan Public Service Commission.⁵

Subsequent articles⁶ deal with the ending of the transitional period (not to exceed three years) following the "appointed day". As soon as the Sudanese Parliament so resolves, the two Governments are to draw up a draft electoral law, to which the assent of the Governor-General will be required. The resulting elections are to be subject to international supervision, and Egyptian and British military forces are to be withdrawn. Once elected, the new ("Constituent") Assembly will decide the future of the Sudan as an integral whole, by choosing either (a) a link with Egypt, or (b) complete independence; it must also draw up a constitution, and an electoral law for a permanent Sudanese Parliament.

The two Contracting Governments undertake to respect the decision of the Constituent Assembly.⁷

Annexes to the Draft Agreement set forth in detail (i) the terms of reference of the Governor-General's Commission, (ii) those of the

Electoral Commission, (iii) those of the Sudanisation Committee, and (iv) the amendments to be made in the draft self-Government Statute in pursuance of the Agreement.

The Self-Government Statute

This Statute takes the form of an Order made and signed by the Governor-General.

Chapter I (Preliminary) describes the effect of the "appointed day" (defined⁸ as the day upon which the Governor-General certifies that the self-governing institutions created by the Statute, *i.e.*, the Council of Ministers, House of Representatives and Senate, had been duly constituted). After that day, the Executive Council and Legislative Assembly Ordinance of 1948 will cease to have effect, the bodies concerned being replaced by the new self-governing institution;⁹ any existing legislation repugnant to the present order will be superseded thereby.¹⁰

In Chapter II are listed the Fundamental Rights, consisting of (i) the right to Freedom and Equality, (ii) Freedom from Arrests and confiscations, (iii) Freedom of Religion, Opinion and Association, (iv) the Rule of Law, (v) the Independence of the Judiciary, and (vi) the right to Constitutional remedy.¹¹

Chapter III describes the position of the Governor-General as (i) Military Commander-in-Chief and (ii) Supreme Constitutional Authority.¹² Chapter IV deals with the Executive, which is to consist of a Prime Minister and between ten and fifteen other Ministers,¹³ all of whom must (i) be qualified for membership of Parliament¹⁴ and (ii) be elected Members within six months of appointment to office.¹⁵ Provision is made for the appointment of Parliamentary Under-Secretaries.¹⁶ In the Chapter are also laid down the principle of Collective Responsibility of the Council¹⁷ and rules of conduct for Ministers in respect of (i) the disclosure of secret information and (ii) conflict between official and private duties and interests.¹⁸

Chapter V (The Legislature) provides for a Senate and House of Representatives, which, together with the Governor-General, constitute the Legislature for the Sudan.¹⁹ The Senate consists of fifty Members (twenty nominated, thirty elected), the House of Representatives of a number of elected Members defined in Schedule I below.²⁰ Members must be over forty years of age (thirty in the Southern provinces)²¹ and are subject to the usual disqualifications regarding judicial and other office, bankruptcy and insanity; a sentence of two years' imprisonment or conviction of corrupt electoral practice within the last seven years, or illiteracy, also disqualify.²² Vacated seats are to be filled by election or nomination, as the case may be,²³ and decisions of questions as to Membership are determined, at the instance of the Speaker of the House concerned, by the Civil High Court.²⁴

Parliament is to meet at least twice a year, the date for the com-

mencement of each session being appointed by the Governor-General on the advice of the Prime Minister. If a Government is defeated on a motion of confidence, the Governor-General may decline to prorogue Parliament or dissolve the House of Representatives, and call upon the latter to elect a new Prime Minister.²⁵

Each Senate continues for a period of three years, and is not subject to dissolution;²⁶ the House of Representatives may be dissolved within this term.²⁷ Members of both both Houses are remunerated,²⁸ and elect their own Speaker (so designated in both Houses), who need not be an existing Member, and is subject to confirmation by the Governor-General. Each House also elects a Deputy Speaker.²⁹ A Clerk of each House, appointed in the first instance by the Governor-General and thereafter by the Speaker, is subject to confirmation by a two-thirds majority of the House. He holds office until pensionable, but may be removed for unfitting conduct in pursuance of a recommendation passed by a similar majority.³⁰

The Speaker is to have neither an original nor a casting vote; in the event of an equality of votes, a motion is deemed lost.³¹

A quorum is prescribed of two-fifths of the membership of each House sitting separately, and two-thirds of both Houses sitting jointly;³² provision is also made for the language of Parliament, freedom of speech, the right of debate and of question, the right of Ministers and Under-Secretaries to take part in the proceedings of Parliament, the right of the Governor-General to address Parliament, and the framing by the Governor-General of Standing Orders, which may subsequently be added to, amended or revoked by Parliament.³³

Chapter VI deals with Legislation, which is initiated by bill or provisional order. Bills (other than money bills) may originate in either House, and must be passed by both. A money bill rejected by the Senate may receive the Governor-General's assent after three months from its introduction in the Senate, and so may any other bill so rejected if agreed to by the House of Representatives in two successive Sessions, provided that one year has elapsed between its introduction in the House of Representatives in the first Session and its passage by that House in the second.³⁴

Government bills passed with amendments not acceptable to the Council of Ministers may be withdrawn by the Council.³⁵

In the event of disagreement between the Houses, or where a bill is of major importance, the Governor-General may at his discretion summon both Houses to meet in joint sitting. If the bill is passed by a three-quarters majority, it may be presented to the Governor-General for assent.³⁶

Urgent legislation may be made by provisional Order when Parliament is not sitting; confirmation of such an order by resolution of each House is required.³⁷

Financial procedure is described in Chapter VII. The financial year ends on 30th June.³⁸ Provision is made for an annual budget

(dealing with both revenue and expenditure),³⁰ Appropriation Bills⁴⁰ and Advance and Supplementary Appropriation Bills;⁴¹ in none of these is Parliament permitted to increase the original grants. Bills making allocations from revenue to government reserves, or expending money charged to government reserves, are dealt with as Appropriation Bills, although in cases of urgency they may be made by provisional order.⁴² Where the public interest so requires, the Council may sanction the provisional collection of new or altered taxation from the date on which the bill to provide for such taxation is presented to the House of Representatives.⁴³

Ministerial consent is necessary to all legislation imposing or increasing a tax or charge (other than fines, fees or licences).⁴⁴ Government Accounts are laid annually before Parliament and reported upon by the Auditor-General.⁴⁵

Chapter VIII deals with the appointment, tenure of office (normally until the age of fifty-five), salary, functions and reports of the Auditor-General. He may be removed from office by the Governor-General in pursuance of a recommendation passed by a three-quarters majority of both Houses at a joint sitting.⁴⁶

The Divisions, appointments, oath, tenure of office and conditions of service of the Judiciary are described in Chapter IX.⁴⁷

By the provisions of Chapter X a Public Service Commission is created, to make recommendations to the Council or individual ministers on the recruitment, promotion, retirement, etc., of Government servants, the holding of examinations for entering into the public service, and the enforcement of discipline.⁴⁸ Regulations affecting salaries or conditions of government servants, and proposals for the creation of new posts, must be submitted to it,⁴⁹ and additional functions may be conferred upon it by the Governor-General.⁵⁰

The final Chapter (XI) deals with Transitional Provisions, by which certain powers are retained by the Governor-General until the exercise of self-determination. These concern the conduct of external affairs,⁵¹ the fair and equitable treatment of all the inhabitants of the various provinces,⁵² constitutional amendment (but only if requested by a resolution carried at a joint sitting by a three-quarters majority),⁵³ and the proclamation of a Constitutional Emergency by reason of non-co-operation, imminent financial collapse or breakdown of law and order: in the latter circumstances Parliament is suspended, Ministers vacate their offices and the Governor-General appoints a Council of State.⁵⁴

Schedule I lists the Constituencies for the Senate (Part I) and the House of Representatives (Part II). The latter are divided into thirty-five where direct elections take place, fifty-seven with indirect election, and a "graduates constituency" of three Members elected by the single transferable vote. Provisions regarding each of these modes of election are laid down in Part III. The qualifications of voters are listed in Part IV.

Schedule II lists the legal powers (a) ceasing to be exercisable by the Legal Secretary and Governor-General, and (b) remaining exercisable by the Governor-General at his discretion.

In Schedule III are set forth the forms of oath taken by Ministers, Members and the Judiciary.

The Standing Orders

On 12th December, 1953, in accordance with Article 54 of the Statute, the Governor-General prescribed Standing Orders for both Houses. In each case the Standing Orders are divided into eight chapters: (I) Members and Officers, (II) Sittings and Conduct of Business, (III) Business taken before Public Business, (IV) Public Business, (V) Process of Debate, (VI) Legislation, (VII) Committees and (VIII) Miscellaneous Provisions. There are eighty Standing Orders for the Senate and eighty-three for the House of Representatives, the additional Standing Orders in the latter case being concerned with (a) the election of the Prime Minister, (b) Petitions and (c) Procedure on Petitions.

S.O. No. 78 of the Senate and 81 of the House provide for the adoption of the usages of the House of Commons in all cases for which the Standing Orders do not provide, as far as they are applicable and consistent with the Statute (it is, however, provided that any restriction imposed by the House of Commons upon itself by Standing Order is not applicable unless incorporated in the Sudanese Standing Orders). Following are the respects in which the practice outlined in the Standing Orders differs most materially from that of the House of Commons:

(1) *Members and Officers*.—A contested election of a Speaker is determined by ballot.⁵⁵ The Prime Minister is also elected in the House of Representatives by ballot.⁵⁶

Seats are allotted by the Speaker, and Members (a term which may hereinafter be taken to include Senators, unless stated to the contrary) may speak only from the seats allotted to them.⁵⁷

Remuneration of Members absent without leave for twenty-five or more sittings ceases for the period of the absence.⁵⁸

Ministers and Parliamentary Secretaries may take part in the proceedings of the House of which they are not Members, but may not vote or be included in the quorum.⁵⁹

(2) *Sittings and conduct of business*.—Both Houses normally meet at 4.30 p.m. on Mondays, Tuesdays, Wednesdays and Thursdays.⁶⁰ The hour of interruption is 8 p.m., but may be deferred *ad hoc* on the motion of a Minister or Under-Secretary.

The language employed is Arabic, although Members may speak in English, a translation into Arabic being then made.⁶¹

(3) *Business taken before Public Business*.—Questions require seven days' notice, unless the Minister concerned agrees to furnish an earlier answer.⁶²

(4) *Public Business*.—Government business has precedence on every day except Thursday: on three Thursdays out of four, Notices of Motions have precedence of Orders of the Day. Before the question on a Private Member's motion is put, a Minister may move that the debate be adjourned for two weeks for a report from the appropriate Department.⁶³

Five clear days' notice of a motion is required, except in case of urgency (at the Speaker's discretion) or motions moved by Ministers: the latter require one day's notice.⁶⁴

The consent of the Governor-General is required for the raising on the adjournment of a matter connected with external affairs.⁶⁵

(5) *Process of Debate*.—Suspension of a member after naming lasts on the first occasion for a week, on the second for a fortnight and on the third and subsequent occasions for a month. Remuneration ceases during the period of suspension.⁶⁶

On an amendment to leave out words, the question proposed is "That those words be left out".⁶⁷

Divisions are taken by roll-call, abstentions being recorded.⁶⁸

Closure may be claimed in both Houses. At least twenty Senators or forty Representatives are required to constitute a successful majority.⁶⁹

Motions to postpone discussion to a definite date in the future take the form "That the debate be now adjourned" or "That the Chairman do report progress"; motions to withhold a decision indefinitely are "That the debate be now discontinued" or "That the Chairman do now leave the Chair".⁷⁰

(6) *Legislation*.—A member moving for leave to introduce a bill must give a short summary of the objects and leading features of the bill, but without argument in support of it.⁷¹

Special procedure in regard to bills affecting private rights is only applicable in the House in which the bill originates, the report of the Select Committee which considered the bill in that House being made available to that in the other.⁷²

If a Select Committee reports against proceeding further with a bill, consideration of that report must not be set down for less than three days after the report has been presented.⁷³

At least two days' notice must be given of new clauses, schedules and amendments moved on Report,⁷⁴ of amendments to reduce sums allotted to items of Expenditure in the Appropriation Bill⁷⁵ and of motions to disagree with or further amend amendments received from the other House.⁷⁶

(7) *Committees*.—Chairmen of Select Committees are appointed by the Committee of Selection. They have an original but not a casting vote.⁷⁷

Joint committees are set up by Standing Order on Privileges, Delegated Legislation, "House" matters, and the Library.⁷⁸

First Meeting of Parliament

On 21st December, Parliament was summoned by proclamation of the Governor-General to meet on 1st January, 1954. At this meeting, a Speaker was chosen by each House, in both cases after a contested election.⁷⁹ At the next sitting, on 4th January, messages were read from the Governor-General approving the Senate's choice of Speaker, but disapproving that of the House of Representatives.⁸⁰ That House accordingly met again on 5th January, and without a division elected Ustaz Babikr Awadalla as Speaker;⁸¹ the Governor's approval of this choice was expressed on 6th January.⁸²

- ¹ No. 854. ² Arts. 1-4. ³ Arts. 5-6. ⁴ Art. 7. ⁵ Art. 8.
⁶ Arts. 9-12. ⁷ Art. 13. ⁸ S. 2. ⁹ S. 3. ¹⁰ S. 4. ¹¹ Ss. 5-10.
¹² Ss. 11-12. ¹³ Ss. 13-14. ¹⁴ S. 15. ¹⁵ S. 18. ¹⁶ S. 22. ¹⁷ S. 21.
¹⁸ S. 26. ¹⁹ Ss. 29-30. ²⁰ Ss. 31-2. ²¹ S. 34. ²² S. 36. ²³ S. 3 $\frac{1}{2}$.
²⁴ S. 39. ²⁵ S. 40. ²⁶ S. 41. ²⁷ S. 42. ²⁸ S. 43. ²⁹ S. 44.
³⁰ S. 45. ³¹ S. 46. ³² S. 47. ³³ Ss. 48-54. ³⁴ S. 55 (1)-(5).
³⁵ S. 55 (6). ³⁶ S. 56. ³⁷ Ss. 57-8. ³⁸ S. 59. ³⁹ S. 60. ⁴⁰ S. 61.
⁴¹ Ss. 75-86. ⁴² Ss. 64-5. ⁴³ S. 66. ⁴⁴ S. 67. ⁴⁵ S. 68.
⁴⁶ Ss. 69-74. ⁴⁷ Ss. 75-86. ⁴⁸ Ss. 89-90. ⁴⁹ S. 91. ⁵⁰ Ss. 92-7.
⁵¹ S. 99. ⁵² S. 100. ⁵³ S. 101. ⁵⁴ S. 102. ⁵⁵ No. 1. ⁵⁶ No. 5.
⁵⁷ Nos. 7 (Sen.), 8 (H.R.). ⁵⁸ Nos. 8 (Sen.), 9 (H.R.). ⁵⁹ Nos. 9 (Sen.),
⁶⁰ 10 (H.R.). ⁶¹ Nos. 11 (Sen.), 12 (H.R.). ⁶² Nos. 13 (Sen.), 14 (H.R.).
⁶³ Nos. 17 (Sen.), 20 (H.R.); ⁶⁴ Nos. 23 (Sen.), 26 (H.R.). ⁶⁵ Nos. 26
(Sen.), 29 (H.R.). ⁶⁶ Nos. 28 (Sen.), 31 (H.R.). ⁶⁷ Nos. 34 (Sen.), 37 (H.R.).
⁶⁸ Nos. 40 (Sen.), 43 (H.R.). ⁶⁹ Nos. 42 (Sen.), 45 (H.R.). ⁷⁰ Nos. 43
(Sen.), 46 (H.R.). ⁷¹ Nos. 44 (Sen.), 47 (H.R.). ⁷² Nos. 46 (Sen.), 49 (H.R.).
⁷³ Nos. 48 (Sen.), 51 (H.R.). ⁷⁴ Nos. 54 (Sen.), 57 (H.R.). ⁷⁵ Nos. 55
(Sen.), 58 (H.R.). ⁷⁶ Nos. 58 (Sen.), 61 (H.R.). ⁷⁷ Nos. 63 (Sen.), 66 (H.R.).
⁷⁸ Nos. 67 (Sen.), 70 (H.R.). ⁷⁹ Nos. 70 (Sen.), 73 (H.R.). ⁸⁰ Sen. and
H.R. Minutes, No. 1. ⁸¹ *Ibid.*, No. 2. ⁸² H.R. Minutes, No. 3.
⁸³ *Ibid.*, No. 4.

XX. APPLICATIONS OF PRIVILEGE, 1954

I. AT WESTMINSTER

Letter to newspaper by Member reflecting upon other Members' conduct.¹—On 4th February, Mr. Sydney Silverman (Nelson and Colne) read an extract from a letter signed by Sir John Barlow (Middleton and Prestwich), which had appeared the previous day in the *Manchester Guardian*, relative to the proceedings in Standing Committee A on the Cotton Bill. The letter contained the following passage:

The present Bill consists of only six Clauses and it has already taken up nine days lasting over a period of nearly two months. Clause 4 has not yet been completed.

I have taken part in many Standing Committees since 1945, but I have never seen such delaying tactics nor heard so many irrelevant and irresponsible speeches on the part of the Opposition. Such methods are a great dis-service to the cotton industry.

Mr. Silverman submitted that these words implied (i) that Mem-

bers of the Committee had been guilty of persistent irrelevance (an unparliamentary accusation), (ii) that a group of Members had engaged in a kind of conspiracy to delay the progress of the bill, and (iii) that this had been done either with the acquiescence or by reason of the negligence and incompetence of the Chair.

With regard to the first point, Mr. Speaker ruled that an accusation of obstruction was not out of order (*vide* May, p. 440). With regard to the possibility of a reflection on the Chair, Mr. Speaker said:

I do not myself take that view of the passage. The Chairman is bound by Standing Order No. 20 to call to order any hon. Member who is guilty of persistent irrelevance, but this passage of which the hon. Member for Nelson and Colne (Mr. S. Silverman) complains does not accuse any one Member of being guilty of persistent irrelevance, and therefore it is not implied that the Chairman of that Committee failed in his duty to check that Member. All it says is that the speeches as a whole of the Opposition were irrelevant and irresponsible. I cannot find that that in any way implies or suggests any lack of duty on the part of the Chairman of the Committee.

