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

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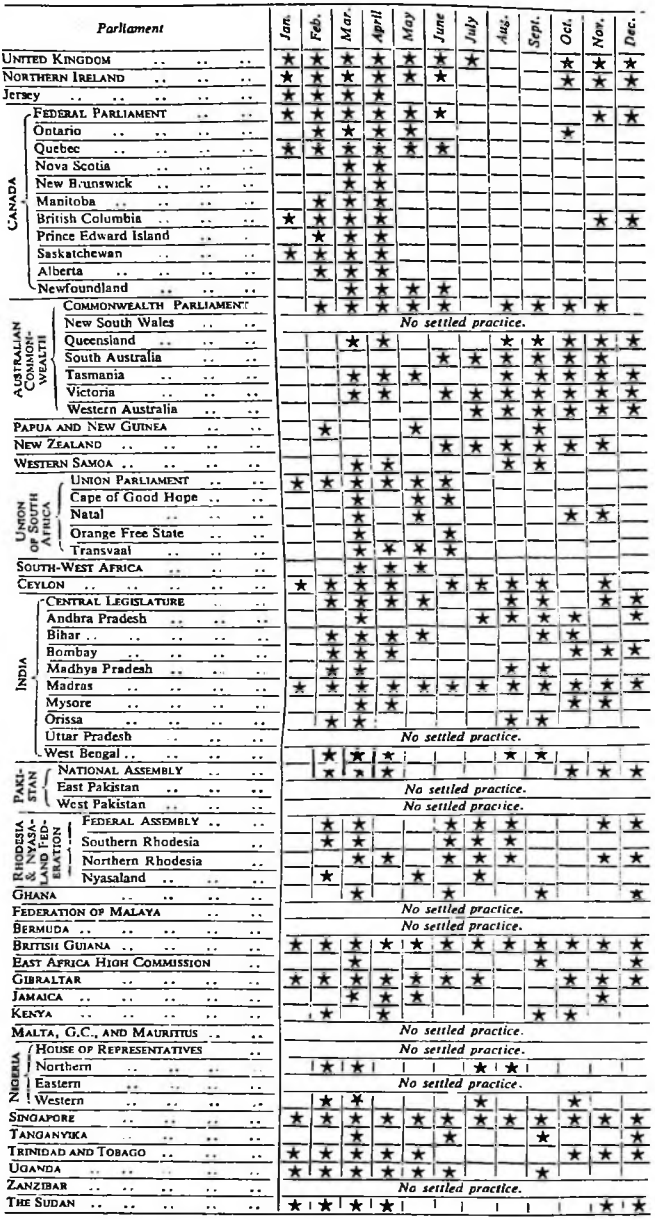

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THE JOURNAL OF

THE SOCIETY OF CLERKS-AT-THE-TABLE

IN COMMONWEALTH PARLIAMENTS

I. EDITORIAL

Introduction to Volume XXV.—In recent Volumes several Articles have appeared on the subject of Maces, either generally or in regard to presentations made to particular Legislative Houses. For the first Article in this Volume we are greatly indebted to Mr. E. Grant-Dalton, whose researches have produced a comprehensive account not only of the historical development of the use of Maces generally, but also an account of several interesting historical incidents in which Maces have been involved. In another Article (XII), the Clerk of the House of Assembly of South Australia has described the presentation of a Mace to that House in commemoration of the centenary of the inauguration of responsible government in South Australia.

Articles II and III have been compiled from information which has been provided by members of the Society in answers to previous Questionnaires, and deal with joint sittings and the right of Ministers to sit and speak in both Houses. As in regard to the similar Article which appeared in Volume XXIV, we have had the advantage of being able to use draft Articles on these subjects by the Honorary Life President, to which it was only necessary to make such alterations as resulted from new information and developments.

One of the major legislative items in a fairly crowded Session of the House of Commons was a measure, which had been foreshadowed for some time, to clear up the confusion resulting from the numerous provisions, originating from different periods, regarding the disqualification of office holders. The Bill in question had been drafted by the Government in a previous Session, but was radically recast by the Select Committee to which it was referred, the Committee's recommendations finding favour both with House and Government. We are grateful to Mr. M. H. Lawrence, the Clerk of the Select Committee, for the summary contained in Article V both of the provisions of the Act and of the way in which they were evolved.

Another Select Committee of the House of Commons considered during 1956 a matter which, while not involving legislation, nevertheless ventilated an important practical issue of great personal interest to Members of Parliament in this and other Legislatures, namely, the possible infringement of Parliament's status as the main forum of public debate by advance discussion upon the radio of matters due to be debated by it. There had existed a rule, agreed to by both Government and Official Opposition, that the B.B.C. should not permit any matter to be discussed in its programmes which was due to be debated in Parliament within fourteen days of the proposed broadcast. Many Private Members found this rule to be unduly restrictive, and the Select Committee which was set up as a result of their representations recommended a considerable relaxation, which the Government agreed to adopt experimentally. A description of these decisions is given in Article VI by Mr. E. S. Taylor, the Clerk of the Select Committee on Broadcasting (Anticipation of Debates).

Readers will remember that much space was taken up in Volume XXIV by Articles on the numerous instances of disqualification of Members of the House of Commons after the general election of 1955 owing to the inadvertent holding by them of Offices of Profit. Similar troubles were experienced in 1955 and 1956 by Members of both Houses of the Northern Ireland Parliament, and they are described in an Article in this Volume by the Clerk of the Parliaments of Northern Ireland.

Events both on a national and an international scale had their effect during 1956 upon the tempers of the Members of more than one Parliament. An incident in the House of Commons which led Mr. Speaker, for the first time since 1936, to suspend the sitting owing to the outbreak of grave disorder is recorded in the Miscellaneous Notes, as is also the refusal, in the face of fierce hostility, of the Speaker of the East Pakistan Assembly to permit the presentation of the Budget on the ground that insufficient time was to be allowed for its discussion. Fuller treatment is given in an Article by Mr. J. G. Dubroy to the prolonged and acrimonious wrangles between the Chair and certain Members of the Canadian House of Commons which arose during the proceedings upon a highly contested and disputatious measure, the Pipeline Bill.

Alterations were made during 1956 in several Legislatures to the scales of salaries and allowances of Ministers and Members. Most of these are described in the appropriate section of the Miscellaneous Notes, but the most extensive of them is set forth separately in Article X by the Clerk of the Australian House of Representatives. A new pension scheme for Members of the South African Parliament is also described in Article XV by Mr. J. M. Hugo.

Mr. L. C. Bowen describes in Article XI the setting up of a Joint Committee by both Houses of the Australian Commonwealth Parliament to review certain constitutional matters of particular interest to

individual States, and the resulting repercussions in the Parliament of New South Wales. Constitutional developments also took place in 1956 in New Zealand, and we are indebted to Mr. K. J. Scott, Associate Professor of Political Science at the Victoria University College in Wellington, for an Article which weighs certain of the conflicting considerations in favour of, or in opposition to, the existence of "entrenched provisions".