There was therefore, he said, no *prima facie* evidence of a breach of privilege.

Mr. Silverman then reverted to the second point which he had made, upon which Mr. Speaker had not ruled. He claimed that the wording of the letter did not imply that the Chairman had failed to pull up some individual Member now and again for irrelevance, but that he had permitted a conspiracy for two months on the part of Members to defy his authority and obstruct the Committee.

Mr. Speaker said that the charge contained in the letter was one which was frequently made, and in no way reflected on the Chairman, who, before being able to rule an argument irrelevant, was always bound to wait to see what the argument was. The Opposition was entitled to use legitimate means of delaying the passage of legislation to which it objected.

During the course of this discussion, it was objected by Sir Herbert Butcher (Holland-with-Boston) and Major Anstruther-Grey (Berwick and E. Lothian) that the matter should properly have been raised the previous day, since it related to the edition of the *Manchester Guardian* published on that day. Mr. Speaker replied:

The hon. Member for Nelson and Colne (Mr. S. Silverman), together with the right hon. Member for Huyton (Mr. H. Wilson), came to see me last night about this matter. The passage of which they complained was in the *Manchester Guardian*. I am afraid that, in my ignorance, I thought that this was a provincial newspaper which did not appear in London in the morning. Consequently I did not raise them and there, as I would have done otherwise, when the hon. Members came to see me, the question of the time of their complaint. I let them go without raising it, and I feel that I may have, quite unconsciously, misled them into the idea that this Rule did not exist or did not apply in this case. Therefore, I feel myself in decency bound to hear the complaint, because otherwise I might be thought guilty by them of having misled them unconsciously.

Disclosure of contents of constituent's letter to his Member².—On 9th March Mr. Speaker, in fulfilment of a previous undertaking,³ gave a ruling upon events arising out of the debate on the Christmas Adjournment in 1952. During this debate Mr. D. W. Griffiths (Manchester, Exchange) had drawn attention to the activities of the Hollins Permanent Building Society, Manchester, whose chairman at that time was a Mr. Murray: in replying, the Parliamentary Secretary to the Ministry of Housing and Local Government (Mr. Ernest Marples) had suggested that the details be sent to the Registrar of Friendly Societies. From questions addressed on 23rd February by Mr. Griffiths to the Chancellor of the Exchequer (Mr. R. A. Butler)⁴ it had appeared that, in the course of the investigation which the Registrar had made, a constituent's letter had been seen by Mr. Murray, who was now threatening the constituent with a libel action.

In giving his ruling, Mr. Speaker differentiated between legal and parliamentary privilege. With regard to the former, he recalled that the decision in the case of *Rex v. Rule*⁵ had favoured the proposition that a privileged relationship existed between a constituent and the Member who represented him. He continued:

There is a different use of the word "privilege" more familiar in our proceedings here, namely, Privilege in the Parliamentary sense. I could not hold that Parliamentary Privilege could apply to this threatened litigation between parties who are not Members of Parliament. This House long ago agreed that no new Privileges are to be created.

Hon. Members are naturally and properly concerned to protect the communications which pass between them and those whom they represent. Be that as it may, a complaint of the use made by officials of a constituent's letter sent them by a Member is not a matter either of order or of Parliamentary Privilege. It must be settled in the same way as any other complaint against the conduct of an officer for whom a Minister is responsible.

To a further submission by Mr. George Porter (Leeds, Central) that there ought to be a definition of the relationship between the Member and the Minister to whom he forwarded his constituent's letter, Mr. Speaker replied:

Certainly the Minister is responsible for all actions in his Department. I thought I had covered the point by saying that it was not a point of order or of Parliamentary Privilege. I think it is a matter of ordinary administration and conduct.

On 16th March, in reply to questions regarding the instructions given to Ministers concerning the revelation to outside persons of details contained in letters of Members of Parliament to their Departments, the Prime Minister (Sir Winston Churchill), replied:⁷

In very many cases disclosure to persons or organisations outside the Government service is necessary to find out the facts, or to remedy the matter complained of. The matter cannot be dealt with by a general rule against disclosure. But clearly Departments must exercise great discretion as to the

circumstances in which disclosure is appropriate; and a reminder is being issued to Departments in this sense.

If I might make a practical suggestion, hon. Members might also consider on occasion asking their correspondent, in the case of a letter on which they are contemplating an enquiry from the Government, whether he is willing that it should be disclosed to a wider circle.

Speech by a Member⁸.—On 21st June, Sir Herbert Williams (Croydon, E.) quoted a report in the *Daily Mail* of a speech by Mr. Emanuel Shinwell (Easington), in which he had said that a general election would be an opportunity

to get rid of the crazy Tories—the wretches, the rascals, the rapsallions . . .

Since this was clearly a reference to hon. Members, Sir Herbert submitted that it was a gross breach of Privilege.

Mr. Speaker replied:

My view of it is that hard words used against persons and parties are dealt with, if necessary, by the law of defamation, and it is only where the House as a whole is affected by the spoken word that, to my mind, a question of Privilege arises. In this case, it seems to me that these offensive epithets are selective in their application. Therefore, of the words complained of, I could not really find a *prima facie* case of breach of Privilege.

2. UNION OF SOUTH AFRICA: HOUSE OF ASSEMBLY

Contributed by the Clerk of the House of Assembly

Reflection by newspaper on members of Parliament.—On 30th March a member drew Mr. Speaker's attention to a sentence appearing in a leading article in the *Cape Argus* of the previous day, and asked whether it was not a reflection on Parliament and its members.

Mr. Speaker thereupon informed members that at his request the editor of the newspaper had called on him in his Chambers that morning, when the editor was informed that the sentence complained of cast a serious reflection upon Parliament and its members, and in Mr. Speaker's opinion constituted a breach of privilege. The editor had immediately assured Mr. Speaker that there had been no intention to cast any such reflection and expressed his regret. The editor had further undertaken to publish in the leading columns of the newspaper that afternoon an unqualified withdrawal and apology. At Mr. Speaker's suggestion no further action was taken.⁹

3. INDIA: LOK SABHA

Contributed by the Secretary of the Lok Sabha

Member of one House alleged to have committed a breach of privilege of the other House.—On the 12th May, in the Lok Sabha (The Lower House of Indian Parliament), a member, Shri N. C. Chatterjee, sought to raise a question of privilege arising out of a

letter which he had received from the Secretary of the Rajya Sabha (the Upper House).¹⁰ It was stated in the letter that in a public speech delivered by Shri Chatterjee as President of the All-India Hindu Mahasabha (a Political Party) on the 10th May, he was reported to have cast certain reflections on the proceedings of the Rajya Sabha and that those words were now a subject-matter of a question of privilege in that House. The Secretary, Rajya Sabha, also requested Shri Chatterjee to intimate to him whether the statement attributed to him had been correctly reported in the newspapers, before any further action was taken by the Chairman in the matter.

The question of privilege raised by Shri Chatterjee was that the members of the Lok Sabha were amenable to the jurisdiction of Lok Sabha only and the Rajya Sabha had no jurisdiction to issue a writ to a member of the Lok Sabha for an alleged breach of its privileges. Further discussion on the matter was, however, postponed by the Speaker for following day.

In the meanwhile the Speaker also received a letter from the Chairman of the Rajya Sabha informing him of the question of privilege raised in that House against Shri Chatterjee.

On the 13th May, when the Lok Sabha resumed the discussion the Speaker read out the Chairman's letter to the House. He suggested that Shri Chatterjee might give him a statement on the subject which he would forward to the Chairman of the Rajya Sabha.

The Speaker also observed in this connection that the Privileges Committees of both the Houses might meet together to examine the procedure that should be followed in cases where a breach of privilege was alleged to have been committed by a member of one House against the other House, and that necessary steps would be taken by him in this regard in consultation with the Chairman of the Rajya Sabha. The question of privilege raised by Shri Chatterjee was thereupon not pursued.¹¹

On the same day Shri Chatterjee submitted a statement to the Speaker, a copy of which was forwarded by the latter to the Chairman of the Rajya Sabha. It was explained in the statement by Shri Chatterjee that his speech was misquoted by the newspapers, and that he did not in his speech reflect on the proceedings of the Rajya Sabha. Thereafter the question was not pursued in the Rajya Sabha.

As agreed to by the Speaker and the Chairman the Privilege Committees of the two Houses met and after considering all the aspects of the matter came to the conclusion that the following procedure should be followed in case where a member, officer or servant of the House was alleged to have committed a breach of privilege or contempt of the other House:

(i) When a question of breach of privilege is raised in any House in which a member, officer or servant of the other House is involved, the Presiding Officer shall refer the case to the Presiding Officer of the Other House, unless on hearing the member who raises the question or perusing any document,

where the complaint is based on a document, he is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he may disallow the motion for breach of privilege.

(ii) Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof.

(iii) The Presiding Officer shall thereafter communicate to the Presiding Officer of the House where the question of privilege was originally raised a report about the enquiry, if any, and the action taken on the reference.

The Committees were also of the opinion that if the offending member, officer or servant tendered an apology to the Presiding Officer of the House in which the question of privilege was raised or the Presiding Officer of the other House to which the reference was made, no further action in the matter might be taken.

The report of the Joint Sitting of the Committees was presented to the Houses on the 23rd August. These recommendations of the Committees were adopted by the two Houses.

4. INDIA: BIHAR LEGISLATIVE ASSEMBLY

Contributed by the Secretary of the Legislative Assembly

(1) **Publication in a Newspaper of the proceedings of a Select Committee on a Bill before the presentation of its report to the Assembly.**—The *Indian Nation*, a local English daily, in its issue of 12th December, 1953, published a report of the proceedings of the meeting of the Select Committee on the Bihar Bhoodan Yagna Bill, 1953, before its presentation to the House. The Speaker took cognisance of this publication *suo motu*, and the Editor of the journal was called upon by the Speaker to show cause why he should not be proceeded against for the breach of privilege committed by him in prematurely publishing such a report in his journal.

In reply, the Editor regretted the publication and wrote clearly that he stood for scrupulous adherence to rules governing the privileges of the House.

The Speaker accepted the letter of the Editor as sufficient apology, and made a statement in the House as follows:

I hope the Press will realise their responsibilities and will not, in future, disclose the proceedings of the Select Committee. I expect that the Press will co-operate in this matter and will abstain from publishing such information from whatever source it may have been received.¹²

(2) **Newspaper Report reflecting upon the character and conduct of the Members.**—Some members of the Bihar Assembly raised a question of a breach of privilege of the House consequent upon the publication of a comment in the *Aryavarta*, a local Hindi daily newspaper, of 8th March, 1954. The complaint was that the said publication cast grave reflections on the conduct and character of the

members in the performance of their duties and also on the character of the proceedings of the House in general, and that it further attributed motive and malice to some of the members of the House.

The Editor of the journal was asked to show cause why the matter should not be referred to the Committee of Privileges for taking such necessary action as it might deem fit. In a letter addressed to the Speaker he sincerely regretted the publication and apologised for the same. The Speaker accepted the explanation offered by the Editor, and made the following observation in the House on 17th December, 1954:

I, after receiving the letter of regret and sufficient apology from the Editor of the newspaper, do not consider it necessary to refer the matter to the Committee of Privileges.

5. INDIA: BOMBAY LEGISLATIVE ASSEMBLY

Contributed by the Secretary of the Legislative Assembly

Newspaper report reflecting upon the character of a Member.—A short notice question about "Horse-racing" was asked in the first session (1954) of the Legislative Assembly on 3rd April,¹³ and the member putting the question subsequently gave notice on 12th August, under Rule 75 of the Bombay Legislative Assembly Rules, to raise half an hour discussion on the subject matter of the question, i.e., "Horse-racing", in the Legislative Assembly. The notice was duly admitted by the Speaker and the discussion took place in second session (1954) of the Legislative Assembly on 25th August.¹⁴ Following the statement made by the member during the discussion, the Editor, Printer and Publisher of the *Bombay Chronicle* printed and published certain articles and reports in the *Bombay Chronicle* in its issues dated 27th and 28th August and 1st September.

The member concerned then raised the question of privilege arising out of the publication of the articles and reports referred to above. He complained that by publishing those articles and reports the Editor, Printer and Publisher of the *Bombay Chronicle* tried to run him down by casting unworthy aspersions on him and so to deter him from pursuing his legitimate activities in his capacity as member of the Legislative Assembly. He further complained that improper motives were attributed to him when he raised the half an hour discussion on the subject of "Horse-racing" by describing him as a disgruntled man having been defeated in the elections to the Turf Club Committee and therefore actuated by a desire to condemn those who were elected.

On the 14th September the leave was asked for to raise the question, and the House granted him the leave.¹⁵ The Speaker, by virtue of the powers under rule 175 of the Bombay Legislative Assembly Rules, in his discretion deferred the question of referring the matter to the Privileges Committee pending the receipt of the explanation

from the Editor, Printer and Publisher of the *Bombay Chronicle*. The explanation was accordingly called for. The Editor, Printer and Publisher regretted the matter and the question was therefore dropped.¹⁶

6. INDIA: MADHYA PRADESH VIDHAN SABHA

Contributed by the Secretary of the Vidhan Sabha

Premature publication by a newspaper of proceedings of a Committee.—A meeting of the Business Advisory Committee constituted by the Madhya Pradesh Vidhan Sabha under standing orders was held on 20th September, 1954. Before the Committee could present its report to the House, the *Hitavada*, a local English daily newspaper, in its issue of 21st September, published the proceedings of the Committee. The Deputy Speaker, who was in the Chair on that day, brought this fact to the notice of the House, and held that since such publication and circulation amounted to disclosure of the proceedings of the report of Legislature Committee, it *prima facie* appeared to be a case of breach of privilege. The matter was then referred under Rule 168 of the Vidhan Sabha to the Privileges Committee.

The Privileges Committee held that the publication of the matter in question was a contravention of Rule 165(1) *ibid.*, and disobedience of any rule is an act constituting contempt and that the premature publication of a Committee's proceedings or evidence is also an act constituting contempt of that House. The Committee further held that since the Editor of *Hitavada* expressed regret for disclosing prematurely the proceedings of the Committee in the issue of 22nd September, and owing to the fact that the Parliamentary Law was yet new to the people and the Press in India, the Committee recommended that the matter be closed by accepting the expression of regret published by the Editor. The report of the Committee was presented to the House on 18th December. No further action was taken.

INDIA: UTTAR PRADESH LEGISLATIVE ASSEMBLY

Contributed by the Secretary of the Legislative Assembly

Two cases of alleged unlawful arrest.—(1) *Shri Genda Singh's case.*—Shri Genda Singh, M.L.A., made a written complaint to the Secretary, Legislative Assembly, that he, along with Shri Raj Bansi Rai, M.L.A., was arrested on 7th February at the gate of Tamkahi Road Sugar Factory, Deoria, under Section 341 of the Indian Penal Code, and was lodged in Gorakhpur District Jail that very night. He was remanded to custody for fifteen days, and under the law of the land he could not be detained in custody for more than fifteen days without a fresh remand. Shri Genda Singh alleged that his first remand expired on 21st February, but he was detained in

jail till 27th February without a second remand, and thus he was intentionally prevented from taking part in the Budget Session of the Uttar Pradesh Legislative Assembly. He also complained that obstacles were put in his way by the authorities from seeking the redress of his grievances by the Speaker in the matter of his alleged illegal detention and that his telegrams to the Governor, the Speaker, Legislative Assembly, and the Chief Minister were obstructed. He also alleged that the Speaker was informed of his arrest under Section 341 only, while he was later on charged under Sections 147 and 323. Thus a wrong report was submitted to the Speaker.

On 10th March Shri Genda Singh raised a question of breach of privilege against Shri Raghunath Prasad Raizada, Superintendent District Jail, Gorakhpur, Shri V. P. Shukla, District Magistrate, Deoria, and Shri S. M. S. Manohar, S.D.M., Padrauna, in the House with the consent of the Speaker under Rule 47 of the Rules of Procedure of the Uttar Pradesh Legislative Assembly.¹⁷ The Speaker held part of the notice in order and only referred the question of breach of privilege arising out of alleged illegal molestation of Shri Genda Singh for the consideration and report of the Privileges Committee.¹⁸

The Committee took evidence of concerned officials of the Government, and called for and examined various official documents. They could not get any evidence to the effect that no remand order was passed by the S.D.M., Padrauna, on 21st February, and held that the subsequent detention of Shri Genda Singh in the District Jail, Gorakhpur, was under the second remand order issued on that date by S.D.M., Padrauna. The remand order being a judicial order takes effect from the time it is passed. The Committee therefore held that no question of breach of privilege arose against the Superintendent, District Jail, Gorakhpur, for detaining Shri Genda Singh in jail after 21st February.

A proposal was made in the Committee that necessary action be taken in the matter of production of fabricated documents and of giving and causing to give false evidence before it during the course of the examination of the question, and the Committee recommended to the House as follows:

(1) The entry in the despatch register showing that information was sent to Superintendent, District Jail, Gorakhpur, regarding the second remand order passed on 21st February, 1954, in the case of Shri Genda Singh was fabricated and Shri Fazlur Rahman, ex-Court Moharrir, Kasia, was guilty of fabricating it. But Shri Fazlur Rahman rendered great help to the Committee in discovering this fabrication. Therefore the Committee recommends that he be excused.

(2) Shri Lakshmi Narain Mehrotra, A.P.P., Kasia, committed a grave breach of privilege and contempt of the Committee by causing to produce fabricated documents before it, by tampering with its witnesses, by giving false evidence before it and by attempting to hide the truth. Therefore the Committee recommends that he be called before the bar of the House and admonished.