The Clerk of the South African House of Assembly has once more permitted us to make use of his Annual Report to the Members of his House upon precedents and unusual points of procedure, to which he has, on this occasion, added a general note on the joint sittings which have taken place since the inauguration of the Union.

The electoral and political map of India was completely redrawn during 1956, and the States Reorganisation Act, which was the instrument by which the redrawing was effected, is described in detail by Mr. S. L. Shakdher. The disappearance of some States and the emergence of new ones has inevitably had its effect upon the membership of the Society, but we are gratified to note that almost every State of the new dispensation is now represented in our membership.

The long deliberations of the Constituent Assembly of Pakistan resulted in 1956 in the inauguration of a definitive Constitution, and the setting up of a new National Assembly. The general provisions of this Constitution are described by Mr. M. B. Ahmad in Article XVII; and we are also indebted to the Joint Secretary to the East Pakistan Legislative Assembly for his description, in the following Article, of the consequential effects of the new Constitution upon his own Province.

Two Articles dealing with matters of ceremonial have been contributed to this Volume from the Federation of Rhodesia and Nyasaland. In the first of these, the Serjeant-at-Arms of the Federal Assembly describes the arrangements which were made for the lying-in-state in the Assembly Chamber of the body of Lord Llewellin, the Federation's first Governor-General, whose death in office was a severe blow to the Federation. In the other, the Speaker of the Northern Rhodesia Legislative Council describes the appearance of the rebuilt and refurnished Council Chamber which first came into use in 1956, and the ceremony which took place at its opening.

One aspect of the problems confronting plural societies is touched upon in Article XXI, where Mr. A. W. Purvis describes the method which has now been adopted of choosing African Members for the Kenya Legislative Council.

There are also the usual Articles comprising Applications of Privilege, Miscellaneous Notes on a variety of subjects, the List of Rulings made from the Chair of the House of Commons during the long Session 1955-56, and Expressions in Parliament in 1956.

In accordance with the undertaking which we made in Volume XXI (p. 13), we are publishing in this Volume a Consolidated Index

for this and all previous Volumes. It is a notorious fact that no two people have the same views upon the matter of indexing, and readers will find that the form of this Index does not correspond in every minute particular with that of the Consolidated Indices published by our predecessor in Volumes I-XX. A major change is in the matter of cross-references from country to subject. We have been able in the single-Volume indices of the last four years to include each item both under its subject-heading and the heading of its country of origin; for reasons of space this would not be possible in a consolidated index, nor was it previously attempted. On this occasion, however, we have evolved a compromise whereby, under each country, cross-references are made to headings only, without specifying the details of volume and page numbers; in this way we hope that it is possible for the reader in quest of information relating to a particular country to see at a glance whether it is worth his while to begin to search for that information among the subject-headings. We should be greatly obliged if during the course of the next four years Members would let us have their considered and frank opinion upon the value of the innovations which we have made.

Since no amendments have been made to the Rules of the Society during the past two years, we have saved space by omitting to reprint them in this volume; it would assist us if readers would let us know whether they regard this as a false economy.

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

O.B.E.—F. de L. Bois, Esq., M.A.(Oxon.), Greffier of the States and Law Draftsman, Jersey.

Mr. Speaker Williams.—Our congratulations are offered, on behalf of the Society, to Mr. T. Williams, O.B.E., E.D., formerly the Clerk of the Northern Rhodesia Legislative Council, on his appointment in 1956 to the Speakership of that House. It is a matter of great pride to the Society to have yet another Speaker among its Members, and we hope that Mr. Williams will continue for many years to occupy with distinction his honourable office.

The following description of the circumstances of Mr. Speaker Williams's appointment and the proceedings on his installation is written by the Clerk of the Southern Rhodesia Legislative Assembly, who at the time was performing the duties of Clerk in the Northern Rhodesia Legislative Council:

Under the provisions of the Northern Rhodesia (Legislative Council) Orders in Council 1945 to 1954 the Speaker of the Legislative Council of Northern Rhodesia is appointed by Instructions or Warrant under Her Majesty's Sign Manual and Signet or by the Governor

by Instrument under the Public Seal in pursuance of Her Majesty's instructions through a Secretary of State.

On Mr. Speaker Page's retirement during the Third Session of the Tenth Council in 1956, Mr. Thomas Williams, O.B.E., E.D., who since September, 1955, had been Clerk of the Legislative Council, was appointed as the new Speaker. The appointment was made on the 14th November, 1956, while the Council stood adjourned, so when the Legislative Council met on 27th November, the new Speaker entered the Chamber preceded by the Serjeant-at-Arms and Mace. His first duty was to swear in the Temporary Clerk of Council and the new Attorney-General (90 *Hans.*, c. 1).

The Chief Secretary then rose and informed the Council that Her Majesty had been graciously pleased to appoint Mr. Williams as Speaker, and on behalf of all Members, offered their sincere congratulations on his assuming the duties of that high office (*ibid.*, cc. 1-3).

Mr. John Roberts, Leader of the Unofficial Members, then paid his tribute to the integrity and impartiality of the new Speaker, referring to his earlier service in Northern Rhodesia, and was followed by Mr. Gaunt, an elected Member, who remarked on Mr. Williams's sound knowledge of the Standing Orders (*ibid.*, cc. 3-4).

In his reply to these tributes, Mr. Speaker Williams expressed his appreciation of the high honour conferred on him, confessing to a feeling of deep emotion and great humility. Pledging himself to serve the interests of the Council to the limit of his ability, he declared he could succeed in his task only with the support and goodwill of all Members. It was his intention, he stated, to ensure that the dignity of the Council was preserved.

Members would be interested to learn, he added, of the coincidence that in the fifth year of the reign of the first Queen Elizabeth, one Thomas Williams became the Speaker of the House of Commons. He, too, was interested mainly in education (which was the Speaker's professional background).

In view of the manner of his appointment, he said there was disappointment that Members would not have the opportunity of dragging him reluctantly to the Chair. Here again was another coincidence in that in 1680, Mr. Speaker William Williams was the first Speaker of the House of Commons to break from the tradition of a show of reluctance. He ended his acknowledgment with a fitting tribute to his predecessor in office, Sir Thomas Page, the first Speaker of the Council (*ibid.*, cc. 4-6).

This was not the first day of a new session, which was opened in June—the Council met on 27th November after an adjournment of several months. There was no opportunity of electing the new Speaker—he was Speaker when he entered the Chamber. The ceremony, however, was marked by a simple dignity befitting the occa-

sion and as much of the form and ceremony observed in the election of a new Speaker as it was considered proper to observe was used.