The report of the Privileges Committee was submitted to the House on 30th September.¹⁹ On 2nd December the House accepted the Report of the Privileges Committee,²⁰ Shri Lakshmi Narain Mehrotra was called before the Bar of the House on 20th December and was admonished by the Speaker thus:

Lakshmi Narain Mehrotra, the House has adjudged you guilty of breach of its privilege, by producing fabricated documents, by attempting to tamper with a witness in regard to his evidence, by giving false evidence and by trying to conceal the truth before the Committee of Privileges and thereby committed a breach of privilege of the House. As a Government servant you were expected to perform your duties honestly and truthfully but you acted otherwise. In the name and on behalf of the House I accordingly admonish you for the gross offence committed against the House.²¹

(2) *Shri Narain Dutt Tewari's case.*—On 4th March Shri Narain Dutt Tewari, M.L.A., submitted a written complaint to the Speaker that he was arrested on 4th February at about 4 p.m. for breach of Section 144 of the Code of Criminal Procedure and was handed over to the custody of the Station Officer, Kashipur. Thereafter he was taken away under police escort in a jeep to Haldwani at a distance of about 50 miles from Kashipur and was released there at 9.30 p.m. He therefore alleged that on account of his detention for 5½ hours he was prevented from going to Lucknow and attending the meeting of the Finance Committee for one day. He also alleged that the Speaker was not informed of his arrest and therefore a breach of privilege was committed. On 11th March Shri Narain Dutt Tewari raised the above question under rule 47 of the Rules of Procedure of the Uttar Pradesh Legislative Assembly in the House with the consent of the Speaker.²²

On 13th March the Speaker held part of the notice in order in so far as it related to the question of informing the House of the arrest of Shri Tewari and the question was referred to the Committee of Privileges by the Speaker for its consideration and report.²³

The Committee submitted its first report to the House on 23rd April.²⁴ The report was considered by the House on 6th and 7th May,²⁵ and on the last date the House decided to recommit the question to the Privileges Committee. The Committee framed the following four issues:

(1) Was the removal of Shri Tewari from Kashipur to Haldwani under police escort an arrest?

(2) Was this arrest preventive or was it for any offence committed by Shri Tewari or on any criminal charge?

(3) Is this Committee or the House authorised to pass judgment over the legality or illegality of the arrest of Shri Tewari?

(4) If it was an arrest of any description whatsoever was it necessary to inform the Speaker about this arrest and whether a breach of privilege was committed due to the fact that no information was sent to the Speaker?

The Committee came to the following conclusion in respect of the above four issues:

(1) The removal of Shri Tewari from Kashipur to Haldwani under police escort was his arrest but this was arrest only in the popular sense. It was not an arrest as defined under Section 46 (1) of the Code of Criminal Procedure.

(2) This arrest was preventive and the Magistrate had power to order it.

(3) The Committee or the House has no jurisdiction to pass judgment over the legality or illegality of the arrest of Shri Tewari, but the House or the Committee is fully authorised to decide whether such an arrest involved breach of privilege of the Member concerned or the House. The nature of arrest can be examined to determine the question of breach of privilege.

(4) Considering all the circumstances of the case and keeping in view the fact that the arrest was effected with the intention of releasing him after a few hours, it was not necessary to inform the Speaker of the arrest of Shri Tewari.

Therefore the Committee recommended that no question of breach of privilege was involved in this case.

The second Report of the Privileges Committee in the case of Shri Tewari, M.L.A., was presented to the House on 29th September.²⁶ The Report was taken for consideration on 3rd December in the House, but the consideration was postponed till some future date with the unanimous consent of the House.²⁷

MAURITIUS

Contributed by the Clerk of the Legislative Council

Alleged contempt in regard to an Extraordinary Member.—On 26th October the Acting Procureur and Advocate-General reported to the Council an offence of contempt of the Council committed by one Joseph Marcel Mason for having sent an insulting letter to Mr. J. Stirling, Labour Commissioner, who had been duly summoned to appear before the Council as an Extraordinary Member to give certain elucidations during the discussion of the Trade Disputes Bill.²⁸

The President declared that the circumstances reported, in his view, amounted to an offence of contempt of Council under paragraph (g) of subsection (1) of section 6 of the Legislative Council (Privileges, Immunities and Powers) Ordinance, 1953. Whereupon, the Colonial Secretary, seconded by the Financial Secretary, moved that:

This Council resolves that the Procureur General does institute proceedings against one Joseph Marcel Mason for the offence of contempt of Council under paragraph (g) of subsection (1) of section 6 of the Legislative Council (Privileges, Immunities and Powers) Ordinance, 1953, for having on or about the 18th October, 1954, sent to Mr. James Stirling, the Labour Commissioner, an insulting letter about Mr. Stirling's statements to the Legislative Council on the occasion of Mr. Stirling's attendance, on the 12th October, as an extraordinary Member.

The motion was, on question put, carried.

Mr. Mason was tried before the District Court of Port Louis on 16th December and sentenced to six weeks' imprisonment. He appealed to the Supreme Court which, on 25th March, 1955, quashed

the judgment of the District Magistrate. The main point on which the Court had to decide was whether or not Mr. Stirling was a Member of the Council at the time the contempt was committed. Two of the three Judges came to the conclusion that Mr. Stirling could not be regarded as a Member of the Council. The following extracts from the three judgments may be of interest:

Justice M. E. B. Simmons: I regard the conduct of the appellant with disapproval not only as regards the writing of unsavoury letters but in respect of his attitude at the trial. He showed no regret of what he had done, nor did he advance any justification for it. He seemed also to have used the proceedings of the Court by applying for witness summonses to a number of people, including H.E. the Governor whom he never called and who, it appears, he must have known could not have been of any help to him in his defence . . . nevertheless I feel bound to hold that Mr. Stirling was not within any category of membership of the Legislative Council at the material time and that therefore the particular offence was not committed. If he was to have been prosecuted it should probably have been under the Penal Code Ordinance.

Justice M. Lavoipierre: A Head of Department summoned to attend a meeting of the Legislative Council takes part in the debates as if he were a member although he does not vote. The meaning of the words "as if" has been considered in many cases but I think it is sufficient to take the plain dictionary meaning which is given in the Shorter Oxford Dictionary as being "as though, as it were". A person summoned under Section 13 of the Order-in-Council is given the status of a member for the purpose of the debates on the particular subject or in respect of which he is summoned and in relation to such debates it is natural that he should have the same rights and privileges as any other member with the one exception that he is not entitled to vote. . . .

If a person under section 13 of the Order-in-Council is not a member he is not bound by the provisions of any of the above paragraphs which apply only to members. What would be the position if he were not to stand when speaking or if he were to speak about irrelevant matters, or if he were to speak of matters *sub judice*, or if he were to impute improper motives to any member or if he were to read his speech? It is evident that the person summoned must be bound by the rules of debate in which case it would be illogical if he were not to benefit from the protection which the Ordinance of 1953 extends to members. . . .

It would have been different if words had to be stretched unduly to allow a person summoned to be considered a member but by construing the 1953 Ordinance in the light of what the Legislature meant, a member as defined in section 2 of the Ordinance must include the special member summoned on the Order-in-Council.

Chief Justice R. Espitalier-Noel: In conclusion I hold that the person summoned under section 13 of the Order who is not already a member of the Council does not become a member of the Council by the fact that he is entitled to take part in the proceedings as if he were a member. In other words I hold that under the Ordinance he is not a member.

Being given the definition of members in the Ordinance it falls that that person is not a member under the Ordinance. The Ordinance applies only to members as such and he is not one.

I have not to express my own view as to whether the Legislature did or did not intend to leave that person out of the provisions of the Ordinance but act on the assumption that they had not so intended. Then we are in presence of a clear *casus omissus* which it does not behove this Court to supply.

¹ 523 *Com. Hans.*, 569-75.

² 524 *Com. Hans.*, 1932-7.

³ *Ibid.*, 209-10.

⁴ 509 *Com. Hans.*, 1845-50, 1854-5.

⁵ 524 *Com. Hans.*, cc. 207-9.

- * See TABLE, Vol. XXI, 133, footnote (*). It will perhaps be for the convenience of readers to observe that, by a printer's error, the two paragraphs of this footnote were transposed.—[Ed.]
- ¹ 525 *Com. Hans.*, 210-1. ⁴ 529 *Com. Hans.*, 35-6. ⁵ V. & P., pp. 286-7; 85 *Hans.*, 3001. ¹⁰ R.S. Debates, 12th May, Part II, 7161-9. ¹¹ L.S. Debates, 13th May, Part II, 7275-83.
- ¹² 4 *L.A. Hans.*, No. 35, p. 4. ¹³ 26 *L.A. Hans.*, No. 34, p. 2341.
- ¹⁴ 27 *L.A. Hans.*, No. 3, p. 127. ¹⁵ *Ibid.*, No. 13, p. 420. ¹⁶ *Ibid.*, Nos. 24 & 27, pp. 833, 963. ¹⁷ 131 *L.A. Proc.*, 154-60. ¹⁸ *Ibid.*, 431-5.
- ¹⁹ 142 *L.A. Proc.*, 252-3. ²⁰ 145 *L.A. Proc.*, 38-83. ²¹ 147 *L.A. Proc.*, 24. ²² *L.A. Proc.*, 238-44. ²³ *Ibid.*, 431-5. ²⁴ 134 *L.A. Proc.*, 417-8. ²⁵ 136 *L.A. Proc.*, 294-8, 390-404, 405-25. ²⁶ 142 *L.A. Proc.*, 174. ²⁷ 145 *L.A. Proc.*, 132-48. ²⁸ *L.C. Hans.*, No. 29 of 1955, pp. 2-4.

XXI. MISCELLANEOUS NOTES

I. CONSTITUTIONAL

House of Commons (Office of Profit under the Crown).—On 7th May a Bill was introduced by the Prime Minister

to indemnify Niall Macpherson, Esquire, from any penal consequences which he may have incurred by sitting or voting as a Member of the House of Commons while holding the office of member of the London agency of the Dried Fruits Control Board of the Commonwealth of Australia, and to remove any disqualification for membership of that House by reason of his having held that office.

(527 *Hans.*, c. 715.)

In moving the Second Reading on 11th May, the Attorney-General (Sir Lionel Heald) explained that Mr. Macpherson had been appointed chairman of the London Agency of the Australian Dried Fruits Control Board as from 1st February, and had acted in that capacity until 11th April, receiving no remuneration either during his period of office or subsequently. Suspecting in April that there might be something wrong, he had taken counsel's opinion and informed the Law Officers, who had advised him on 6th May that in their opinion he was disqualified. He had thereupon withdrawn from the House.

There could be no doubt that the office in question was an office of profit according to the accepted definition; the absence of remuneration was irrelevant. It also appeared to be an office under the Crown, since the Board, whose members were removable by the Governor-General of Australia, was clearly a Government Agency—much more so, in fact, than the Transport Commission or the Coal Board. It had been suggested that the Crown was a different corporation sole in Australia and here; this, he believed, was not true. The Statute of Westminster and the Royal Titles Act passed the previous year (see TABLE, Vol. XXII, p. 141) had made the Crown divisible, but as far as Australia was concerned the Crown had not in

fact been divided. By s. 2 of the Commonwealth of Australia Constitution Act, 1900, it was laid down that:

The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

This was still in force today, and the present Prime Minister of Australia (Mr. Menzies) was on record of having

strongly opposed the suggestion that the Queen should be named Queen of Australia without first mention of the United Kingdom, because this would tend to work against unity. . . . It was unnecessary, anyway, as the Queen was, under strict law, Australia's Queen, because Australia had never made an Act of Secession.

The fact that a Commonwealth or Colonial appointment could have an effect of this kind was proved by the resolution of the House on 25th April, 1879, disqualifying the then Attorney-General of Victoria, Australia, from sitting as the Member for County Clare (C.J. (1878-79), 161).

During the course of the ensuing debate, Mr. John Parker (Dagenham) moved to leave out from "That" to the end of the Question, and add

this House is of opinion that a committee should be set up to inquire into the whole question of offices of profit under the Crown, with a view to preparing a short schedule of such offices which would be ineligible to be held by Members of Parliament, and would remove all other disqualifications.

He observed that during the last twenty years no less than seven members had been disqualified for similar reasons, necessitating the passage of four separate Acts (for reference to two of these, see TABLE, Vol. XVI, pp. 91-103). It had also been necessary in 1932 to remove retrospectively a disqualification which had attached to all Presidents of the Board of Trade since 1909.

He considered that it was quite ridiculous that some jobs to which no salaries were attached should be regarded as offices of profit under the Crown, while Members who were lawyers were able to accept Government briefs without being disqualified in any way. There was, moreover, no way of finding out what jobs actually did disqualify a person; a friend of his had been told, upon enquiry, that no list of such jobs existed or could be supplied by the Home Office.

Previous legislation had clarified the position of the franchise, which was now governed by the principle "one man, one vote". This being so, it was desirable that as many voters as possible should be permitted to stand for Parliament. Some categories of voters (*e.g.*, judges) must obviously be excluded, but the numerous borderline cases should be investigated by a Select Committee, with a view to recommending revision of the law and the compilation of an exhaustive schedule. Full consideration should also be given to the position of the Commonwealth.

In replying to the debate on the amendment, the Attorney-General,

while unwilling to accept it owing to the unfairness which it would involve towards Mr. Macpherson (who, so long as he remained undemnified, was apparently liable to a fine of up to £20,000), admitted that the present situation was caused by the confused state of the existing law. While not in a position to give any kind of undertaking regarding the amendment of the law, he assured the House that he would certainly do his best to bring the matter to the attention of his colleagues (527 *Hans.*, cc. 1157-91).

The amendment having been withdrawn and the Bill read a second time, the House resolved itself into Committee. An attempt made by Mr. Bing (Hornchurch) to move an amendment which would have had the effect of allowing Mr. Macpherson to continue to occupy his place on the Board was ruled out of order by the Chairman on the ground that the purpose of the Bill was to deal with the past, not the future.

No other amendment was moved, and the Bill was accordingly read the third time and passed (*ibid.*, cc. 1191-4). No amendment having been made to the Bill by the Lords, it received the Royal Assent on 13th May (*ibid.*, c. 1498).

Tasmania (Provision for equality of parties in the House of Assembly).—The Constitution Act, 1953, the provisions of which were described in THE TABLE, Vol. XXII (p. 147), was repealed by the Constitution Act (No. 2), 1954, which provided a different solution of the same problem which had given rise to the 1953 Act. By the provisions of the 1954 Act, if the Speaker elected by the House of Assembly is a member of the party with the highest aggregate number of votes, another Member is elected by his constituency as if his seat had become vacant, and the Assembly consists of 31 Members (including the Speaker) until the next general election. If, however, a member of the party with the lowest aggregate number of votes is elected Speaker, no such addition is made to the membership of the House.

Royal Assent to this Act was reserved by the Governor on 21st December, 1954, for the signification of Her Majesty's Assent. When such Assent is notified and proclaimed, the Act will be numbered 88 of 1954.

Tasmania: Royal Assent to Act Reserved for Her Majesty's Pleasure.—Not entirely separated from the Royal Tour (*vide pp.* 29-35) and the functions of the Tasmanian Parliament is the series of constitutional steps taken to give full effect at law to Bill No. 81 of Session 1953.

This Bill, amending the Constitution Act, 1934, was, according to law, reserved on 9th December, 1953, by His Excellency the Governor for the signification of the Assent of Her Majesty the Queen. The Bill was despatched to London for the Queen's signature, but its arrival there was subsequent to Her Majesty's departure on the Royal Tour.

As it was doubtful whether the Counsellors of State were vested with authority to give the Royal Assent in this case, the Bill would have to be despatched to Canberra to be presented to the Queen or held in London until Her Majesty's return from the Australasian Tour.

Ultimately the Bill was presented to Her Majesty in Privy Council at the Court of Government House, Canberra, on 17th February, 1954, and received the Royal Assent. It is a matter of great interest that the Assent by Her Majesty, historic as it is, is unique in that it was the only business transacted at that Queen-in-Privy-Council-Meeting and referred to in the Proclamation promulgated in the *Commonwealth Government Gazette* of the same date.

But this did not bring the Constitution Act amendment into force. It still required the promulgation by a Proclamation to be issued by the State Governor. And this Proclamation could not be made until His Excellency received the official advice from the Commonwealth Relations Office, London. More time thus elapsed for a report of the Canberra proceedings to be transmitted to London by the Acting Clerk of the Privy Council in Australia, and when the final communication on the enactment was relayed to Hobart a proclamation appeared in the *Tasmanian Government Gazette* of 14th April, 1954. Only then could the Clerk of the Legislative Council number the Act (No. 89 of 1953) and record the date of its commencement thereon (14th April, 1954).

(Contributed by the Clerk of the Legislative Council.)

Union of South Africa: Membership of Provincial Executive Committees.—During 1954 an amendment was made to s. 78 of the South Africa Act, 1909: Under the new provision a member of a Provincial Executive Committee may be elected as a Member of the Provincial Council (see South Africa Act Amendment Act, No. 20 of 1954, section one).

(Contributed by the Clerk of the House of Assembly.)

Andhra (Dissolution of the Legislative Assembly).—The State of Andhra was inaugurated on 1st October, 1953 (see TABLE, Vol. XXII, p. 97). The members of the new Andhra State Legislative Assembly were previously members of the Legislative Assembly of the Composite State of Madras. As and from 1st October, 1953, those 140 members ceased to be members of the Madras Legislative Assembly and were deemed to have been elected to the Andhra State Legislative Assembly. The Andhra State Legislative Assembly thus constituted had 140 members on its roll.

The Andhra State Legislative Assembly was first summoned by the Governor of Andhra to meet on 23rd November, 1953, at Kurnool, and on that date the members made and subscribed oath or affirmation and took their seats in the Assembly. The first session, which commenced on 23rd November, 1953, was prorogued by a message from the Governor as and from 15th June, 1954.