Acknowledgments to Contributors.—We have pleasure in acknowledging articles in this Volume from Mr. E. Grant-Dalton, M.A., Clerk-Assistant of the Federal Assembly of Rhodesia and Nyasaland; Mr. M. H. Lawrence and Mr. E. S. Taylor, Ph.D., Senior Clerks in the House of Commons; Major George Thomson, C.B.E., D.S.O., M.A., Clerk of the Parliaments of Northern Ireland; Mr. J. Gordon Dubroy, Second Clerk-Assistant of the House of Commons of Canada; Mr. B. R. Odgers, B.Com., Clerk-Assistant of the Senate of the Australian Commonwealth; Mr. A. A. Tregear, B.Com., A.I.C.A., Clerk of the House of Representatives of the Australian Commonwealth; Mr. L. C. Bowen, Clerk-Assistant of the Legislative Council of New South Wales; Mr. G. D. Combe, M.C., Clerk of the House of Assembly of South Australia; Mr. K. J. Scott, M.A., LL.B., D.P.A., Associate Professor of Political Science, Victoria University College, Wellington, N.Z.; Mr. J. M. Hugo, B.A., LL.B., J.P., Clerk of the House of Assembly of the Union of South Africa; Shri S. L. Shakdher, Joint Secretary, Lok Sabha Secretariat, India; Mr. M. B. Ahmad, M.A., LL.M., Secretary of the National Assembly of Pakistan; Mr. S. N. Azfar, B.Sc., Joint Secretary of the East Pakistan Assembly; Major L. E. Creasy, E.D., Serjeant-at-Arms of the Federal Assembly of Rhodesia and Nyasaland; Mr. T. Williams, O.B.E., E.D., Speaker of the Legislative Council of Northern Rhodesia; and Mr. A. W. Purvis, LL.B., Clerk of the Legislative Council of Kenya.

For paragraphs in Articles XXII ("Applications of Privilege") and XXIII ("Miscellaneous Notes") we are indebted to Mr. A. A. Tregear, B.Com., A.I.C.A., Clerk of the House of Representatives of the Australian Commonwealth; Brigadier J. R. Stevenson, C.B.E., D.S.O., E.D., Clerk of the Parliaments of New South Wales; Mr. I. J. Ball, A.A.S.A., A.C.I.S., Clerk of the Parliaments of South Australia; Mr. J. B. Roberts, M.B.E., Clerk of the Parliaments of Western Australia; Mr. J. M. Hugo, B.A., LL.B., J.P., Clerk of the House of Assembly of the Union of South Africa; Mr. B. Coswatte, Clerk-Assistant of the House of Representatives of Ceylon; Shri S. N. Mukerjee, Secretary of the Rajya Sabha of India; Shri M. N. Kaul, Secretary of the Lok Sabha of India; Shri G. V. Chowdary, Secretary to the Legislature of Andhra Pradesh; Shri S. A. Hyder, B.A., Additional Assistant Secretary to the Legislative Assembly of Bihar; Shri K. K. Rangole, Secretary of the Vidhan Sabha of Madhya Pradesh; Shri T. Hanumanthappa, B.A. (Hons.), B.L., Secretary to the Legislature of Madras; Shri G. S. Venkataramana Iyer, B.Sc., M.L., Secretary of the Legislature of Mysore; Shri D. N. Mithal, Secretary of the Legislative Assembly of Uttar Pradesh; Mr. S. M. Rahman, Secretary to the East Pakistan Assem-

bly; Colonel G. E. Wells, O.B.E., E.D., Clerk of the Federal Assembly of Rhodesia and Nyasaland; Mr. E. Grant-Dalton, M.A., Clerk-Assistant of the Federal Assembly of Rhodesia and Nyasaland; Mr. J. R. Franks, B.A., LL.B., Clerk of the Legislative Assembly of Southern Rhodesia; Mr. T. Williams, O.B.E., E.D., Speaker of the Legislative Council of Northern Rhodesia; Mr. J. D. Kennan, Clerk to the Legislative Council of Nyasaland; Mr. E. H. Davis, Clerk of the Legislative Council of Gibraltar; Mr. A. W. Purvis, LL.B., Clerk of the Legislative Council of Kenya; Mr. L. R. Moutou, Clerk of the Legislative Council of Mauritius; Alhaji Umaru Gwandu, M.B.E., Clerk to the Legislature of the Northern Region of Nigeria; Mr. G. Lisle Fraser, Clerk of the Legislative Council of Saint Vincent; and Mr. Loke Weng Chee, Acting Clerk of the Legislative Assembly of Singapore.

II. THE MACE

By Erskine Grant-Dalton

Clerk-Assistant, Federal Assembly of Rhodesia and Nyasaland

> ". . . the Mace, which may be regarded as the symbol of the Authority of the House, and through the House, of the Speaker. There is in the halo about the Mace something, also, of the Prerogative."—Campion.

The word "Mace" (*vide* O.E.D.) is derived, through the French "masse", from the Latin word "mattea", or its diminutive "mateola". The word means, primarily, a heavy staff or club, made wholly or partly of metal, the head often spiked or serrated with blade-like projecting flanges. The mace was used as a weapon, especially for breaking armour, and as such was carried by men armed cap-à-pie in mediæval and renaissance times. It was indeed the development of the first weapon ever carried by man—a heavy stick. Because a man in full armour was almost invariably at least a knight and the owner of a small estate, who brought with him to the King's wars a few retainers as foot soldiers, the mace he carried was regarded as the mark of an officer. During the reign of Henry VIII the mace, in this respect, was replaced by the pistol; but the mace still survives as the mark of the highest ranking officer in the baton (which has another ancestor allied to the mace, as will be noticed later) carried by Field-Marshals.

The earliest ceremonial maces, at first intended as actual weapons to protect the King's person, were borne by the Serjeants-at-Arms, a Royal Bodyguard established in France by Philip II, and later in England by Richard I, Cœur-de-Lion. This royal bodyguard was soon used by the King to effect the arrest of those who had incurred his displeasure, to summon persons to his presence, or to hale malefactors to the Royal Courts of Justice. Hence the weapon carried by the Serjeants-at-Arms in performing these duties very soon came to be regarded as the symbol of and warrant for the Serjeants' authority derived from the Sovereign.

During the thirteenth century these maces began to be ornamented with precious metals and jewels, and about the middle of this century maces began to be carried by civic Serjeants-at-Arms before Mayors and other civic authorities. But the bearing of an ornamented mace was considered to be the sole privilege of the Royal Serjeants, for in 1344 a petition by the House of Commons to the King drew attention to a breach of this privilege, stating that "the King's Serjeants are alone worthy to bear maces enriched with costly insignia". In time, however, the right to bear ornamented maces was accorded to certain Civic Serjeants—first to those of London, later to those of York (1396), Norwich (1403), and Chester (1506). Maces covered with silver were used at Exeter as early as 1387, but it is not known whether this city had obtained the Royal assent to this practice at that time. By the sixteenth century, highly ornamented maces were used by civic authorities almost universally in England.