The Opposition and the Ministerialists were evenly matched as the result of the following divisions will show:

(1) During the first session a motion for passing the Madras District Boards (Amendment) Andhra Amendment Bill, 1954, into law, was debated on 22nd to 24th February and pressed to a division by the Opposition. The result of the division was that 56 voted for the motion and 56 against the motion, one member remaining neutral. The Speaker exercised his casting vote in favour of the Bill and the Bill was allowed to be passed into law (*Hans.*, Vol. IV, pp. 41-86, 141-174, 207-277).

(2) Again an amendment moved from the Opposition on 1st December, 1953, to the Andhra Payment of Salaries and Removal of Disqualifications Bill, 1953, was passed reducing the salaries of Ministers of State. The result of a division revealed 53 Members for the amendment and 52 against it. The Bill was, however, returned by the Governor for reconsideration as the amendment passed left an anomaly in the Bill leading to the Chief Parliamentary Secretary's salary being higher than a Minister's salary; it was subsequently passed with necessary amendments (*Hans.*, Vol. I, pp. 464-506).

(3) On 6th November, 1954, a no-confidence motion against the Ministry moved by Shri G. Latchanna, a leader of an Opposition Party, was pressed to a division and the result of division was 69 for the motion and 68 against the motion. The motion was declared passed. The Council of Ministers thereupon tendered their resignations to the Governor, who ultimately accepted their resignations.

The President of India, on being advised of the constitutional breakdown and after satisfying himself that a situation had arisen in which the Government of the State could not be carried on in accordance with the provisions of the Constitution of India, assumed to himself all functions of the Government of the said State and all powers vested in or exercisable by the Governor of the State. The President also declared that the powers of the Legislature of the Andhra State should be exercisable by or under the authority of Parliament. The President also suspended the operation of certain provisions of the Constitution (*Andhra Gazette*, Part I, No. 52, 15th November, 1954).

(Contributed by the Secretary of the Legislative Assembly.)

Uttar Pradesh (Exception to Disqualification).—The Uttar Pradesh Legislature Members (National Plan Loan) (Prevention of Disqualification) Bill, 1954 (Act No. XXIII of 1954), provides that a person shall not incur nor be deemed to have incurred any disqualification as member of the Legislature for acting as agent or holding any office under the Central or State Government for the purpose of effecting sales of, or collecting subscriptions towards National Plan Certificates for or without commission.

(Contributed by the Secretary of the Legislative Assembly.)

British Guiana (Report of Constitutional Commission).—On 2nd

December, 1953, the Secretary of State for the Colonies announced in the House of Commons the membership of a Constitutional Commission that he had set up in order to review the recent events in British Guiana (see TABLE, Vol. XXII, pp. 110-120), with the following terms of reference:

In the light of the circumstances which made it necessary to suspend the Constitution of British Guiana to consider and to recommend what changes are required in it.

(521 *Hans.*, 1154-5.)

The Report of the Commission was laid before Parliament in September, 1954 (Cmd. 9274), and published in November. In the Introduction to the Report the Commission explained that they had found it necessary to interpret their terms of reference in such a way as to include within their provisions social, educational and economic matters, since the constitution

must be related to the general conditions of the country and is not a thing existing *in vacuo* quite unrelated to the social, economic and educational environment in which it has to function. It is in this sense that we interpret our terms of reference and we propose to try to get as clear a picture of the general background as we can. We visualise the possibility that in our report we may have to make observations upon these aspects of the situation, while not making specific recommendations about them.

The Report did, in fact, deal to a very large extent with these matters, the description of which is not relevant to this JOURNAL. With regard to the strictly constitutional aspect of their enquiries, the Committee reached the conclusion

that Her Majesty's Government's Colonial policy failed in British Guiana not because of any defects in the Waddington Constitution but because the party which received the support of the majority of the electorate was unwilling to accept and work anything short of full self-government.

They considered, and rejected, the possibility of accepting the demands of the People's Progressive Party and of handing over, without further delay, to the people of British Guiana full responsibility for their affairs. They could find no escape from the conclusion

that so long as the present leadership and policies of the People's Progressive Party continue there is no way in which any real measure of self-government can be restored in British Guiana without the certainty that the country will again be subjected to constitutional crisis,

and came, "reluctantly but quite firmly" to the conclusion that in present circumstances they must recommend a period of marking time in the advance towards self government. Detailed recommendations were, however, made regarding the composition of the Executive Council, the State Council, and the Legislative Assembly as suggestions which might be considered at the relevant time when it was thought possible to restore a measure of responsibility to elected representatives. The Commission also considered it advisable that the Governor and his staff, the Judiciary, the Auditor and his staff and the Public Service Commission should be outside the

scope of the Legislature's financial authority, the estimates for those services being certified by the Governor as "excepted expenditure" and not submitted for approval by the Legislature.

On 2nd November the Secretary of State, in announcing the publication of the Report to the House of Commons, said:

H.M. Government accept the conclusions of the Report. Honourable Members will wish to study it and I will not therefore go into detail now. Briefly, their conclusions amply justify the action taken by H.M. Government last October. They state that the breakdown was not due to defects in the Constitution but to activities of those in control of the People's Progressive Party. They recommend that there is at present no alternative to a period of marking time in constitutional matters. They do not recommend a specific period nor do H.M. Government wish to be tied to one. H.M. Government however consider it desirable to set some maximum term to the personal appointment of the present members of Legislative Council without prejudice to when it may be possible to hold elections again. The present appointments will therefore run for four years from 1st January, 1954.

(532 *Hans.*, cc. 212-4.)

These words were quoted in an address delivered by the Governor in the Council Chamber in Georgetown on the same day (Sessional Paper, No. 9 of 1954).

Kenya (Council of Ministers).—Under Letters Patent dated 15th April, 1954, provision was made for the establishment of a Council of Ministers. Additional Royal Instructions brought into effect on the same day laid down that this Council should consist of—

(a) the person, if any, who is Deputy to the Governor, having been so appointed for emergency purposes in accordance with the provisions of Clause XXI of the Kenya Letters Patent, 1920, as from time to time amended;

(b) eight persons, who shall be the persons for the time being lawfully discharging such functions respectively as We may from time to time specify by instructions through one of Our Principal Secretaries of State;

(c) six persons, who shall be appointed by the Governor by Instrument under the Public Seal in pursuance of instructions from Us through one of Our Principal Secretaries of State.

It was further provided that the Members of the Council shall be styled Ministers.

In addition the Governor is required to appoint not less than three and not more than five Parliamentary Secretaries to assist the Ministers in the performance of their duties.

There is a consequential change in the definition of *ex officio* Members of Legislative Council, and provision is made for the appointment of additional Nominated Members of Legislative Council in the event of the absence of an *ex officio* Member from the Colony (*Kenya Official Gazette Supplement*, No. 18, dated 17th April).

(Contributed by the Clerk of the Legislative Council.)

2. GENERAL PARLIAMENTARY USAGE

House of Commons (Divisions: Time-limit of a "pairing" agreement).—On 27th January, Mr. M. Follick (Loughborough) asked the Speaker for guidance with respect to a division which had oc-

curred on the previous day. On that day he had been "paired" with a Government Member from 6.15 to 7.45 p.m.; a division had occurred, the time of which had been shown on the mechanical annunciator as 7.44. Not being sure whether the pairing agreement was meant to cover the time the division was called or that at which the vote was cast, he had approached the Government Whips, who had expressed the opinion that the operative time was that at which the division was called. He had accordingly refrained from voting, but had subsequently observed, on consulting *Hansard*, that the official time of the division was 7.45, and that he should therefore have been entitled to vote.

Mr. Speaker replied that agreements to pair were private agreements between Members, and in no sense matters in which either he or the House could intervene. With regard to the error of the annunciator, he would see what could be done, but advised the House to follow the legal maxim *de minimis non curat lex*. He ruled that a division began at the time the question was put by the Speaker to the House, irrespective of whatever might appear on the annunciator (522 *Hans.*, cc. 1750-2).

Australian Commonwealth (Proposed Election of Cabinet; Cabinet Committees).—The last General Election of 29th May, 1954, resulted in the continuance in office of the Liberal-Country Party Government under the Prime Ministership of Mr. Menzies. Prior to and after the election, the press canvassed a suggestion that the Liberal Party might adopt a system of electing its Ministers in the place of the practice of selection by the Prime Minister.

For many years the Labour Party, when in office, has elected the Members to become Ministers, the allocation of the portfolios being left to the Prime Minister for recommendation to the Governor-General, and it was proposed that if the change were made by the anti-Labour parties, it should be on these lines. Among the reasons given for proposing the change was the thought that many of the troubles of leadership would vanish if the whole party had Cabinet election responsibility as it would remove from the Prime Minister the risk of offending ambitious supporters not included in the team. Although, in the first instance, the proposal referred specifically to the Liberal Party, it is only reasonable to assume that the Country Party was not entirely divorced from the scheme.

A Gallup Poll conducted at the time showed that 63 per cent. of voters favoured an elective Cabinet system. It was reported by the press that the suggestion received Cabinet and party consideration, but that, somewhat unexpectedly, back benchers were opposed; one factor being that those from the smaller States feared that their colleagues from the two large States would combine to produce a ticket which would dominate the ballot.

No official announcement was made until 2nd July, 1954, when Mr. Menzies issued a press statement stating that "in view of some

published rumours about the possibility of an election of Cabinet by the Parties, I think I should say publicly that I am not proposing to change the existing methods of Cabinet appointment". At the same time the Prime Minister said he was engaged on an examination of the Cabinet structure. On 14th July he announced the allocation of Ministers into two major Committees to expedite the business of Cabinet. With one or two exceptions, the first Committee, to be known as the "Prime Minister's Committee", consisted of senior Ministers; and the second, to be known as the "Vice-President's Committee", comprised the junior Ministers. The Vice-President of the Executive Council, who is also Leader of the House and Deputy Leader of the Liberal Party, is a member of the Prime Minister's Committee as well as Chairman of the Vice-President's Committee.

The business of the Committees is allocated by the Prime Minister on the basis that the Prime Minister's Committee concerns itself with matters in which new basic questions requiring close study arise, and the Vice-President's Committee deals chiefly with administration and the working out of principles already adopted. Any conclusions reached by the Prime Minister's Committee which involve policy and are of general political importance go to the full Cabinet. A Minister whose department is directly concerned in a subject before a committee of which he is not a member is invited to attend.

The advantage of the procedure as a whole is that important questions receive full preliminary consideration which assists the ultimate Cabinet decision. The previous practice of dealing with all questions in Cabinet resulted in meetings becoming too frequent and protracted with prejudice to the time which Ministers could give to vital problems in their respective departments.

(Contributed by Mr. F. C. Green, M.C., formerly Clerk of the House of Representatives.)

Australia: House of Representatives (Standing Orders Committee: Membership).—On 12th August, 1954, the Leader of the House moved, on notice, to amend Standing Order No. 23 dealing with the appointment of the Standing Orders Committee by adding to the Committee's membership the Leader of the House and the Deputy Leader of the Opposition (V. and P. 1954 (21st Parl.), p. 21; *Hans.*, 12th August, p. 216).

The members previously prescribed were Mr. Speaker, the Chairman of Committees and seven other Members to be appointed (the Prime Minister being ordinarily one of the seven).

The motion was agreed to without debate.

The Leader of the House and the Deputy Leader of the Opposition are the "usual channels" for programming the business of the House, and it was felt that the Standing Orders Committee would be strengthened by their inclusion.

(Contributed by Mr. F. C. Green, M.C., formerly Clerk of the House of Representatives.)

Ceylon (Sittings of the House of Representatives).—On 22nd September, Standing Orders Nos. 8, 9 and 18 were amended, on a motion moved by the Leader of the House, in order to give effect to an experiment that had been tried for some time with the consent of all parties, of sitting for one week only in a month with the object of making available to members as much time as possible to devote to their constituencies and other public duties outside the House.

The Standing Orders Committee to which this motion was referred, however, recommended in its Report (tabled in the House on 21st September) that the House should sit in two alternate weeks in each month with extended hours of sitting, but that in the second week sittings should be confined to Thursday and Friday.

The amendments give effect to the recommendations of the Committee (20 *Hans.*, cc. 417-23).

(Contributed by the Clerk of the House of Representatives.)

Rhodesia and Nyasaland: Federal Assembly (Designation of Members).—When the Federal Assembly was first constituted, the designation "Member of the Federal Assembly" was used, with the abbreviation "M.F.A.". On the 4th February, 1954, two days after the Federal Assembly met for the first time, the Prime Minister (Rt. Hon. Sir Godfrey Huggins) moved:

That the House approves of members of the Federal Assembly adopting the designation "Member of Parliament" and the distinctive abbreviation "M.P." instead of the designation "Member of the Federal Assembly" and the abbreviation "M.F.A." heretofore in use.

(Votes, 1954, p. 13.)

In supporting the motion, the Prime Minister referred to the fact that a similar question had arisen in the Legislative Assembly of Southern Rhodesia in 1933 (*S. Rhod. Hans.*, 1933, p. 2199) when, in the course of the debate it was stated that this was entirely a matter for members of that Legislature to decide for themselves (a view with which the then Dominions Office was in agreement) and that no constitutional question was involved. In the course of his remarks, the Prime Minister said:

I have been an M.L.A., an M.P. and now an M.F.A. The metamorphosis has not produced in me any particular thrill or any mental or physical effect, good or bad, as far as I know, and to become an M.P. again does not in any way induce a feeling of distress in me. M.P.s are what their designation implies—Members of Parliament—and should be just a good cross-section of the public, neither saints nor sinners, and therefore we come back to the original contention that in most, if not all, self-governing parts of the British Empire their Members of the House are designated M.P.s, and I think it would be a wise move to avoid confusion if hon. members of this House decided the same thing.

(1954 Hans., 15.)

The motion was agreed to.

(Contributed by the Clerk of the Federal Assembly.)

Gold Coast (Recognition of Official Opposition).—On 3rd August, Mr. Dombo (Jirapa-Lambussie) made a statement in the Legislative Assembly with a view to introducing himself and other members of the Northern Peoples Party as the official Opposition. He claimed that the principle of an Opposition as an indispensable element of a good democratic government had already been accepted by the last Assembly. The N.P.P., he said, was a national party in spite of its name, and had, moreover, affiliated itself with certain other smaller parties and Independents for the purpose of forming an Opposition. Mr. Speaker expressed some doubt whether Independents, who voted according to their own conscience and were not bound by any party principles or policy, could be collected to form an Opposition, since Opposition, as understood in Parliament, meant a party that can form a new Government when the existing Government falls, and not simply draw in Independents.

The Prime Minister (Dr. Nkrumah) associated himself with Mr. Speaker's doubts, and asked for time to make a further statement on the matter (*Hans.*, Sess. 1954, cc. 71-5).

In a statement on the following day the Prime Minister, while asserting that the Government would welcome an official Opposition, said that the Government would not regard hon. Members opposite as in a true sense an Opposition, since there was no group which was in a position to form an alternative government, and it would be undesirable to recognise as the official Opposition a party constituted on a regional basis (*ibid.*, cc. 121-3).

On 10th August, Mr. Dombo informed the House that he had consulted many authorities on constitutional law, and found to his satisfaction that the Northern Peoples Party and the Ghana Congress Party together constituted the Statutory Opposition in the House. The Prime Minister having replied that he still maintained a contrary opinion, all the members of the N.P.P., and one other Member, walked out (*ibid.*, cc. 239-240).

On 11th August Mr. Speaker, at the request of both sides, gave a considered ruling on the whole matter. Having stated that S.O. No. 139 permitted him to follow the practice of the House of Commons, in the absence of any express provision to the contrary, he observed that it was stated in May (15th Ed., p. 245) that the Opposition is the largest minority party which is prepared in the event of the resignation of the Government to assume office.

The N.P.P., in his view, complied with these conditions, and he therefore ruled that it had the right to be regarded as the official Opposition. He could not, however, recognise the right of any other party or person to be so styled, whether in conjunction with the N.P.P. or otherwise. He called attention to the view which Dr. Nkrumah had expressed that it was in the national interest that an opposition should be organised on a national and not on a regional

or sectional basis, and felt sure that the official Opposition would give very careful consideration to this view (*ibid.*, cc. 270-1).

3. PRIVILEGE

Bombay (Arrest of a Member without Warrant).—Mention was made in the preceding volume of THE TABLE (Vol. XXII, p. 133-4) of the Report of the Privileges Committee on the case of Shri R. S. Patel. This report was considered by the Legislative Assembly on 15th March, 1954, and agreed to without a division (*Hans.*, Vol. 26, Part 19).

4. THE CHAIR

Tasmania (Legislative Council: Duties of President).—A new Standing Order No. 16A (L.C. Votes, No. 31 of 1st December, Entry No. 24 at p. 169) provided that during any adjournment or recess the President's duties should be carried out by the senior available Deputy-Chairman of Committees, if both the President and Deputy-President were unavailable.

Western Australia (Legislative Council: Vacancy of Office of President).—The Constitution Acts Amendment Act, 1899, was amended by the Constitution Acts Amendment Act (No. 2), 1954, to provide that when the office of President of the Legislative Council is vacant, the Chairman of Committees shall perform all the duties of that office, pending the first meeting of the Council after the vacancy occurs, when the Council will proceed to elect a new President. Further, when the President is unavoidably absent, the Chairman of Committees shall occupy the Chair until the President returns. Previously the Council was required to elect a Member to act during the absence of the President.

Standing Order No. 29 of the Legislative Council was amended on 17th November, in order to give effect to this constitutional amendment (L.C. *Hans.*, 21st Parliament, 3rd Session, c. 2996).

Bombay (Power of Deputy Chairman).—By Notification Nos. 3282 and 3294, dated 6th April, a new rule was inserted in the Rules of both Houses of the Bombay Legislature, whereby the Chairman and Speaker were given power, during their illness or absence from India, to delegate in writing to the Deputy Chairman and Deputy Speaker respectively any of their powers that they might deem fit; such delegation was to be revocable.

Rhodesia and Nyasaland: Federal Assembly (Presentation of Ceremonial Robes).—The ceremonial robes worn by the late Mr. Speaker Brand (Speaker of the House of Commons from 1872 to 1884) were presented to the Speaker of the Federal Assembly by members of the Brand family. The robes, despite their considerable age, are in perfect condition. On 28th June Mr. Speaker wore these ceremonial robes and made the following statement to the House:

I have to inform the House that during the adjournment an offer was re-

ceived of the gift of the Speaker's robes worn by the late Mr. Speaker Brand, and that I have accepted the gift on behalf of the House, and am wearing the robes to-day. They have been most carefully and perfectly preserved.

The gift was made by the Honourable Thomas Brand, C.M.G., acting on behalf of the members of the Brand family, represented by the Right Honourable The Viscount Hampden, the Right Honourable The Lord Brand, and himself.

The Hon. Thomas Brand is the great-grandson of Mr. Speaker Brand who served the House of Commons as its Speaker with great distinction from 1872 to 1884, having been unanimously elected on three occasions during that period.

The tenure of the office of Speaker of the House of Commons by Mr. Speaker Brand will always be regarded as a landmark in the development of parliamentary procedure as he it was who, when confronted with the excessive obstructionist tactics of the day (one memorable, continuous, indecisive debate having lasted 40 hours) first evolved the procedure of the closure.

In offering these robes to the Federal Assembly for use by the Speakers of this House Mr. Brand stated, "We are mindful of the strong links which bind the Federal Assembly, the youngest Parliament in the Commonwealth, to the House of Commons, the Mother of Parliaments, and hope that this gift will serve further to strengthen those bonds."

I am sure that all Honourable Members will agree with me when I say that this House is honoured by this magnificent heirloom and greatly indebted to the donors for their generosity. Above all, we appreciate very much the spirit in which the gift was made.

I understand that it is the intention of the Prime Minister to move a motion expressing the thanks of the House for the gift.

Following Mr. Speaker's announcement, the Prime Minister moved a motion of thanks in the following terms:

That the thanks of the House be conveyed to the Right Honourable The Viscount Hampden of Glynde, the Right Honourable The Lord Brand and the Honourable Thomas Brand, representing members of the Brand family, for their great kindness and generosity in presenting to this House for the use of its Speakers the robes worn by their distinguished ancestor, Mr. Speaker Brand, who presided over the House of Commons from 1872 to 1884.

(1954 Votes, 114-115.)

(Contributed by the Clerk of the Legislative Assembly.)

5. ORDER

Kenya (Reference in Debate to other Members).—On 18th October a Memorandum was issued by the Deputy Speaker (Mr. E. N. Griffith-Jones) concerning the manner in which personal allusions should be made in debate. Having drawn attention to the House of Commons practice of descriptive periphrasis (*vide* May, 15th Ed., p. 438), the Memorandum stated that in Kenya difficulties sometimes arose by reason of the fact that some Members could not be referred to by constituencies, and made the following suggestions in respect of those Members:

Ministers and Parliamentary Secretaries should be referred to by the offices they hold.

Nominated Members holding public office should also be referred to by the offices they hold.

Nominated Members not holding public office should, whenever possible, be

referred to by some such phrase as "the honourable Nominated Member who has just spoken who raised the question of . . ." Where no such periphrasis is sufficiently indicative of the Member referred to, as may sometimes be the case when a Member is replying to a long debate, then the Member concerned may, in the last resort, be named thus "the honourable Nominated Member, Mr. . . ." European and Asian Elected Members should be referred to by the Electoral areas which they represent. This is commonly done already in the case of European Elected Members, but the tendency to name Asian Elected Members, or to refer to them as "Muslim" or "Non-Muslim" (a designation which is distasteful to them), has increased in recent debates. . .

The Arab Elected Member should be referred to as "the honourable Arab Elected Member".

Representative Members should be referred to as "the honourable African Representative Member" or "the honourable Arab Representative Member", as the occasion requires, and the name should only be added as in the case of Nominated Members, when this is essential for identification and no suitable descriptive periphrasis will meet the case.

6. PROCEDURE

House of Commons (Statutory Instruments: Restriction of debate on annulment).—On 31st March the Leader of the House (Mr. H. Crookshank) moved a motion the terms of which it is unnecessary to set out here, since they exactly implemented the recommendation contained in paragraph 105 of the Select Committee on Delegated Legislation, Session 1952-53 (*vide* TABLE, Vol. XXII, pp. 60-1).

He stressed that the motion was not for a new Standing Order, but for a Sessional Order, being merely an experimental proposal. The motion was carried after a debate lasting one hour, during the course of which no speaker opposed in principle the proposed procedure (525 *Hans.*, cc. 2168-89).

On 18th May, Mr. Speaker exercised his powers under the Sessional Order and, at 11.30 p.m., put the question upon a motion for the annulment of the Pedestrian Crossings Regulations, 1954 (527 *Hans.*, 2052). No instance of the exercise of his power to adjourn a debate on a Statutory Instrument occurred until 15th February, 1955, when the debate on the Central Land Board Payments Regulations, 1954, was adjourned until the following day (537 *Hans.*, 343 and 511).

House of Commons (Restriction upon Supplementary Questions). On Wednesday, 14th April, the House, pursuant to its usual custom before a holiday Adjournment, agreed to the following motion:

That this House do meet To-morrow at Eleven o'clock; that no Questions be taken after Twelve o'clock; and that at Five o'clock Mr. Speaker do adjourn the House without putting any Question.

(526 *Hans.*, 1153.)

At 12 o'clock on 15th April, Mr. Speaker refused to permit a number of Members to ask supplementary questions, on the ground that he was forbidden by the Order of the House to take Questions after 12 o'clock. Mr. Warbey (Broxtowe), rising to a point of Order, sub-

mitted that the Speaker's ruling departed from the previous practice, which was that once a Question had been taken before the time of conclusion of Questions it was in order for supplementary questions to be continued after that hour.

Mr. Speaker replied:

We are working under a special Order passed by the House yesterday with regard to to-day's proceedings, which says that no Questions shall be taken after 12 o'clock. Although I allow a little latitude for a few seconds this way or that, I feel bound, after the Order of the House, not to continue further and thus deduct from the time which is open to Private Members for their Adjournment Motion debates.

(526 Hans., 1342-3.)

Pakistan (Limitation of number of Questions).—One amendment to the Pakistan Constituent Assembly (Legislature) Rules was made by the President, Constituent Assembly (Legislature) in May, 1954. Sub-rule (iii) of Rule 8A of the Pakistan Constituent Assembly (Legislature) Rules provided that "not more than five questions asked by the same member shall be called for answer on any one day". There was, however, no limit to the number of questions of which notice could be given by a member for any one day. The number of questions of which notice can now be given has been restricted by the substitution of the old sub-rule by the following:

8A (iii).—Not more than five questions for oral answer and five questions for written answer shall be given notice of by the same member for any one day.

(Contributed by the Joint Secretary of the Constituent Assembly.)

Uttar Pradesh Legislative Assembly (Business Advisory Committee).—On 13th September the House authorised the Speaker to nominate a Business Advisory Committee (U.P.L.A. Proc., Vol. CXL, pp. 179-81). The Committee was constituted on 29th September, and framed its own rules of procedure which were announced to the House on 13th October (*ibid.*, Vol. CXLIII, pp. 174-6). These provided that the Committee (to be nominated each Session by the Speaker) should recommend the time to be allocated to any Government bills referred to them by the Speaker either on his own initiative or on the request of the Leader of the House or Leader of the Opposition. Debate on motions for agreement with a report of the Committee should be limited to half an hour, not more than five minutes being allowed to any one Member. Once agreed to, no variation upon the time-table was to be made except on the request of the Leader of the House, who shall notify orally to the House that there was general agreement for such variation, which shall be enforced by the Speaker after taking the sense of the House.

7. STANDING ORDERS

Western Australia (Legislative Council: Amendments to Standing Orders.—In addition to the amendment noticed elsewhere (p. 154),

the following amendments were made to the Standing Orders of the Council as a result of reports by the Standing Orders Committee:

(a) *Election of President*: S.O. No. 23, which laid down the procedure in the event of an equality of votes for presidential candidates, provided that in cases of equality at the first ballot (i) the ballot should be taken again; if equality still persisted, (ii) the Clerk should draw lots, the candidate first withdrawn from the lot being regarded as having the smallest number of votes. It was replaced by two, more detailed S.O.s (Nos. 23 and 23a) which, while keeping the same general procedure, ensured that in a contest between three or more candidates the further balloting and determination by lot should only take place between such candidates as were "dead-heated", and not between the whole number of candidates (L.C. *Hans.*, 21st Parliament, 3rd Sess. 1832-41).

(b) *Conferences between the two Houses*: (i) S.O. No. 330 was amended in such a way as to ensure that only the result of a Conference, and not any proceedings therein, should be reported (*ibid.*, 1841-3).

(ii) An amendment to S.O. No. 324 provided for suspension of a sitting as an alternative to adjournment while a Conference was taking place (*ibid.*, 2996-9).

(iii) After prolonged debate, the Council negatived by 14 votes to 13 a proposed amendment whereby the number of Managers provided by the Council should be increased to four (the present provision being "not more than three"). A related proposal, intended to provide that an agreement by six Managers should be the decision of the conference (thus dispensing with the present requirement of unanimity) was then negatived without a division (*ibid.*, cc. 3000-1, 3044-6, 3089-92).

Union of South Africa: House of Assembly (Revision of Standing Rules and Orders).—On 5th May the Committee on Standing Rules and Orders reported that it had considered and adopted certain proposals for the expedition of the Public Business of the House and for clarifying and amending certain Standing Orders relating to Public Business and recommended—

1. That the amendments to the Standing Orders scheduled in the Report be adopted;

2. that Mr. Speaker be authorised to reprint Volume I of the Standing Orders (Public Business) with the amendments approved of and such consequential amendments, alterations in the classification, headings, side notes, annexures, etc., he may consider necessary;

3. that the revised Standing Orders take effect from 1st January, 1955; and

4. that, subject to the approval of Mr. Speaker, the Acts printed as annexures to the Standing Orders (Public Business) and such other Acts as he may authorise, be printed separately. (V. & P., pp. 413-20.)

The principal changes in the Standing Rules and Orders brought about by the proposals that were adopted can be summarised as follows:

Earlier commencement of evening sittings (S.O. No. 25): Evening sittings (on Mondays, Wednesdays and Thursdays) will commence after the sixth instead of after the eleventh sitting day.

Eleven o'clock rule changed to half-past ten o'clock (S.O. No. 26): The automatic adjournment of the House will take place at half-past ten instead of at eleven o'clock p.m.

Adjournment on definite matters of urgent public importance (S.O. No. 33):

(1) No motion for the adjournment of the House on a definite matter of urgent public importance may be made unless Mr. Speaker has been furnished with a written copy thereof before twelve o'clock noon on days when the House meets at a quarter-past two o'clock p.m. or at least one hour before the meeting of the House when it meets at an earlier or later time.

(2) If Mr. Speaker considers that the motion is one contemplated by the Standing Orders and if the requisite number of members rise in support of the motion, it stands over until four o'clock in the afternoon, or until eight o'clock p.m. when the House meets in the evening.

Right of speech of mover and seconder of motion for adjournment of debate (S.O. No. 37):

(1) When a member has moved the adjournment of a debate without discussing the main question he and his seconder will, whether such motion be carried or not, be entitled to speak subsequently to the main question.

(2) When a member in speaking to the main question moves the adjournment of a debate and such motion is negatived, neither he nor his seconder may speak subsequently to the main question, but if the motion be agreed to, the mover will be entitled to continue his speech when the debate is resumed and his seconder may speak subsequently.

Precedence of business on Tuesdays and Fridays (S.O. Nos. 40 and 41):

(1) Questions have precedence on Tuesdays and Fridays.

(2) Motions of private members have precedence on Tuesdays.

(3) Orders of private members have precedence—

(a) On the first Friday after the commencement of a session, and

(b) on Tuesdays after the sixth sitting day, from four o'clock p.m. or earlier if motions are sooner disposed of. (If there are no orders of private members, motions of private members will continue to have precedence.)

(4) On Fridays, after the sixth sitting day, Government business has precedence.

(5) On Tuesdays, after the sixth sitting day—

(a) the House meets at ten o'clock a.m.;

(b) Select Committees will have leave to sit during the sittings of the House; and

(c) business will not be suspended at half-past six o'clock p.m.

Questions and replies (S.O. No. 46): (1) Every member who desires an oral reply to a question must distinguish it by an asterisk, but not exceeding three questions in respect of any one question day.

(2) Replies not given orally will be handed to the Clerk for publication in *Hansard* and for the information of the members concerned.

Limitation of speeches (S.O. No. 63): When Mr. Speaker is in the Chair (and except where otherwise provided) members may not exceed forty minutes in speaking to any question except—

(a) the Prime Minister and the Leader of the Opposition;

(b) the Ministers of Finance and of Transport on their respective motions to go into Committee of Supply and one member speaking in reply in each case;

(c) Ministers and members in charge of bills or motions and one Minister or member, as the case may be, speaking in reply; and

(d) a member moving a motion of no-confidence or censure (accepted as such by the Government) and one Minister speaking in reply,

all of whom will not be restricted in regard to the length of time they may speak. The additional exceptions made in paragraphs (a), (b), (c) and (d) were specifically adopted so as to exclude any extension of time being granted by unopposed motion when a member has taken up his full forty minutes.

Report stage of bills (S.O. No. 63): Upon the report stage of a bill no member may speak for longer than thirty minutes excepting only the Minister or member in charge of the bill.

Reply after closure motion carried (S.O. No. 80): When Mr. Speaker is in the Chair and after a closure motion has been carried he must, before putting the original question, ascertain from the member in charge of the business before the House whether he wishes to reply, and such reply may not exceed thirty minutes.

Limitation of debate by Business Committee (S.O. No. 81):

(1) At the commencement of every session Mr. Speaker will appoint a Business Committee which may at any stage be requested by a member in charge of a bill or a motion to propose a time-table limiting the debate on such bill or motion.

(2) The Committee will consist of equal numbers of Government and Opposition members (or their nominees), inclusive of the Leader of the House (or his nominee), who will *ex officio* be Chairman of the Committee, convene meetings thereof and have only a deliberate vote.

(3) At least three-quarters of the number of members appointed to the Committee form a quorum.

(4) (a) If all members present agree to a proposed time-table the Chairman reports it to the House, such report being put forthwith without amendment or debate.

(b) If not more than one member present objects against any time-table, the Chairman reports it to the House, such report being put forthwith. Any debate arising thereon will be limited to one hour, no speech exceeding ten minutes.

Limitation of debate by Standing Rules and Orders Committee (S.O. No. 82):

(1) A member in charge of a bill or a motion may at any stage through the Leader of the House request the Committee on Standing Rules and Orders to propose a time-table limiting the debate on such bill or motion.

(2) When a time-table proposed by the Committee is under consideration by the House no speech may exceed ten minutes excepting those of the mover and the first member in opposition who may speak for thirty minutes.

Limitation of time in Committee of Supply on Central Government estimates (S.O. No. 105): The proceedings in Committee of Supply on the estimates of expenditure from the Consolidated Revenue Fund are limited to 125 hours.

Limitation of debate on Railway estimates and subsequent stages (S.O. No. 106): The proceedings on the estimates of expenditure from the Railway and Harbour Fund and the appropriation bill are limited as follows:

- (a) thirteen hours for the motion to go into Committee of Supply;
- (b) seven hours for Committee of Supply;
- (c) four hours for the second reading of the bill; and
- (d) two hours for the third reading of the bill.

(The periods under (a), (c) and (d) include the time taken by the Minister's speech when *moving* but not when *replying*.)

Limitation of debate on part appropriation bills (S.O. No. 117): The debate on all part appropriation bills is limited as follows:

- (a) twelve hours for the second reading excluding the Minister's reply, which may not exceed one hour; and
- (b) three hours for the third reading excluding the Minister's reply, which may not exceed thirty minutes.

Divisions if fewer than fifteen members in minority (S.O. No. 130): If fewer than fifteen members appear on one side in a division, the decision is declared forthwith, the names of the minority only being recorded.

Objections to more than one stage being taken at same sitting (S.O. No. 163): An objection to more than one stage of a bill being taken at the same sitting requires the support of at least two other members.

Appropriation bills—Committee stage (S.O. No. 168): When an appropriation bill (other than a part appropriation bill) has been read a second time, the bill may be considered forthwith in Committee of the Whole House without amendment or debate.

Debate and amendments on third reading (S.O. No. 181): On the third reading of a bill (other than an appropriation bill) debate is confined to the contents of the bill, and no amendment which raises matters not included in its provisions may be offered.

Consolidation bills (S.O. No. 186): (1) A bill which purports to consolidate the existing law on any subject without amending it, is referred to a Select Committee, to be nominated by Mr. Speaker, immediately after first reading for the purpose of ascertaining whether it in any way alters the existing law, and the Committee will be empowered to make such amendments as may be deemed necessary to clarify, and to bring the Bill into conformity with, the existing law.

(2) If the Select Committee reports that the bill submitted by it is purely consolidating it may be taken through its remaining stages without amendment or debate: provided that at committee stage or at report stage amendments may be offered which seek to express more clearly the law as it stands.

Witness expenses (S.O. No. 256):

(1) The Clerk is authorised to pay to witnesses, summoned to give evidence, a reasonable sum *per diem* while travelling to and from their places of residence and during attendance, to be determined by Mr. Speaker, and a reasonable amount for transport expenses actually incurred.

(2) The claim of a witness for payment must state the number of days during which he was detained, the time spent in actual travelling and the amount of transport expenses, if any, incurred by him. Before payment is effected the claim must be certified either by Mr. Speaker or by the Chairman of the Committee before which such witness was summoned to appear.

In cases not provided for, Mr. Speaker to decide (S.O. No. 293): In all cases not provided for, Mr. Speaker must decide, taking for his guide such Parliamentary precedents of other countries as can be applied to the proceedings of the House.

Programme of Government business: The Leader of the House once every week before the commencement of public business will make a statement for the purpose of informing the House what items of Government business (and in what order of precedence) it is intended to take on Government days during the whole of the following week. This proposal was adopted on the understanding that it would

become practice but would not be incorporated in the Standing Rules and Orders.