When maces began to be used in this ceremonial manner, they were of the prevalent military type, having a head of blade-like flanges; the Royal Arms appeared at the base of the shaft. The mace was borne head uppermost, resting on the right shoulder of the bearer. By the beginning of the sixteenth century, these blade-like flanges had degenerated into mere ornamentation, while the greater importance of the end with the Royal Arms (later enriched with cresting) resulted in a reversal of the position in which the mace was carried, although there was an interim period during which maces were made to be carried either end up. The blade-like flanges gradually degenerated into mere scrolls and ornamental brackets, disappearing from the base, and reappearing at the top of the shaft, immediately below the head. The head was at first plain, but by the reign of James I it was richly engraved and decorated with heraldic devices.

The Mace at present used in the House of Commons was made by Thomas Maundy in 1649; but the head, ornamented with a royal crown and the cypher of Charles II, dates from the Restoration.

The history of the Mace outlined above does not explain properly the full reasons for its symbolic authority. The true ancestor of the mace is not only the club of prehistoric man, but also the staff, the most ancient symbol of age, wisdom, and authority. The staff, the

prop of aged men, came in the very earliest times to be regarded as the symbol of age, hence of wisdom; it was also associated with punishment, hence with the temporal power to mete out punishment vested in a ruler; above all, it was symbolic of the phallus, and hence was associated with the mystery of birth, life, and death. The bearer of a staff was always regarded as a man full of wisdom and authority; among the early Greeks, for example, the sceptre was a long staff used by judges, priests, and military leaders as a mark of their authority. Later, the Romans presented such staffs or sceptres to victorious generals; and the sceptre survives today not only in the Royal sceptres held by the King at his coronation, but also in the baton carried by Field-Marshals. It survives also in the Mace, which may be said to derive its full authority, by way of the sceptre, from the staff. Another "collateral ancestor" of the Mace is the Roman Fasces, a bundle of rods bound about the shaft of an axe. The first Mace used in the American House of Representatives, made in 1789, and destroyed when the British burned the Capitol in 1814, took its form from the Fasces. According to Cushing, it "was made of ebony sticks, bound transversely with a thin silver band terminating in a double tie near the top. Protruding from this bundle was a stem of silver supporting a silver globe four and a half inches in diameter, upon which was an eagle, her claws grasping the globe, her wings spread in the act of flight". The present Mace is a replica of the original. It was made in 1841.

The use of the Mace in Parliament probably dates from before the separation of the Houses. The King appointed one of his Serjeants-at-Arms to wait upon the Speaker, to execute the commands, and to enforce the authority, of the King. Gradually the Mace became, as Campion says, "the symbol of the authority of the House, and through the House, of the Speaker". It is also the symbol of the authority of the Serjeant-at-Arms when he acts under the direction of the Speaker. Many precedents exist for the "warrant of the Mace" as opposed to the formal written warrant of the Courts.[1] The following example is quoted from the *Commons Journal*, 27th February, 1576: "Resolved, that Edward Smalleye shall be brought hither Tomorrow by the Serjeant, and so set at liberty, by warrant of the Mace, and not by Writ." It may be mentioned that the Serjeant himself was sometimes identified with his burden, and called simply "Mace"; *e.g.*, in 1670 Marvell writes: "Sir Thomas Clifford carryed Speaker and Mace, and all members there, into the King's cellar, to drink his health."

Because the Mace is an integral part of every proceeding in the House ("without the Mace the House can do nought but adjourn", says Hatsell), it is hoped that the description which follows of one or two ceremonies in which the Mace plays a conspicuous part will not give the impression that these are the sole occasions upon which the Mace is of any importance. The first, and most important ceremony,

is the Election of a Speaker at the beginning of a new Parliament. The Speaker is elected by the Members in the House of Commons from among their own number. At this election, the Members, having been sworn in, act under the direction of the Clerk of the House, who acts as a sort of Moderator. During the election of a new Speaker the Mace is placed below the Table of the House. When the new Speaker has been elected (or the old one re-elected), and has expressed his thanks and appreciation for the high honour conferred upon him by the House, and has taken the Chair, the Serjeant comes from his seat at the bar and places the Mace upon the Table of the House. Hatsell[2] makes it plain that there can be no election of a Speaker unless the Mace is present. After his election by the House, however, the Speaker has still to be approved by the King. Hatsell, writing in 1776, says that the Sovereign's consent to the election is founded upon a long line of precedents, and remains in force, instances to the contrary notwithstanding; but Sir W. Anson, writing in 1889, states that "the approval of the Speaker-Elect by the King is not seemingly a legal necessity".[3] Be that as it may, on the day following his election, the Speaker, accompanied by such members as desire to be present, wearing his usual formal dress, but a bob-wig instead of his normal full wig, proceeds to the House of Lords. He is preceded by the Serjeant-at-Arms, carrying the Mace across his body 'at the port", the head resting in the crook of his left arm. At the door of the House of Lords, the Serjeant gives the Mace into the custody of an usher, for the Commons are not allowed to "affright the Lords" with the sight of the Mace; that is to say, the Speaker may not enter the Lords preceded by the Mace, except on certain rare occasions to be detailed below. When the Royal approbation of his election has been conveyed to the Speaker, the Serjeant goes to the door of the Lords, recovers his Mace, and hoists it to his right shoulder. At this sign, the bells of St. Margaret's, Westminster, ring out a loud peal of joy, and the Serjeant leads the Speaker back to the Commons. Thereafter, as Hatsell says, "when the Mace lies upon the Table, the Assembly is a House; when it is under the Table, the House is in Committe of the Whole; when the Mace is out of the House, nothing can be done but to adjourn. When the Mace is not on the Table, but borne of the Serjeant-at-Arms on his shoulder in the House, as when a messenger from the Lords is introduced, or a witness is examined at the bar, or a person accused, or an offender is brought to the bar, no member, except the Speaker, can say a word, or make a motion, or indicate a question to be put to a witness, but the Speaker alone manages".

The only occasions on which the Speaker may enter the House of Lords preceded by the Mace is the rare one of an impeachment, when he goes to ask for the arraignment of the person charged; and again in the event of a conviction, to ask for judgment against the prisoner. This right was affirmed by Speaker Onslow in 1709, when he had a

brush with Black Rod on the occasion of the sentencing of Sacheverell.[4] (For all above, *vide* Michael Macdonagh, *The Speaker of the House*.) Whenever during a Session the Speaker and Members proceed anywhere as a House, they are preceded by the Mace. For example, upon the Restoration of Charles II, the Speaker and the Members proceeded to Whitehall to congratulate the King; when they went into the presence chamber, the mace was borne "downwards" as a mark of respect. If Speaker and Members go to Church, and the King is in the Church, the Mace is kept covered as long as the King remains in the building. This covering of the Parliamentary Maces is practised whenever the Sovereign is present: it applies both to the Lord Chancellor's Mace and to the Commons Mace (*e.g.*, it was done when King George VI attended in Westminster Hall on the occasion of the re-opening of the House of Commons, following on its reconstruction after the 1939-45 War).