(Contributed by the Clerk of the House of Assembly.)

Cape of Good Hope Provincial Council (Amendments to Standing Rules).—On 9th September a Report from the Select Committee on Standing Rules was tabled and adopted, the substance of the Rules being thereby amended in the following respects: (1) The words "and promote the interests of our Empire" were omitted from the daily Prayer; (2) The provisions in the existing Rules 2, 3 and 14 relating to oaths and affirmations were omitted, the Courts having held that such a condition precedent for a member to take his seat was *ultra vires* the South Africa Act, 1909; (3) Rule 51 was amended so that with the unanimous consent of the Council an interrupted or superseded debate might be restored to the Order Paper on the same day; (4) Rule 112 was amended to give the Chairman power to direct a Draft Ordinance to be read the first time without question put as soon as leave had been given to bring it in; and (5) Rule 192, which provided that the office of the Council should be open daily during such hours as the Chairman should appoint, was omitted on the ground that the Clerk and his staff were subject to the Public Service Regulations. An amendment to item (2) above, which sought to make oaths and affirmations permissive, was defeated on division by 24 votes to 21 (*Minutes*, 2nd September, pp. 53 and 55).

India: Lok Sabha (Amendments to Standing Orders).—A number of amendments were made by the Speaker on the 15th October, 1954, to the Rules of Procedure and Conduct of Business in the Lok Sabha (Lower House of the Indian Parliament) (*Gazette of India Extraordinary Part I—Sections* dated the 15th October, 1954). The most important of these are as follows:

Procedure in respect of Bills seeking to replace Ordinances: Article 123 of the Constitution of India provides that when the Houses of Parliament are not in session the President may promulgate such Ordinances as the circumstances appear to him require. Such Ordinances will have the same force and effect as an Act of Parliament.

The Ordinances issued by the President will cease to operate at the expiration of six weeks from the reassembly of the Houses of Parliament. In case the Government wants the provisions of the Ordinances to continue necessary legislation will have to be brought before the Houses and passed.

The new rule 88A provides that if a Bill seeking to replace an Ordinance is introduced in the Lok Sabha it must be accompanied by a statement explaining the circumstances which necessitated the legislation by Ordinance.

Motions for reduction of demands for grants: The new rule 227A provides for different kinds of motions that may be moved for a reduction in the grant sought by Government in the House. Such motions are:

(1) That the demand be reduced to Re.1/- as representing disapproval of the policy underlying the demand. Such a motion shall be known as "Disapproval of policy Cut". A member giving notice of such a motion shall indicate in precise terms the particulars of the policy which he proposes to discuss. The discussion shall be confined to the specific point or points mentioned in the notice and it shall be open to members to advocate an alternative policy.

(2) That the amount of the demand be reduced by a specified amount representing the economy that can be effected. Such specified amount may be either a lump sum reduction in the demand or omission or reduction of an item in the demand. The motion shall be known as "Economy Cut". The notice shall indicate briefly and precisely the particular matter on which discussion is sought to be raised and speeches shall be confined to the discussion as to how economy can be effected.

(3) That the amount of the demand be reduced by Rs.100/- in order to ventilate a specific grievance, which is within the sphere of the responsibility of the Government of India. Such a motion shall be known as "Token Cut" and the discussion thereon shall be confined to the particular grievance specified in the motion.

Amendment of rules 260, 267 and 268 regarding Subordinate Legislation: By these amendments the powers of the Committee on Subordinate Legislation of the Lok Sabha have been enlarged so as to bring within the scope of their examination the regulations, rules, sub-rules, etc., framed under the Constitution of India.

(Contributed by the Secretary of the Lok Sabha.)

Madras (Amendments to Standing Orders).—Clause (1) of Article 208 of the Constitution of India provides that a House of the Legislature of the State may take rules for regulating, subject to the provisions of the Constitution, its procedure and the conduct of its business. The Madras Legislative Assembly and the Madras Legislative Council accordingly formulated their own rules for regulating its procedure and the conduct of their business. The important changes between the old rules and the present rules are described below:

Observance of Order during Governor's address: A new rule provides that when the Houses of the Legislature are assembled together under Article 175 or 176 or when the members of the Assembly or the Council alone have assembled, under Article 175 of the Constitution, no member shall obstruct or interrupt the Address either before or after the Address or during its duration, with any speech or point of order or in any other manner, and such obstruction or interruption shall be regarded as a gross breach of order of the House and shall be dealt with by the Speaker or the Chairman as such at the next sitting of the Assembly or the Council as the case may be.

Prorogation: The old rules provided that on the prorogation of a session, all pending notices and business shall lapse except Bills which have been introduced. The rule has been so amended that on the prorogation of a session, all pending notices and business shall be carried over to the next session.

Calling attention to matters of urgent public importance: A new rule has been added providing for members to call the attention of a Minister to any matter of urgent public importance and for such Minister to make a brief statement thereon.

Discussion for short duration on urgent matters of administration: A new provision has been introduced in the rules which enables a member to raise a discussion for not more than an hour on an urgent matter of administration.

Persons by whom motions in respect of Bills may be made: A new proviso introduced in the rules provides that where a member in charge of the Bill is unable to be present in the House any other member may be permitted by the House to carry the Bill through its further stages.

Sub-Committees of Select Committees: A new provision has been made that a Select Committee may appoint a Sub-Committee to examine any special point or points connected with the Bill.

Financial Memorandum and Memorandum regarding Delegated Legislation: New rules have been inserted insisting on a Financial Memorandum in the case of Bills involving expenditure and a Memorandum explaining the legislative power delegated in the case of Bills involving proposals for the delegation of legislative power.

Committees of the House: Provision has been made for the formation of Committees on Estimates, Subordinate Legislation, Government Assurances and Business Advisory Committee in addition to the existing Committee on Public Accounts, Committee of Privileges and the House Committee. The Rules of the Legislative Council do not, however, make provision for Committees on Public Accounts, Estimates or Subordinate Legislation.

(Contributed by the Joint Secretary of the Madras Legislature.)

Gold Coast (New Standing Orders).—Standing Orders regulating its own procedure were adopted on 10th August by the first Legislative Assembly elected under the new constitution (see p. 102) and brought into force on the following day. The Standing Orders lay down a comprehensive code of procedure which in general resembles that of the House of Commons, the most significant deviations being noted hereunder.

Election of Speaker.—Both the Speaker and the Deputy Speaker are elected by ballot (S.O. No. 2).

Sittings.—Sittings are to commence at 9 a.m. and end at 1 p.m. Normally they are adjourned without question put by the Speaker, but notice may be given of a government motion for the adjournment, to be moved at 12.30 p.m. or at the conclusion of business before that time, in order to permit a debate of not more than half an hour on a subject to be introduced by a Member (S.O. No. 4(3) (a), (b) and (c)).

Quorum.—The Quorum of the Assembly is 25 (S.O. No. 5).

Order of Business.—Any Member requiring to take the Oath of allegiance does so immediately after prayers and before the confirmation of the minutes of the previous sitting. A motion for the Adjournment of the Assembly, if supported by at least ten Members, may be made at any time, and takes precedence over all other business (S.O. No. 13).

Motions.—Ten days' notice is required of motions by private Members (S.O. No. 19). With certain exceptions no motion may be debated until 48 hours have elapsed (S.O. No. 20).

Mode of putting amendments.—Where an amendment is moved to leave out words, the question is "That the words proposed to be left out of the motion" (S.O. No. 48).

Suspension.—Suspension for breaches of order lasts for fourteen sitting days in the first instance and twenty-one sitting days on any subsequent occasion (S.O. No. 58).

Urgent Bills.—If a certificate of urgency by the Governor is laid upon the Table, any bill therein mentioned may be introduced without publication or distribution (S.O. No. 64).

First Readings.—The question upon the first reading of a bill is put formally in the House (S.O. No. 66).

Amendments to Bills.—The Chairman is given discretion to permit a Committee to resume consideration of clauses or schedules which have already been agreed to (S.O. No. 82).

Appropriation Bills.—The Annual Appropriation Bill must be introduced not later than the last day of February, and must contain the estimated financial requirements for the succeeding period 1st April to 31st March (S.O. No. 95). After second reading, the Bill is committed to the Committee of Supply, over which Mr. Speaker himself may preside (S.O.s Nos. 97 and 98). A maximum of twenty days is allotted to the discussion of the draft estimates and the Appropriation Bill in the Committee of Supply (S.O. No. 99). No debate is permitted on the motion for third reading (S.O. No. 102). Supplementary Appropriation Bills must be introduced not later than the October following the close of the financial year to which they relate (S.O. No. 103).

Standing Finance Committee.—A Standing Finance Committee consisting of the Prime Minister (who is Chairman), the Minister of Finance, two other Ministers and not more than eleven other Members appointed by the Speaker is set up annually to approve proposals for expenditure on new services not covered by the Appropriation Ordinance, and expenditure in excess of that provided therein. The Committee is staffed by two officers, one appointed by the Clerk and one by the Ministry of Finance (S.O.s Nos. 105 to 107).

Select Committees.—Select Committees are staffed by two officers, one appointed by the Clerk and one by the Ministry responsible for the subject matter forming the terms of reference of the Committee (S.O. No. 116). Members are appointed by Mr. Speaker, who

nominates the Chairman (S.O. No. 118). The Chairman has both an original and a casting vote (S.O. No. 120).

Business Committee.—Subject to the usual rules for precedence of Government business, the order of business is settled for each day by a Business Committee consisting of the Prime Minister (Chairman), two other Ministers, a Ministerial Secretary and three Opposition Members (S.O.s Nos. 125-127).

Kenya (Standing Rules and Orders).—The Standing Rules and Orders of the Council were amended in September to bring them into line with the Constitutional changes involving the establishment of the Council of Ministers. The opportunity was also taken to introduce amendments to enable Council to be summoned after an adjournment even though such adjournment was not *sine die* (Standing Order No. 5).

Provision was also made for the Chairman of Committees to act as Deputy Speaker in the event of the inability of the Speaker to act (Standing Order No. 7).

It was decided that, in view of the facilities available in the new Parliament Buildings, the practice of sitting in the afternoon should be introduced and Standing Order No. 10 was amended accordingly.

To meet the difficulties with regard to the definition of "Day" in connection with debates on the budget a new Standing Order, 136A, was introduced reading:

136A. *Definition of Day.* For the purposes of Standing Orders 134 and 136, a day shall be deemed to consist of any period of not less than two hours prior to 1.00 p.m. during which the business relating to the financial statement or business of supply, as the case may be, is taken exclusively.

(Contributed by the Clerk of the Legislative Council.)

8. FINANCIAL PROCEDURE

House of Commons (Amendment to a Money Resolution out of order if varying method of financing).—On 29th March, during the debate in Committee of the Whole House on the Money Resolution relating to the Television Bill, the Chairman (Sir Charles MacAndrew) ruled out of order an amendment, proposed by Mr. E. Shackleton (Preston, S.), which sought to substitute "advance to the said authority" for "payment to the said authority".

In asking the Chairman to explain the reason for his ruling, Mr. Shackleton quoted the following passage from May (15th Edition, p. 748):

The approval or the reduction of the expenditure under consideration, or an increase in the stringency of the terms and conditions of the charge thereby created, are the matters specially entrusted to such a committee, and to these objects amendments are directed.

If it was in order for the Committee to interfere with the Queen's Recommendation to the extent even of striking out all the money

proposed to be voted, he could not see why it should not be in order merely to say that it should be repaid.

The Chairman said:

If the hon. Member will look at the next page of Erskine May, he will find that this Amendment would alter the conditions under which the Queen's Recommendation was given, and therefore it is out of order. It is correct that the amount of money may be reduced, but we cannot alter the conditions.

Mr. Sydney Silverman (Nelson and Colne) submitted that the use of the word "condition" in this connection was a little misleading. It was well understood that a Committee could not impose conditions upon a grant which the Crown had recommended; this was not, however, the effect of the amendment, which provided that a grant should not be made at all. It was an abuse of language to say that to convert a grant into a loan was to impose a condition upon a grant.

The Chairman replied:

That may be, but it is clear that if this Amendment means anything it means that there should be change in the method of financing from that which the Crown recommended. Therefore, it is out of order.

(525 *Hans.*, 1753-6.)

9. BILLS, PETITIONS, ETC.

House of Lords: Reference of Private Bill to a Joint Committee negatived.—On 30th March and 14th April the Lords considered a Commons' Message proposing that the Kent Water Bill be committed to a Joint Committee (186 *Lords Hans.*, 772 ff. and 1233 ff.). The Chairman of Committees moved that the House should not concur with the Commons in the said resolution, and gave the following grounds for his Motion:

(1) That Petitioners against Private Bills have, in general, an undoubted right to petition in both Houses.

(2) That reference to a Joint Committee is supposed to favour the Promoter of a Private Bill; in this case there were twenty-five Petitioners against the Bill, the great majority of whom were strongly against the proposal for a Joint Committee.

(3) That for some years it had been the practice of the House only to refer Private Bills to Joint Committees where one or more of three conditions obtained, namely—

(a) if the Government declared that a Joint Committee was in the public interest;

(b) if the Promoters and a substantial body of the opponents asked for a Joint Committee; and

(c) if several Bills dealing with the same subject-matter were before Parliament together.

In his view the onus of proving that a Joint Committee was desirable lay in this case on the Promoters, who had not discharged that onus.

Lord Campion (formerly Clerk of the House of Commons) supported the proposal for a Joint Committee on two main grounds. First, he said that one committee on a Private Bill was almost bound to be shorter and cheaper than two; and secondly, a Joint Committee, which had power to send for persons, papers and records, and whose evidence was published by the Stationery Office and became public property, was a more appropriate body to consider a Bill such as this where a considerable element of public policy was involved.

Lord Milner of Leeds (formerly Chairman of Ways and Means in the House of Commons) gave his opinion that it was important not to seem to deny, in a matter such as this, to any opponent of a Bill the fullest opportunity of being heard.

The Marquess of Salisbury, for the Government, said that he agreed with the Chairman of Committees.

The House did not agree to the Commons' proposal, so that the Bill was, in the event, considered by Select Committees of each House.

It may be of interest to note that the Kent Water Bill was originally introduced in November, 1953, and did not receive the Royal Assent until July, 1955. It was carried over from one session to another in the autumn of 1954, and from one Parliament to another in the spring of 1955. It was considered by a Select Committee of the House of Commons for twenty-three sitting days; and by a Committee of the Lords for twenty-one sitting days. Further reference will be made to the progress of the Bill in 1955 in the next volume of this JOURNAL.

It may also be permissible for the Editors to remark that the Minutes of Proceedings of the twelve Joint Committees that have sat at Westminster on Private, Provisional Order and "Hybrid" Bills since 1900 do not bear out the contention that such Joint Committees are analogous to Joint or Select Committees on a public matter. The Joint Committees have confined themselves to hearing the evidence put before them by the parties interested in the Bills, exactly as if they were ordinary Select Committees on Private Bills; and they have in no case exercised the right, conferred upon them by the House of Commons in setting up the Committees, to send for, or hear evidence from, other persons. It therefore does not seem that such Joint Committees have departed from the judicial tradition of Private Bill Committees, in which the members merely listen to the speeches of Counsel and the evidence put before them, and do not, as Committees on public matters do, take part in the inquiry by examining the witnesses themselves. Moreover, evidence taken before such Joint Committees has always been taken on oath, and the witnesses have been subject to cross-examination by Counsel, neither of which is a normal feature of procedure in Committees on public matters.

House of Commons (Withdrawal of private Member's Bill).—On

25th March, Mr. D. Marshall (Bodmin), a private Member, moved the second reading of the Ministers of the Crown (Fisheries) Bill. At the end of the debate, expressing himself satisfied by ministerial assurances, he asked leave of the House to withdraw the bill; several Members having said "No", and leave being accordingly refused, the bill was read a second time without a division and committed to a Standing Committee (529 *Hans.*, cc. 764, 832).

On 1st July, after the announcement of business for the following week, Mr. Bing (Hornchurch) drew attention to the fact that the bill had not yet been allocated to a Standing Committee; Mr. Speaker replied that he understood that Mr. Marshall had withdrawn it. On being asked by Mr. Edward Evans (Lowestoft) how Mr. Marshall could be justified in declaring that he withdrew the bill, in defiance of the order of the House committing it to a Standing Committee, Mr. Speaker asserted that the Member in charge was in control of the bill, and drew attention to the following entry in the Votes and Proceedings of 29th June:

Ministers of the Crown (Fisheries) Bill.—Order [25th June], That the Bill be committed to a Standing Committee, read, and *discharged*: Bill *withdrawn*.

He undertook to look into the matter (*ibid.*, cc. 1526-30).

On 8th July Mr. Speaker gave the following ruling:

A Public Bill presented or introduced by a Private Member remains in the charge of that Member, and he retains over it certain rights not possessed by any other Member. The Manual of Procedure, in paragraph 224, states that:

"A Bill other than a Lords' Bill may also be withdrawn by notice given at the Table before the day on which the Bill stands as an Order of the Day."

I find that, from 1932 to 1939, five Private Members' Bills were so withdrawn by the Members in charge of them, after they had been read a Second time and committed to a Standing Committee. In four of these cases, the Bills had been allocated to a particular Standing Committee. In one, as in this case, the Bill had not been so allocated. The most recent example I can find was in January, 1953, when the hon. Lady the Member for Lanarkshire, North (Miss Herbison) withdrew the Foundry Workers (Health and Safety) Bill after the Bill had been read a Second time and allocated to a Standing Committee.

It is therefore clear that the withdrawal of the Ministers of the Crown (Fisheries) Bill was in accordance with the practice of the House.

On being asked by Mr. Edward Evans whether it would be competent for him to reintroduce the bill, Mr. Speaker replied:

Yes. The Motion which the hon. Member sought to withdraw was, "That the Bill be now read a Second time." The hon. Member could introduce it again. The Bill is now withdrawn, put out of existence, but it can be reintroduced.

Mr. I. O. Thomas (Wrekin) asked Mr. Speaker to define the stage at which a bill became the complete property of the House and the

Member's right to withdraw it was terminated. Mr. Speaker replied:

The Bill is the property of the House when the Bill is before the House for discussion. Between stages, as the precedents show, the hon. Member in charge of the Bill can withdraw it.

(*Ibid.*, cc. 2349-52.)

10. ELECTORAL

South Australia (Redivision of Electoral Districts).—The Electoral Districts (Redivision) Act (No. 37 of 1954) provides for the establishment of a Commission to report upon the redivision of the State of South Australia into electoral districts. There will be no change in the number of Members of Parliament.

The Commission's duty will be to redivide the Adelaide metropolitan area into thirteen approximately equal Assembly districts and the country areas into twenty-six approximately equal Assembly districts. For the purposes of this Act, metropolitan districts are to be regarded as approximately equal if the number of electors in them is within 20 per cent. (above or below) of the average of the respective numbers of electors in all such districts; and the same principle, *mutatis mutandis*, shall apply to Assembly districts in the country areas.

The Commission will also redivide the State into five Legislative Council districts, each Council district to consist of two or more whole Assembly districts. The Commission is to provide for two Council districts in the metropolitan area and three in the country areas and shall as far as practicable retain the existing boundaries of Council districts.

The Commission shall endeavour to create districts (a) in each of which respectively the electors have common interests; (b) each of which is of convenient shape and has reasonable means of access between the main centres of population therein; and (c) retaining, as far as possible, boundaries of existing districts and subdivisions.

The Commission shall report to the Governor of the State and to the President of the Legislative Council and the Speaker of the House of Assembly. If it is desired to give legislative effect to the Commission's report it will be necessary to pass appropriate legislation to amend the Constitution Act accordingly.

(Contributed by the Clerk of the House of Assembly.)

Tasmania (Alteration of Franchise and amendments to Electoral Acts).—Section 28 of the Constitution Act, 1934 (25 Geo. V, No. 94) was amended by the Constitution Act, 1954 (No. 69 of 1954), which widened the franchise for Legislative Council elections by granting the vote to the spouse of an elector who holds the qualification of "owner" or "occupier" of property.

The Electoral Act, 1907, was amended:

(a) By the Electoral Act, 1954 (No. 1 of 1954), authorising

candidate for Parliament to expend a maximum of £200 (formerly £100) for his election campaign expenses.

(b) By the Electoral Act (No. 2), 1954 (No. 87 of 1954), providing for the appointment of an Electoral Commission to give effect to the Constitution Act (No. 2) of 1954 (see p. 145 above) for the election of a thirty-first member to the House of Assembly in certain cases, and for the conduct of by-elections.
(Contributed by the Clerk of the Legislative Council.)

Ceylon (Special representation of racial minorities).—During the recent negotiation between the Prime Ministers of Ceylon and India on the rights of Indians settled in Ceylon it was decided to give special representation in the House of Representatives to persons registered as citizens under the Indian and Pakistani Residents (Citizenship) Act. This necessitated three Acts being passed, namely, the Ceylon (Constitution) Amendment Act (29 of 1954), The Ceylon Constitution (Special Provisions) Act (35 of 1954) and the Indian and Pakistani (Parliamentary Representation) Act (36 of 1954).

Act No. 29 of 1954 clears the way for the other two Acts by amending s. 29 of the Ceylon (Constitution) Order in Council, 1946, which prohibits the making of laws which discriminate in favour of or against persons of any community or religion.

Act No. 35 of 1954 fixes the number of members of the House of Representatives for a specified period at one hundred and five, including in that number four seats for members who would be elected by the Indian and Pakistani electoral districts which are defined by the Indian and Pakistani (Parliamentary Representation) Act (No. 36 of 1954).

(Contributed by the Clerk of the House of Representatives.)

II. MEMBERS' EMOLUMENTS AND AMENITIES

Saskatchewan (Payment of Retiring Allowances to Members).—An Act respecting the "Superannuation of Persons who have served as Members of the Legislative Assembly of Saskatchewan", passed at the 1954 Session of the Legislative Assembly and assented to on 1st April, became effective on 1st May, 1954.

The retirement scheme created by this Act differs in certain aspects from that of the Canadian House of Commons (see TABLE, Vol. XXI, p. 178). Under it, retirement allowances are payable "for life" to a person who, having ceased to be a member, has attained the age of 55 years, and has served in, and contributed in respect of, 10 regular (annual) Sessions of the Assembly. Previous service in the Canadian House of Commons may be counted in the case of a member of the Assembly who has previously served in the Federal Parliament as member for a Saskatchewan constituency.

The Bill for this Act was introduced by the Provincial Treasurer

(Hon. C. M. Fines) on 12th March, the motion for first reading being preceded by a Message of recommendation from the Lieutenant-Governor in accordance with Saskatchewan's Money-Bill procedure which by-passes the Resolution stage.

Salient features of the Act follow:

(1) *Contributions* (Sections 5-8).

(a) In the case of private members, 5 per cent. of all amounts payable by way of sessional indemnity, including the extra allowances payable to the Speaker, Deputy Speaker and Leader of the Opposition, but excluding statutory allowances for travelling expenses;

(b) in the case of Ministers of the Crown, 5 per cent. of sessional indemnities and of salaries received as Members of the Executive Council;

(c) in respect of past service, 5 per cent. of the indemnity received during each session of membership, plus interest at 4 per cent., payable in lump sum or by instalments over a maximum period of five years. Members are given three years in which to elect whether or not to contribute in respect of past membership.

(2) *Special Account* (Section 3).

Contributions are to be credited to a special account in the consolidated fund to be known as the "Members of the Legislative Assembly Superannuation Account", to which also shall be credited annually matching contributions from the Treasury together with an "amount representing interest on the balance from time to time at the credit of the account", the rate of interest to be determined by the Lieutenant-Governor in Council (Section 18).

(3) *Allowances* (Sections 9-17).

A person who has contributed for at least ten regular Sessions becomes eligible for payment of an annual allowance during his lifetime, after cessation of membership, on attaining age 55. The allowance (payable by monthly instalments in arrears) is computed by taking one-fiftieth of the average yearly indemnity a member received during the five years of highest indemnity, and multiplying the quotient by the number of regular Sessions in respect of which the member has contributed. The maximum annual allowance is \$3,000 (Section 10).

Provision is made for lump sum repayment of all contributions made in event of death or cessation of membership before becoming eligible for an annual allowance (Section 14), and for payment to the widow of a deceased ex-member of one-half the annual allowance for which he had qualified, payment to continue during her lifetime or until she remarries (Section 13).

(Contributed by the Clerk of the Legislative Assembly.)

Saskatchewan (Increased Sessional Indemnities to Members).—The Legislative Assembly Act, as amended by Chapter 3 of the Statutes of Saskatchewan, 1954, provided for an increase in the sessional indemnities payable to Members from \$3,000 to \$3,600, of which \$1,200 is considered as expenses and thus free of income tax. The indemnity of the three members representing the large, sparsely settled, northern constituencies of Cumberland, Meadow Lake and Athabaska, coverage of which entails much travel by aeroplane, is increased from \$3,500 to \$4,100, of which \$1,350 is tax free. The Act, made retroactive to 1st January, 1954, applied to payments made to Members at the last (1954) Session of the Assembly.

(Contributed by the Clerk of the Legislative Assembly.)

Victoria (Members' Salaries and Allowances).—The Parlia-

mentary Salaries and Allowances Act, 1954 (No. 5808) altered the basis of the remuneration of Members of the Victorian Parliament. Hitherto all Members of both Houses received the same amount as "remuneration of expenses" with the exception that Members representing Country electorates received a small additional amount as an allowance. Members also received a small stamp allowance—a little more for Country Members than for Metropolitan Members. A Member attaining Ministerial rank or being appointed President, Speaker or Chairman of Committees ceased to receive his "reimbursement of expenses" but was paid a salary instead.

This Act, however, established an entirely new basis of remuneration due to the fact that the expenses of some Members were necessarily greater than those of other Members. It provided that all Members, whether Metropolitan or Country, should receive the same basic salary, but that in addition there should be paid to each an expense allowance varying according to his electorate. For this purpose the electorates were graded as Metropolitan, Urban, Inner Country and outer Country, with, as would be expected, the Outer Country carrying the highest allowance. Payment of the stamp allowance was to cease. It provided, further, that Ministers of the Crown, the President, the Speaker and the Chairman of Committees should receive specified salaries in addition to their Members' basic salary and electorate allowance.

A further provision was that Members representing Urban, Inner Country and Outer Country electorates should receive a living away from home allowance of £3 3s. for each day they attended a sitting of Parliament.

(Contributed by the Clerk of the Legislative Council.)

Western Australia (Parliamentary Superannuation Fund).—The Parliamentary Superannuation Act, 1948-1953, which deals with pensions payable to Members of both Houses, has been amended to increase to £78 per annum the contributions of members, and to increase to £6,240 the amount contributed annually to the Fund by the Treasury. The amendment also increases by fifty per cent. the various pensions payable to members. These new provisions are to come into force as from 1st January, 1955.

(Contributed by the Clerk of the Legislative Assembly.)

India: Central Legislature (Salaries and Allowances of Members).—Provision was made by the Salaries and Allowances of Members of Parliament Act, 1954 (No. 30 of 1954, dated 22nd May), for a monthly salary of Rs. 400 to all Members, plus an allowance of Rs. 21 per day during any period of residence on duty (s. 3), or in intervals between sessions provided that such intervals did not exceed seven days (s. 7). Travelling allowances were also laid down (a) for all journeys, performed for the purpose of attending a session of Parliament or a meeting of a Committee, between a Member's residence and the place of meeting (s. 4), (b) for journeys performed

during the course of a session of Parliament or a sitting of a committee, provided that (i) the absence does not extend to more than 15 days and (ii) that the travelling allowance does not exceed the total amount of daily allowances which would have been permissible under s. 3 had the Member not absented himself (s. 5). A free non-transferable second-class pass was provided for each Member for all rail-days in India (s. 6).

Under s. 8 and 9 a Joint Committee of both Houses was set up with power to make rules connected with the allocation of travelling allowance and also the provision of medical, housing, telephone and postal facilities for Members, such rules being confirmed by the Chairman of the Council of States and the Speaker of the Lok Sabha.

Rhodesia and Nyasaland: Federal Assembly (Members' Salaries, Allowances and Travelling Facilities).—(1) *Salaries and Allowances:* Article 21 of the Constitution of the Federation of Rhodesia and Nyasaland provides

the remuneration and allowances, if any, to be paid to the Speaker or members shall be such as the Federal Legislature may by law prescribe.

The Federal Assembly met for the first time on the 2nd February, 1954, and two days later agreed to a motion for setting up a Select Committee

to investigate and report upon the remuneration, allowances, travelling facilities and other similar privileges of Mr. Speaker and Members of the Federal Assembly.

(1954 Votes, 13.)

The Select Committee submitted its report on the 18th February, 1954 (*ibid.*, 45). The report was considered by the House on the 1st March, 1954, and adopted with the exception of the part which dealt with remuneration and allowances, which was referred to the government for consideration (*ibid.*, 54). This was done to enable a bill to be drafted to give effect to the recommendations of the Select Committee, with certain modifications suggested during the course of the debate on the Select Committee report.

On the 8th March, 1954, the Federal Assembly (Salaries and Allowances) Bill was presented and read the first time (*ibid.*, 95). The bill incorporated the recommendations of the Select Committee, with the two exceptions noted below, and was then passed with a minor amendment to clear up an ambiguity. The bill received the Royal Assent and became law as the Federal Assembly (Salaries and Allowances) Act, 1954.

Under the provisions of that Act, Mr. Speaker (who is not a member) receives a salary of £1750 p.a. with an entertainment allowance (which is tax free) of £500 p.a. The Deputy Speaker receives a salary of £350 p.a. and the Chairman of the Standing Committee—African Affairs Board £150 p.a., in both cases in addition to their salaries and allowances as Members.

Every Member receives a salary of £1,200 p.a. plus a "Con-

stituency" allowance (tax free), which varies from £50 p.a. in the case of a constituency less than 5,000 square miles in area to £200 in the case of one exceeding 22,500 square miles. The Select Committee had recommended a higher scale of £250 p.a. in the case of a constituency larger than 35,000 square miles.

For the purposes of "Constituency" allowances, the African Members, the European Members charged with special responsibilities for African interests and the elected Members for Nyasaland, are regarded as representing constituencies which exceed 22,500 square miles in area (s. 5(2), Act 14, 1954).

In addition, Members who reside more than 25 miles from the seat of Parliament receive an allowance (tax free) of £250 p.a.

All salaries are taxable, while allowances are exempt from income tax (*ibid.*, s. 7).

Members attending a Select or other Committee when the House is not in session, receive a subsistence allowance (tax free) of three guineas per day for each day they are necessarily absent from their residences (*ibid.*, s. 6).

One departure from the Select Committee recommendations, relating to constituency allowances, has been noted. The second departure was the omission from the bill of a recommendation that there should be a penalty of five guineas a day for non-attendance. During the debate on the report it became clear that the provision of such a penalty was not generally favoured (1954 *Hans.*, 450-93).

(2) *Travelling Facilities and Other Privileges*: Mr. Speaker and Members are allowed free air travel between their places of residence or constituency and the seat of Parliament to attend sittings of Parliament or any Committee (1954 Votes, 47). In addition, they are allowed one free air journey to any other place in the Federation and return once in each financial year, and are allowed one free journey by air or rail (as circumstances require) for their wives and children to attend Parliament once a session. A sitting of Parliament after an adjournment of more than one month is regarded as a new session for this purpose.

When Mr. Speaker and Members reside more than ten miles from the nearest convenient airport, railway or bus station, and use their own cars to proceed to such airport or station in order to travel to a sitting of Parliament or a Committee, they are paid a mileage allowance of one shilling a mile for the use of their cars. If they are obliged to hire transport for such journeys, they are refunded the hire charges. In cases where they reside in an area which is not served by public transport or where, in the opinion of Mr. Speaker, existing transport services are not convenient, the mileage allowance is payable for the journey from residence to the seat of Parliament.

Free rail and road motor service travel is accorded to Mr. Speaker and Members for all journeys performed on "state or political" business (*ibid.*, 48).

During sessions the correspondence of members and their telegrams are sent free of charge provided they relate to the business of the House. Members are also permitted free telephone calls within the Federation, on Parliamentary business, during sessions, provided such calls are made from the House.

(Contributed by the Clerk of the Federal Assembly.)

Trinidad and Tobago (Ministers' and Members' Salaries).—By the provisions of the Executive Council and Legislative Council (Emoluments) Ordinance, 1954 (No. 41 of 1954), the following scale of ministerial salaries was laid down: Ministers and Acting Ministers, \$11,520 p.a.; other members of the Executive Council, \$6,960. These salaries were defined as being in lieu of any salary to which the person concerned would be entitled by virtue of being a member of the Legislative Council. In addition, a salary of \$5,040 p.a. was prescribed for Members of the Legislative Council, and the provisions of the Trinidad and Tobago (Constitution) Order in Council, 1950 (see TABLE, Vol. XIX, p. 106) were amended by increasing the Speaker's salary from \$5,760 to \$7,200 and the Deputy Speaker's allowance (in addition to his salary as a Member) from \$960 to \$1,080.

XXII. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1953-54

The following Index to some points of Parliamentary procedure, as well as Rulings by the Chair, given in the House of Commons during the Third Session of the Fortieth Parliament of the United Kingdom of Great Britain and Northern Ireland (2 and 3 Eliz. II), is taken from Volumes 520-533 of the Commons *Hansard*, 5th series, covering the period 3rd November, 1953, to 25th November, 1954.

The respective volume and column reference number is given against each item, the figures in square brackets representing the number of the volume. The references marked by an asterisk are rulings given in Committee of the whole House.

Minor points of procedure, or points to which reference is continually made (*e.g.*, that future legislation should not be discussed on a motion for the adjournment, or that a Member cannot speak twice at the Report stage of a Bill), are not included, nor are isolated

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remarks by the Chair or Rulings having relevance solely to the text of the individual Bills. It must be remembered that this is an index, and that full reference to the text itself is generally advisable.

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- Kenya, prohibited areas, bombing of (no new matter) [520] 1725-9
- Members' Expenses, Government decision on (not urgent) [529] 601
- payment to members of Forces for killing Mau Mau suspects (not all information yet available) [521] 772-5
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XXIII. EXPRESSIONS IN PARLIAMENT, 1954

The following is a list of examples occurring in 1954 of expressions which have been allowed and disallowed in debate. Expressions in languages other than English are translated where this may be succinctly done; in other instances the vernacular expression is shown, with a translation appended. The Editors have excluded a number of instances submitted to them where an expression has been disallowed, not because it is intrinsically objectionable, but because of its implications.

Allowed

- “be honest”. (84 *Union Assem. Hans.*, 2155.)
- “bluff”, “bluffing”. (*Indian L.S. Debates*, 20th December; 12 *Madras L.A. Hans.*, 223, 640.)
- “cowed”. (*W. Bengal L.A. Proc.*, 62.)
- “clique”. (149 *Madras L.A. Hans.*, 123.)
- “dogs bark but the caravan passes on”. (9 *W. Bengal L.A. Proc.*, 784.)
- “Edwardian”. (527 *Com. Hans.*, 557.)
- “hostile” (referring to a question). (521 *Com. Hans.*, 2167.)
- “incorrect”. (129 *Uttar Pradesh L.A. Proc.*, 279.)

- “kollai” (meaning “loot”) (in so far as not attributed to a Minister). (12 *Madras L.A. Hans.*, 738.)
 “rubber stamp” (applied to a Member). (527 *Com Hans.*, 724.)
 “smart alec”. (530 *Com. Hans.*, 274.)
 “wrong”. (129 *Uttar Pradesh L.A. Proc.*, 279.)