During a session of Parliament, or an adjournment, the Speaker can be accompanied by the Mace on any state or solemn occasion, in pursuance of the express resolution of the House, or in accordance with Parliamentary usage.[5] When Parliament is sitting, and the Speaker may have a doubt as to the propriety of his using the Mace on some occasion, he asks the opinion of the House, and is governed accordingly.[6]

During a prorogation the Speaker has no authority to use the Mace on any public occasion, since the Serjeant-at-Arms, with the Mace, is appointed only to attend upon the Speaker during Sessions. When the House is prorogued, the Mace is returned to the custody of the Lord Chamberlain of the Household.

Charles I, wishing to suspend the House, sent to the Serjeant to order him to take away the Mace. The House, recognising that the Serjeant was a servant of the King, allowed him to depart; but they would not allow him to take the Mace with him, for they knew full well that without the Mace their proceedings would be of no account. The most famous occasion on which the power of the Mace was recognised was on the 20th April, 1653. On that day, while a Bill for the election of a new Parliament was being discussed, Oliver Cromwell entered the Chamber and took his seat. He did not join in the debate, but when the Speaker put the question, he sprang up, and, putting on his hat (it is still a breach of privilege for a member to be covered while on his feet) strode the floor of the House, reviling the House and individual members by name. Sir Peter Wentworth rose and protested against this outrageous behaviour. Whereupon Cromwell exclaimed angrily, "Come, come! I will put an end to your prating. You are no Parliament. I say you are no Parliament. I will put an end to your sitting." He called in a body of soldiers he had secretly posted outside the door, and ordered them to clear the House. When the Speaker refused to leave his Chair, he ordered him to be plucked down. Then remembering the Mace, the emblem of the Speaker's

authority, he compared it in his rage to a jester's stick with bells: "What shall we do with this bauble?" he asked; then, turning to the Captain of the guard, "Take it away," he said scornfully. Another well-known incident occurred on 17th July, 1930. As the tellers approached the Speaker to report the result of a division following the naming of a Member, one of them suddenly dashed to the Table, and exclaiming, "I don't know what you think about it, Mr. Speaker, but I think it's a damned disgrace," seized the Mace and began to carry it from the Chamber. At the Bar, he was relieved of it by an usher, who handed it to the Serjeant-at-Arms, who replaced it upon the Table. The Speaker then named the offender.

[1] May (11th Ed.), p. 71. [2] Precedents (1818 Ed.), Vol. II, p. 218.
[3] Law and Custom of the Constitution (4th Ed.), Vol. I, p. 76.
[4] C.J. (1708-11), 382. [5] Speaker Onslow, quoted by Hatsell, *op. cit.*, Vol. II, p. 249 *n.* [6] C.J. (1667-87), 96 (7th May, 1668).

III. RIGHT OF MINISTERS TO SIT AND SPEAK IN BOTH HOUSES

Answers to Questionnaire

The first Volume of this Journal (for 1932) contained an article on the right of Ministers to sit and speak in both Houses.[1] In the Questionnaire for Volume XXIII Members from bi-cameral legislatures were invited to describe their present practice in this respect, those who had contributed to the previous Article being asked whether their previous answers required modification. The answers received are summarised below.

Australia

No provision for ministers sitting and speaking in the House of which they are not Members exists in the bi-cameral legislatures of the *Australian Commonwealth, South Australia, Tasmania* or *Western Australia*. In the case of *Victoria*, no modification of the previous information is required. In *New South Wales* the section of the Constitution (Amendment) Legislative Council Bill quoted in the previous Article[2] has now become law, and appears in the Constitution Act, 1902, as amended.[3] The procedure in question has not yet, however, been used.

Union of South Africa

No modification of the previous answer is required, except in respect to the numbering of the relevant Standing Orders, which are now 108 and 209(2) (Senate) and 233 (House of Assembly).

India

The central Parliament of India is a bi-cameral legislature and the Ministers of the Government of India are entitled to sit and speak and otherwise take part in either House, except that they are not entitled to vote in the proceedings of that House of which they are not members. This right is given to the Ministers under Article 88 of the Constitution of India, which reads as follows:

> Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

With regard to Indian State legislatures similar rights are conferred by Article 177 of the Constitution, which reads:

> Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a membe, but shall not, by virtue of this article, be entitled to vote.

Southern Rhodesia

No modification of the previous answer is required, nor has any Upper House yet been created.

Malta

The reference to Malta in the previous Article is no longer valid, since the legislature there, under the terms of the 1947 Constitution,[4] is at present unicameral.

Nigeria

In the two bi-cameral Regional Legislatures (Northern and Western), the Nigeria (Constitution) Order in Council, 1954, provides that those members of the House of Assembly who are Regional Ministers shall also be Members of the House of Chiefs,[5] but without power to exercise an original vote in the latter House;[6] they are, nevertheless, capable of exercising a casting vote if temporarily presiding.

There is no corresponding provision allowing Regional Ministers who are members of their House of Chiefs to enjoy similar membership of their House of Assembly.

[1] THE TABLE, Vol. I, pp. 76-80.
[2] *Ibid.*, p. 78.
[3] S. 38(A).
[4] THE TABLE, Vol. XVI, pp. 219-20.
[5] S.I., 1954, No. 1146, ss. 17 and 24.
[6] *Ibid.*, s. 75.

IV. JOINT SITTINGS

Answers to Questionnaire

The first Volume of this Journal (for 1932) contained two Articles on procedure at Joint Sittings, one general[1] and one with particular reference to the Union of South Africa.[2] In the Questionnaire for Volume XXIII Members from bi-cameral legislatures were invited to describe their present practice in respect of joint sittings, those who had contributed to the previous Article being asked whether their previous answers required modification. The answers received are summarised below.

Countries with no provision

Apart from the United Kingdom, the only independent Commonwealth countries with bi-cameral legislatures which have no provision at all for joint sittings are Canada and Ceylon. Most colonial legislatures are unicameral; as to the few that are not, we have received information of the existence of a joint sitting procedure only from the Regional Legislatures of Northern and Western Nigeria (see below).

The reference to Malta in the Article in Volume I is no longer valid, since the legislature there, under the terms of the 1947 Constitution,[3] is at present unicameral.

Northern Ireland

S.17 of the Government of Ireland Act, 1920, provides that in the event of disagreement in two successive sessions between the two Houses of the Northern Ireland Parliament over a Commons bill, a joint sitting may be convened by the Governor. The bill, or any disputed amendment thereto, is deemed to be passed if agreed to by a majority of the total number of members of both Houses present at such a joint sitting. Should the Senate reject or fail to pass any money bill, a similar joint sitting may be convened in the same Session.

No such joint sitting has yet been held.