Disallowed

- “baseless”. (124 *Uttar Pradesh L.A. Proc.*, 213; 139 *ibid.*, 42.)
 “bluebird”. (303 *N.Z. Hans.*, 137.)
 “bribe, it has become the trade and profession of Members to take”. (4 *Bihar L.A. Hans.*, No. 16, p. 36.)
 “calculated, wilful, malicious and deliberate act”. (1953-54 *Trinidad Hans.*, 1661.)
 “chaps, these” (referring to other Members). (1954 *Fed. Rhod. and Nyas. Hans.*, 435.)
 “coward”. (84 *Union Assem. Hans.*, 849.)
 “cowardly”. (85 *Union Assem. Hans.*, 5113; 1954 *S. Aust. L.A. Hans.*, 1337.)
 “corruption”. (*Indian L.S. Debates*, 1st September.)
 “Daniel come to judgment” (applied ironically to Chair). (*Indian L.S. Debates*, 25th March.)
 “deceiving”. (303 *N.Z. Hans.*, 673; 130 *Uttar Pradesh L.A. Proc.*, 616.)
 “definite, deliberate mis-statements”. (303 *N.Z. Hans.*, 53.)
 “deliberately concealed”. (527 *Com Hans.*, 307.)
 “delinquents, Members themselves may have been”. (304 *N.Z. Hans.*, 2021.)
 “designed to mislead”. (527 *Com. Hans.*, 300.)
 “dirty accusations”. (303 *N.Z. Hans.*, 323.)
 “dirty remark”. (84 *Union Assem. Hans.*, 1089.)
 “disgusting, completely”. (1954 *S. Aust. L.A. Hans.*, 980.)
 “dishonest”. (524 *Com. Hans.*, 1914; 525 *ibid.*, 2007; 303 *N.Z. Hans.*, 853; 1953-54 *Trinidad Hans.*, 1656.)
 “distortions”. (84 *Union Assem. Hans.*, 454.)
 “downright untruth”. (529 *Com. Hans.*, 1463.)
 “erroneous” (applied to ministerial statements). (4 *Bihar L.A. Hans.*, No. 32, p. 11.)
 “fabrication”. (24 *Bombay L.A. Hans.*, 1185-6.)
 “false statements”. (4 *Bihar L.A. Hans.*, No. 32, p. 18.)
 “foolish fellow”. (25 *Bombay L.A. Hans.*, 190.)
 “foul tongue”. (*W. Nigerian Hans.*, 2nd Sess., p. 72.)
 “hoodwinking or duping”. (4 *Bihar L.A. Hans.*, No. 32, p. 9.)
 “hypocrite”. (303 *N.Z. Hans.*, 874.)
 “immoral”, “immoral motives”. (1954 *S. Aust. L.A. Hans.*, 1339; 4 *Bihar L.A. Hans.*, 22nd March.)
 “incorrect, you know that is”. (303 *N.Z. Hans.*, 169, 489.)
 “insult”. (4 *Bihar L.A. Hans.*, No. 32, p. 9.)

- “invidious distinctions”. (4 *Bihar L.A. Hans.*, No. 35, p. 10.)
- “jobbery, political”. (*W. Nigeria Hans.*, 2nd Sess., p. 19.)
- “Kolaikara Sattasabhai” (“murderous Assembly”). (18 *Madras L.A. Hans.*, No. 5, p. 56.)
- “lie”. (525 *Com. Hans.*, 1223; 303) *N.Z. Hans.*, 727, 728, 729; 11 *Madras L.A. Hans.*, 405; *W. Nigerian Hans.*, 2nd Sess., p. 108.)
- “member would like to see the workers on the bread line all the time”. (1954 *S. Aust. L.A. Hans.*, 1731.)
- “misled us deliberately”. (84 *Union Assem.*, 1992.)
- “most deceitful man in the House”. (303 *N.Z. Hans.*, 674.)
- “mulish tactics”. (125 *Uttar Pradesh L.A. Proc.*, 213.)
- “nefarious”. (84 *Union Assem. Hans.*, 545.)
- “not game”. (303 *N.Z. Hans.*, 680, 821.)
- “not true”. (303 *N.Z. Hans.*, 59, 60, 869.)
- “one-man tribunal” (casting aspersions on a High Court Judge). (*Indian L.S. Debates*, 9th March.)
- “owl”. (4 *Bihar L.A. Hans.*, 16th March.)
- “renegade”. (85 *Union Assem. Hans.*, 3880.)
- “shame”. (*W. Nigerian Hans.*, 2nd Sess., p. 52.)
- “stolen”. (303 *N.Z. Hans.*, 339.)
- “stupid” (applied to a Member). (25 *Bombay L.A. Hans.*, 190.)
- “sucking the bones of the poor”. (130 *Uttar Pradesh L.A. Proc.*, 192.)
- “thief”. (127 *Uttar Pradesh L.A. Proc.*, 252.)
- “throw him out by the neck”. (131 *Uttar Pradesh L.A. Proc.*, 535-6.)
- “twisting, good at”. (1954 *S. Rhod. Hans.*, 970.)
- “untrue”. (303 *N.Z. Hans.*, 727, 728, 729, 784; 304 *ibid.*, 1599; 86 *Union Assem. Hans.*, 6274.)
- “useless talk”. (136 *Uttar Pradesh L.A. Proc.*, 148.)
- “wicked act”. (*W. Nigerian Hans.*, 2nd Sess., p. 52.)
- “wrong, Member knows his statements to be completely”. (303 *N.Z. Hans.*, 540.)

Borderline

- “untrue”. (252 *Com. Hans.*, 1223.)
- “stooge” (should be withdrawn if offensively meant). (528 *Com. Hans.*, 882.)

XXIV. REVIEWS

The Clerical Organization of the House of Commons, 1661-1850, by Orlo Cyprian Williams, C.B., M.C., D.C.L. (Geoffrey Cumberlege: Oxford University Press. 35s.)

In this book the organisation of the Clerk's Department is traced from the appointment of William Goldesbrough senior to the resignation of John Henry Ley in 1850.

In 1661, the Clerk Assistant was the Clerk's only publicly recognised assistant, such other persons as were employed in the clerky offices of the House of Commons being referred to as the Clerk's "servants". The beginning of a regular establishment was made by Paul Jodrell (1683-1726), a solicitor with an orderly mind and a flair for administration. He appointed "four under-clerks without doors". The minute book of James Courthope, which Dr. Williams unearthed in the course of his researches for the purpose of this book, and which is a unique parliamentary "find", conclusively proves that these four clerks attended committees on public and private bills and public matters. From these appointments sprang the modern Committee Office.

Nicolas Harding, who became Clerk in 1726, sold his place in 1747 and went into politics, becoming Secretary to the Treasury in 1752. Dr. Williams advances the theory that it was Harding's experience at the Table which led him to employ a Commons' clerk to look after Treasury business in the House instead of seconding a Treasury clerk to the staff of the Clerk of the House, which had been the practice for nearly twenty years. Certain it is that from 1757 a Commons' clerk became (and still is) responsible for "preparing the bills for raising the supplies". In 1774 the office of Clerk of the Fees was created, and from that time it was this officer who conducted the parliamentary business of the Treasury and subsequently of other public departments. It is interesting to note that until 1833 the Treasury always regarded this individual as their servant. During this period the Fees Office developed into the Public Bill Office, whose principal clerk still bears the title of Clerk of the Fees.

It was to Nicolas Harding that the Journal Office also officially owes its origin. Paul Jodrell had employed at his own expense a man to keep in order the enormous mass of papers deposited (literally) on the Table. Many of these were lost before they got attached to the Journal, and Zachary Hamlyn was employed to bring some order into this chaos. Under Harding, however, the House decided to print its manuscript Journals and under his successor, Jeremiah Dyson (1748-1762), this task was completed, and the practice of printing each Session's Journal was begun. This work must have

entailed some office organisation, and in 1748 the title "Clerk of the Journals" appeared for the first time.

So by 1768, when Hatsell became Clerk, the skeleton of our modern organisation was in existence. Between 1768 and 1850 there were only two Clerks of the House, Hatsell (1768-1820) and John Henry Ley (1820-1850). From 1797 to his death Hatsell performed his duties by deputy in the person of John Ley, uncle to John Henry, and such a grip did the latter family (who intermarried with the Hatsells) get of the offices of the House of Commons that by 1850 all three Clerks at the Table were Leys!

During these long reigns the offices of the Clerk were developing and changing to meet the changed conditions in the House. With loving care Dr. Williams has reconstructed their history. Though necessarily giving much detail, Dr. Williams has never allowed his book to founder under the load. On the contrary the text is fascinating reading. Much new light is thrown on parliamentary agency, and "human interest" is not lacking from the tale of poor Samuel Gunnell and his woes from which he was only extricated by the intervention of the Speaker and the Prime Minister of England. The Appendices, though of more limited appeal, are full of interest. Since retiring Dr. Williams has devoted his leisure to elucidating the history of the clerks. He has accumulated a mass of evidence which he has handled in the manner of a professional historian. The book will be of very wide interest, since the main troubles of the eighteenth- and nineteenth-century Clerks of the House of Commons—small, ill-paid staffs and rapid changes in the composition and ways of thought of the House they served—are not unknown to many clerks of newer Assemblies today.

(Contributed by the Clerk of the House of Commons.)

Parliamentary Procedure in South Africa, by Ralph Kilpin, LL.D., formerly Clerk of the House of Assembly. (3rd Edition: Juta and Co., Ltd., Cape Town. 42s.)

The first and second Editions of this book were reviewed in Volumes XIV (p. 271) and XVIII (p. 307) of THE TABLE. The structure of the present edition is unchanged, but the precedents quoted in it have been brought up to the end of the 1954 Session. This has involved the incorporation of the procedural changes consequent upon the major revision of the Standing Orders of the House of Assembly which occurred in 1954 and is described in detail elsewhere in this Volume (see p. 158). Apart from the numerous amendments to the text, a most useful summary of these changes is provided in a new Appendix. Of particular interest is the disappearance of the provision, formerly enshrined in the old S.O. No. 286, that in all cases not provided for, resort was to be had to the rules and practice of the House of Commons as laid down in the 11th (1906) edition of Erskine May; by the terms of the new S.O. 293, the onus of decision

in all cases is laid directly on Mr. Speaker, who is enjoined to take for his guide such Parliamentary precedents of other countries as can be applied.

Mention is also made of the recent judicial decisions which arose from the Separate Representation of Voters Act, 1951, and the High Court of Parliament Act, 1952, with the substance of which readers of THE TABLE will be familiar (see Vol. XX, pp. 149-155; Vol. XXI, pp. 91-104). These events have necessitated the addition of much new matter, in particular to the Chapters dealing with Public Bill Procedure and Joint Committees.

It is heartening to observe, from the additions which have been made to the final chapter ("Mr. Speaker"), that the dignity of the Chair seems to have suffered little from the acute political controversies of recent years. The tradition of uncontested elections for the Speaker's seat, which was firmly established in the early days of the old Cape House but sadly interrupted in 1915 and subsequent years, has recently been revived in 1951 and put into practice at the general election of 1953. An alteration was moreover made in 1954 to the official table of precedence whereby the President of the Senate and the Speaker, who before that time had ranked after Ministers, representatives of foreign states and High Commissioners, were given higher rank on "Parliamentary occasions".

The numerous amendments and additions in this edition have been made in such a way as to preserve that unique combination of lightness of touch and comprehensive exactness which distinguishes this work from most other parliamentary textbooks. It is sad to think that this is the last edition which will be compiled personally by the author, whose death is recorded on another page; we have no doubt, however, that willing hands will be found to bring out further editions when the necessity arises, and that in years to come the same measure of authoritativeness will be accorded in the Parliament of the Union to "Kilpin" as is enjoyed by "May" in the Parliament of the United Kingdom.

XXV. THE LIBRARY OF THE CLERK OF THE HOUSE

The following books, recently published, deal with parliamentary and constitutional matters and may be of interest to Members:

Political Parties: their organisation and activity in the modern state. By *Maurice Duverger*. (Translated by Barbara and Robert North.) Methuen, London. 30s.

- Politics in Post-war France: Parties and the Constitution in the Fourth Republic. By *Philip Williams*. Longmans, London. 35s.
- The Development of Local Government [in the U.K.]. By *William A. Robson*. (Third edition.) Allen and Unwin, London. 25s.
- British Political Parties. By *R. T. McKenzie*. Heinemann, London. 30s.
- The Foundations of Local Self-government in India, Pakistan and Burma. By *Hugh Tinker*. Athlone Press. 35s.
- Voting in Democracies: a study of majority and proportional electoral systems. By *Enid Laker* and *James D. Lambert*. Faber and Faber, London. 25s.
- The British Approach to Politics. By *Michael Stewart*. Allen and Unwin, London. 16s.
- Australian Government and Politics. By *J. D. B. Miller*. Duckworth, London. 15s.
- Government and Parliament: a survey from the inside. By the *Rt. Hon. Herbert Morrison*. Oxford University Press. 21s.
- American State Legislatures: a report of the Committee on American Legislatures, American Political Science Association. Edited by *Belle Zeller*. Crowell, New York. 25s.
- Democracy in Alberta: the theory and practice of a quasi-party system. By *C. B. Macpherson*. Toronto University Press and Oxford University Press. 45s.

XXVI. RULES AND LIST OF MEMBERS

The Society of Clerks-at-the-Table in Commonwealth Parliaments

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1. The name of the Society is "The Society of Clerks-at-the-Table in Commonwealth Parliaments";

Membership

2. Any Parliamentary Official having such duties in any Legislature of the Commonwealth as those of Clerk, Clerk-Assistant, Secretary, Assistant-Secretary, Serjeant-at-Arms, Assistant-Serjeant, Gentleman Usher of the Black Rod or Yeoman Usher, or any such Official retired, is eligible for membership of the Society upon payment of the annual subscription.

Objects

3 (a). The objects of the Society are:

- (i) To provide a means by which the Parliamentary practice of the various Legislative Chambers of the Commonwealth may be made more accessible to Clerks-at-the-Table, or those having similar duties, in any such legislature in the exercise of their professional duties;
- (ii) to foster among Officers of Parliament a mutual interest in their duties, rights and privileges;
- (iii) to publish annually a JOURNAL containing articles (supplied by or through the Clerk or Secretary of any such Legislature to the Joint-Editors) upon Parliamentary procedure, privilege and constitutional law in its relation to Parliament;

3 (b). It shall not, however, be an object of the Society, either through its JOURNAL or otherwise, to lay down any particular principle of Parliamentary procedure or constitutional law for general application; but rather to give, in the JOURNAL, information upon those subjects, which any Member may make use of, or not, as he may think fit.

Subscription

4. The annual subscription of each Member shall be 25s. (payable in advance).

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5. A list of Members (with official designation and address) shall be published in each issue of the JOURNAL.

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6. In order better to acquaint the Members with one another and in view of the difficulty in calling a meeting of the Society on account of the great distances which separate Members, there shall be published in the JOURNAL from time to time, as space permits, a short biographical record of every Member. Details of changes or additions should be sent as soon as possible to the Joint-Editors.

Journal

7. One copy of every publication of the JOURNAL shall be issued free to each Member. The cost of any additional copies supplied to him or any other person shall be 35s. a copy, post free.

Joint-Editors, Secretary and Treasurer

8. The Officials of the Society, as from January, 1953, shall be the two Joint-Editors (appointed, one by the Clerk of the Parliaments, House of Lords, and one by the Clerk of the House of

Commons, in London). One of the Joint-Editors shall also be Secretary of the Society, and the other Joint-Editor shall be Treasurer of the Society. An annual salary of £150 shall be paid to each Official of the Society acting as Secretary or Treasurer.

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9. Authority is given to the Treasurer of the Society to open a banking account in the name of the Society as from the date aforesaid, and to operate upon it, under his signature; and a statement of account, duly audited, and countersigned by the Clerks of the two Houses of Parliament in that part of the Commonwealth in which the JOURNAL is printed, shall be circulated annually to the Members.

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XXVII. MEMBERS' RECORDS OF SERVICE

Note.—*b.* = born; *ed.* = educated; *m.* = married; *s.* = son(s); *d.* = daughter(s).

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 TABLE.

Davis, Ernest Howard.—Clerk of the Gibraltar Legislative Council; *b.* 1918; *ed.* Christian Brothers, Gibraltar, and College of St. Joseph, Blackpool; B.A. (1st Cl. Hons.) (Lond.); General Clerical Staff, Gibraltar, 1936; Assistant Secretary, 1946; appointed to present office, 1950; seconded Colonial Office, 1954-55; Chief Assistant Secretary, 1955.

Howe-Ely, Lawrence James.—Clerk-Assistant of the Legislative Assembly, Southern Rhodesia; *b.* 1914; *ed.* Milton School, Bulawayo; Committee Clerk, 1937; Serjeant-at-Arms, 1950; Second Clerk Assistant, 1954; appointed to present post, 1955

Sackey, J. H.—Assistant Clerk to the Legislative Assembly, Gold Coast; *b.* 14th January, 1925, at Cape Coast; *ed.* Adisadel College and University College, Gold Coast; B.A. (Hons.) London; for six years a Classics Master at Adisadel College and then at Mfantsipim School, Cape Coast; appointed to present position, January, 1955.

Scarlett, H. St. P.—Serjeant-at-Arms and Clerk of Select Committees, Legislative Assembly of New South Wales; *b.* 29th March, 1914, Grafton, N.S.W.; *m.* 1943, 1 *s.*, 1 *d.*; Clerk in Department of Attorney-General and of Justice, 1930; joined Staff of Legislative Assembly, 1933; active service with 2nd A.I.F. 1940-1945, commissioned Lieut. R.A.A.; Clerk of Papers, 1945; First Clerk and Clerk of Bills, 1947; appointed to present office, August, 1947.

Sequeira, Aloysius, M.B.E.—Clerk of the Aden Legislative Council; *b.* 1907; *ed.* in India; entered Aden C.S., 1930; supvsr., pol. sect., 1938; off. supt., Secretariat, 1941; M.B.E., 1946; asst. sec., 1946, Colonial Service Second Training Course, London, 1947-48; course in Parliamentary Practice, House of Commons, Westminster, 1954.

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