Australia

The provision of Section 57 of the Commonwealth Constitution,[4] whereby a Joint Sitting of both Houses can be called in certain cir-

cumstances in case of disagreement between bills, has never yet been put into operation.

In the State Parliaments, however, Joint Sittings have not infrequently taken place for the purpose of selecting a person to fill a casual vacancy in the Federal Senate.[5]

There is also provision in two States for joint sittings in the event of disagreements between the Houses over bills. In *New South Wales*, by legislation enacted in 1933,[6] it is provided that the old forms by which the Council and Assembly endeavoured to compose differences over bills, viz. Messages, Conferences or Free Conferences, should be retained; but if agreement is not reached thereby "the Governor may convene a Joint Sitting" by Message to both Houses. Although the section does not indicate how the Governor is to be informed of the ultimate disagreement, it provides that until Special Standing Orders for Joint Sittings have been adopted, those of the Council shall be followed, and further, that at such Joint Sittings "no vote shall be taken". Should a Joint Sitting prove to be no more fruitful than the earlier Free Conference, the Assembly may refer a disputed bill, as last proposed by the Assembly, by way of Referendum to the electors.

In *Victoria* the Constitution (Reform) Act, 1937,[7] provided that if the Assembly passed a Bill and the Council rejected it the Assembly should be dissolved—the dissolution being granted in consequence of the disagreement between the Houses as to such Bill and as to that one Bill only.

If the Assembly passed the Bill in the next Session and the Council again rejected it the Council should be dissolved. Then if after the dissolution of the Council the Assembly again passed the Bill in the same or the next Session and the Council again rejected it the Governor might convene a Joint Sitting of the Members of the Council and the Assembly. If at such Joint Sitting the Bill is passed by an absolute majority of the whole number of the Members of the Council and the Assembly it shall be deemed to have passed both the Council and the Assembly and shall be presented for Royal Assent.

The Speaker would preside at such Joint Sitting, the President presiding only in the Speaker's absence or at his request, and the proceedings would be conducted in accordance with Joint Standing Orders adopted in the usual manner. In any case not provided for resort would be had to the Standing Orders and practice of the Assembly.

In neither of these States has occasion yet arisen for resorting to the procedure described.

Union of South Africa

No material alterations in the procedure governing Joint Sittings have been made, and consequently the Articles published in Volume I of this Journal, to which reference has already been made, require

no modification. Attention is, however, drawn to further particulars given in this and subsequent Volumes under the heading "Precedents and Unusual Points of Procedure in the Union House of Assembly".[8]

India

The Constitution of India[9] provides that if, after a Bill other than a Money Bill has been passed by one House and transmitted to the other House, (*a*) the Bill is rejected by the other House, or (*b*) the Houses have finally disagreed as to the amendments to be made in the Bill, or (*c*) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it, the President may convene a Joint Sitting of the two Houses for the purpose of deliberating and voting on the Bill. If at the Joint Sitting of the two Houses the Bill is passed by a majority of the total number of members of both Houses present and voting, the Bill will be deemed to have been passed by both the Houses. The Speaker of the Lok Sabha (Lower House) presides at a Joint Sitting.[10] The quorum is one-tenth of the total number of members of the Houses. At a Joint Sitting the procedure of the Lok Sabha applies, with such modifications and variations as the Speaker may consider necessary or appropriate. There has been no instance of a Joint Sitting of this nature under the new Constitution. The procedure is not applicable to State Legislatures.

Nigeria (Northern and Western Regions)

The Nigerian Federal Constitution of 1954[11] provides for the calling of a Joint Sitting, at the instance of the Governor, in cases of disagreement on a bill between the two Houses in the Northern and Western Regional Legislatures. Such a Joint Sitting, although officially so termed, is to some extent akin to a conference, since the total membership of the Houses does not participate; each House elects twenty delegates. The Governor presides at a Joint Sitting, and may exercise a casting vote. A bill agreed to by a Joint Sitting is deemed to have been passed by both Houses.

The Standing Orders of the Western Regional House of Assembly provide that the Clerk of that House shall be the Clerk to the Joint Sitting.

[1] THE TABLE, Vol. I, p. 80. [2] *Ibid.*, pp. 25-30. [3] *Ibid.*, Vol. XVI, pp. 219-20. [4] 63 & 64 Vict., c. 12. [5] *Ibid.*, ss. 15 and 20. [6] Act No. 2, s. 5(2). [7] Act No. 4533. [8] *See* pp. 70-2, *and also* Vol. V, pp. 85-9; Vol. XXII, pp.86-8; Vol. XXIII, pp. 90-1. [9] Art. 108. [10] Art. 118(4). [11] Ss. 68-70; *see* THE TABLE, Vol. XXIII, p. 120.

V. THE HOUSE OF COMMONS DISQUALIFICATION ACT, 1957

By M. H. Lawrence

A Senior Clerk in the House of Commons and Clerk to the Select Committee on the House of Commons Disqualification Bill

The enactment, on 17th April, 1957, of the House of Commons Disqualification Act ended a period of confusion and legal obscurity which had perplexed Members of the House of Commons and taken up much valuable Parliamentary time. The confusion had arisen largely because of the difficulty of deciding to what extent the holding of an office of profit under the Crown was likely to disqualify a Member. The law on the subject (apart from the traditional exclusion of clergy and judges, who had their Parliamentary representation elsewhere), was derived from three sources: early resolutions of the House of Commons, statute law, and decisions by the House in individual cases. With the exception of statute law affecting certain contractual relationships between a Member and the Executive, it is the series of decisions by the House of Commons, from the passage of the Succession to the Crown Act, 1707—generally known as " the Act of Anne "—down to the present day, which led to the tangled situation, the unravelling of which fell to the Herbert Committee.[1]

Two examples of the absurdity of the law relating to contracts and office-holding in recent times illustrate the need that existed for an urgent reform of the law. In 1931 it was discovered that an ambiguity in the wording of the House of Commons (Disqualification) Act, 1782, might result in Viscount Cranborne, M.P., becoming disqualified for membership of the House. He had become assignee of the lessor's interest in a year-to-year tenancy by the Post Office of the building used as Hatfield Post Office and, as such, became landlord of the Post Office, receiving rent from the Postmaster-General. It was decided to introduce legislation to give statutory effect to the Government's opinion that a proper interpretation of the 1782 Act would not disqualify Viscount Cranborne, and the House of Commons Disqualification (Declaration of Law) Act was in consequence passed, in March, 1931.[2] Another example was the discovery in 1932 that every Member who had, since the passing of the Board of Trade Act, 1909, held office as President of the Board of Trade had been disqualified and thereby incurred enormous penal-

ties for sitting and voting as a Member. The President of the Board of Trade Act was hurriedly passed, in April, 1932,[3] to remove this incapacity of the President's and to indemnify certain holders of the office from any penalties they might have incurred.

After the war of 1939-45 when Parliament authorised the creation of tribunals to deal with national insurance, pensions, rent control, national assistance, etc., it became necessary to pass several Acts of Parliament to indemnify Members who had been members of such tribunals, often in the locality where they were well known. In 1949 the Opposition of the day found that three of their number had become disqualified, and the Attorney-General promised to consider the whole question of the law on the subject.[4] This task was undertaken by a committee of the Government in which Sir Frank Soskice took the leading part, first as Solicitor- and later as Attorney-General. This committee made proposals which were considered at the time by Ministers, and a draft bill was prepared in the early autumn of 1951. After the General Election which then took place, the fruits of this committee's work were made available to the new Government, who carried on the work where it had been left off. Meanwhile, acts of indemnity continued to be necessary in cases where Members found themselves to be holding, inadvertently, offices of profit under the Crown; in the Parliament elected in May, 1955, several cases followed hard upon one another in quick succession until it seemed that the process would be never-ending.[5] Among all these cases, the *reductio ad absurdum* was that of Sir Roland Jennings, whose efforts to save the expenses of his local village branch of the British Legion by auditing their accounts himself at the nominal statutory fee of one guinea, cost him not only more than one guinea a year, which he did not mind, but almost his seat in Parliament under the disqualifying sections of the Friendly Societies and other Acts, a fact which did cause him considerable worry. In November, 1955, four years after they had first come to power and taken over the draft bill from the previous administration, the Conservative Government introduced the bill[6] which, despite amendment by a select committee, was fundamentally the same—in principle at least—as the Act which is now on the statute book.

The bill followed closely the recommendations of the Herbert Committee and recognised the three principles outlined in paragraph 19 of that committee's report. These are that the duties of certain office holders are incompatible with membership of the House; that the control of Members by the Executive, through financial influence deriving from the gift of offices, must be limited; and that the control of the Executive by Parliament calls for the presence in the House, as Members, of a certain number of Ministers. Clauses 1 and 2 and the first, second, third and fourth schedules gave effect to these principles disqualifying judges and certain other judicial

officers, members of the civil service, armed forces and police forces, certain other miscellaneous officers, including ambassadors and high commissioners, and other paid office holders. It was clause 2 and the fourth schedule which specifically regulated the presence in the House of certain members of the Executive. Other important proposals in the bill provided for resignation of membership only by the acceptance of certain specific "paid" offices, namely the well-known Stewardship of the Chiltern Hundreds and of certain other manors, and the re-enactment of the existing law on the subject of contractual relationships between Members and the Executive, a matter which the Herbert Committee had considered to be beyond their order of reference. The recovery of penalties under the common informer procedure was also to cease, but there was to be a right of application by any person to the Judicial Committee of the Privy Council for a declaration that a Member was disqualified; such jurisdiction was not, however, to apply to cases where excusal orders had already been made by the House of Commons, and it was proposed to amend the bill accordingly. There were various other proposals in the bill to provide for a Member not being appointed to a disqualifying office without his consent, to provide for the limited application of the bill to the Northern Ireland Parliament, to repeal a large number of enactments, and so forth.

On the conclusion of the second reading debate, the bill was committed to a committee of the whole House; but three months later the leader of the House stated

> since the second reading debate on the House of Commons Disqualification Bill we have been considering the best manner of proceeding with this measure and have come to the conclusion that, in view of its complexity, it would be appropriate to commit the bill to a select committee. . . . The reason why we are choosing a select committee is because of the intense complexity of the bill relating to offices of profit and contracts.[7]

The select committee was appointed on 20th February, 1956,[8] and, in addition to consideration of the bill, was instructed to consider certain amendments which stood on the order paper and related to clergy disqualification, crown briefs of barristers, remuneration from the British Broadcasting Corporation and the Independent Television Authority and certain other matters.

The select committee met on 29th February and reported to the House on 26th July,[9] having sat on 28 days, taken much written and oral evidence—in the course of which they examined 17 witnesses and asked 1,774 questions—considered and amended the bill and made a special report to the House. The Committee's purpose, in amending the bill in the light of the evidence they received, was to ensure that membership of the House of Commons should be on as wide a basis as possible and that the law on the subject should be unequivocal and easily understood by the layman. In moving the second reading the Home Secretary had stated

we had the option, in preparing the bill, either of listing such [paid] offices separately in a schedule, or of leaving them to be covered by the general provisions which I have just described. For reasons of simplicity, the second alternative has been adopted.[10]

The Committee found that "intense complexity", the Lord Privy Seal's phrase, was a more accurate description than the "simplicity" of the Home Secretary's statement, and they decided that it would be impossible to find suitable words which would at once describe accurately the kind of office which disqualified for membership and leave no statutory doubt as to the boundary of such disqualification. They therefore substituted for the general description of disqualifying offices, contained in earlier legislation and in clause 1 of the bill, a detailed list of specific offices, the holding of which should be a bar to membership of the House. The same principles of disqualification remained, of course, the Committee stating in their report that

certain offices are incompatible with membership of the House of Commons, some as involving physical impossibilities of simultaneous attendance in two places, some because of possible patronage and others because of a conflict of duty.[11]

A corollary, in the Committee's opinion, was that some offices should carry total, others partial, disqualification. Since reliance was to be placed upon specified lists rather than general statutory definitions, it was necessary to provide machinery for the amendment of the list as need arose.

The Committee were satisfied with the repeal of the common informer procedure and its penalty provisions and with the proposed substitution of reference to the Judicial Committee of the Privy Council for a declaration of the law. They pointed out, however, that, with the disappearance of such monetary penalties, and the absence of financial interest in "exposing" a Member, it would be possible for a Member, knowing himself to be disqualified, to continue to sit in the hope that his true position might never be discovered. However, they were quick to add, in their report, that they did not consider such a situation was probable and that, in their opinion, if such deceit were to occur, the House of Commons had ample and adequate powers with which to deal with any culprit.

One matter of importance, the consideration of which occupied much of the Committee's time, was the question of "reverse disqualification". The Committee considered seriously whether it was preferable that a Member should be disqualified from holding specified offices than that the holding of certain offices should disqualify from membership. There was disagreement in the Committee on this point, as the minutes of proceedings show,[12] but the Committee decided against reverse disqualification, although they published, as an appendix to their report, a draft of a bill which would give effect to this principle. The Committee found also that the position of the

armed forces in relation to disqualification was obscure. In their opinion, the intention of the Herbert Committee was the disqualification of regular, serving members of the armed forces and no others. This the bill did not do, since it included in its disqualificatory provisions certain members of the reserve forces when embodied; there were other obscurities about the clauses as drafted and the Committee amended the bill accordingly.

In the matter of contracts the Committee made what was, perhaps, their most important amendment. The Government had recognised that there was little logic underlying the existing law, the broad effect of which was that persons disqualified as contractors were those who contracted with a Government agency to provide "money to be remitted abroad" or "any wares or merchandise to be used or employed in the service of the public". Such provisions can be understood in terms of the contemporary political scene in which the Act in question, the House of Commons (Disqualification) Act, 1782, was passed; for this Act was passed to curb the activities of one, Mr. Alderman Halsey, a Member of the House, who had secured a contract to supply with money the British armies in Canada, Nova Scotia, Carolina, New York and the West Indies. The circumstances of the 20th century being quite different from those of the 18th it is, as the Home Secretary said in the second reading debate in November, 1955,

> immaterial whether the money is to be remitted abroad or not. In the same way, it seems odd that an hon. Member should be able to put up buildings for the Government, but should be disqualified if he contracts to supply them with merchandise.[13]

In the Government's view there was something to be said for omitting the subject from the bill, but their objection to such a course was that it would leave the field open for the activities of the common informer with all the penalties implied thereby. Another alternative was to re-examine the whole subject and to recast the law in a more logical, consistent and all-embracing form. The third alternative was to re-enact the existing law with minor modifications; this was the course followed, surprisingly enough, by the Government and rejected by the Committee, who considered that the time had come to grasp the nettle firmly and clear the ground of its undergrowth of muddle and confusion.

They, therefore, omitted altogether the relevant clause, regarding the law as archaic, anomalous, unfair and useless; nor did they propose amendments which would provide, in statutory form, for every imaginable kind of contractual relationship between the Government and Government departments on the one hand and, on the other, commercial or professional organisations in which a Member might participate whether directly or indirectly. There was the further alternative of providing for suitable publicity to be given to any

Government contracts, including Crown briefs, which might become, or—of equal importance—be thought to be, a means of secret patronage and undue influence by the Government on Members of the House of Commons. This, too, the Committee thought an unnecessary subject of legislation. Much evidence was given to the Committee on the subject of contracts, not the least important being that of the Clerk of the House who was examined also on the related subject of the procedure affecting the disclosure by Members of a personal pecuniary interest. The Clerk in his evidence stated that he had no knowledge of any corruption affecting Members in connection with Government contracts during the past hundred years, and he made the interesting point that

> the House might properly treat as a contempt the offer of a Government contract by a member of the Executive to a Member of Parliament in order to influence his Parliamentary conduct.[14]

A division took place in the Committee on the proposal to omit the relevant clause from the bill,[15] and there were divisions at a later stage in the proceedings when the relevant paragraph in the special report was under consideration.[16] On the principle at issue the majority was overwhelming, and on an amendment proposing that

> in the event of the repeal of the existing archaic and anomalous law being enacted, Your Committee recommend that the immediate attention of the House should be given to the framing of legislation to deal, (in the light of modern commercial, trade and professional conditions and practices) with the situation thus created,

the majority against was seven to two.[17]

The Committee were, however, at pains to stress the obligation upon all Members to disclose any personal pecuniary interest when speaking or voting, emphasising that repeal of the existing law rendered this obligation all the more binding. They were also not satisfied that the procedure with regard to disclosure was as clear and comprehensive as was desirable, and they recommended its re-examination with a view to improvement soon—a recommendation accepted by the Attorney-General on behalf of the Government when he was moving the second reading of the bill which has now been enacted.[18] They did not, of course, have any doubt about the ample powers of the House to deal, of its own volition, with any improper or dishonourable conduct by a Member in connection with contracts.

The Committee were under an instruction by the House to consider certain amendments, most of which are covered by the matters already referred to above. One of these amendments, however, concerned the disqualification of clergy and, in deciding that no change in the law should be made, the Committee had particular regard to the Report from the Select Committee on Clergy Disqualification of Session 1952-53.[19] On this question of preserving the *status quo*,

there was a division in the Committee, one dissentient voice being raised in the minority.[20]

The Committee's special report to the House and the bill, as amended, were published at the end of August during the summer adjournment so that further progress was impossible during session 1955-56. Early in the next session, therefore, the Government introduced a new bill which was almost identical with that which was reported from the select committee. It is this bill which, with a few minor amendments, has now been enacted,[21] and it is not necessary, therefore, to do more than remark generally upon the Act. The three principles laid down in paragraph 19 of the Herbert Committee's report are once again firmly embodied, the first two in sections 1 and 3 and the first schedule, the third in section 2 and the second schedule. There are also certain machinery provisions, the most important of which authorises Her Majesty, by Order in Council following an affirmative resolution of the House, to keep the schedule up to date by adding or omitting a disqualifying office; this differs somewhat from the recommendations of the select committee in that it is simpler both in content and in the procedure it recommends. A clause, relating to the payment of certain allowances, which had been added by the select committee from reasons of caution, was left out since it was found to be unnecessary, and certain other minor amendments were made. A number of miscellaneous provisions in the Act are worthy of comment. The constitutional principle that a Member, once elected, cannot resign his seat, is preserved in section 4 which is concerned with the disqualifying offices of steward or bailiff of Her Majesty's three Chiltern Hundreds of Stoke, Desborough and Burnham and the Manor of Northstead, the holding of which requires a Member to resign his seat. Section 6 gives the House power to make excusal orders in cases of inadvertent disqualification; this will, it is hoped, avoid the need for indemnifying legislation which has taken up so much Parliamentary time in the past. Section 7 embodies the procedure for obtaining a declaration of the law, which has already been referred to, and contains provisions that this shall not apply in cases where excusal orders have been made under section 6, thereby avoiding the danger of any clash between the House of Commons and the Judicial Committee of the Privy Council.

The Act, while not dealing with the whole law relating to disqualification, deals comprehensively and in an intelligible form with those aspects of it which have caused trouble in the past. By its single and authoritative statement of the law on the subject it is to be hoped that Members will be saved much embarrassment and Parliament the waste of much valuable time.

[1] The Select Committee on Offices or Places of Profit under the Crown, 1941 (*see* THE TABLE, Vol. X, 101-111). [2] 21 Geo. 5, c. 13. [3] 22 Geo. 5, c. 21.
[4] *See* THE TABLE, Vol. XVIII, 41-3. [5] *Ibid.*, Vol. XXIV, 55-9, 72-5.

[6] C.J. (1955-56) 63. [7] 548 *Com. Hans.*, 1813, 1815. [8] C.J. 1955-56) 196.
[9] H.C. 349 (1955-56). [10] 545 *Com. Hans.*, 1859. [11] Report, Para. 2.
[12] *Ibid.*, p. xlviii. [13] 545 *Hans.*, c. 1860. [14] Minutes of Evidence, App. 1, p. 196. [15] Report, p. l. [16] *Ibid.*, pp. lxix-lxx. [17] *Ibid.*, p. lxx.
[18] 562 *Com. Hans.*, c. 1283. [19] *See* THE TABLE, Vol. XXII, 66-8.
[20] Report, p. li. [21] 5 & 6 Eliz. 2, c. 20.

VI. HOUSE OF COMMONS: SELECT COMMITTEE ON BROADCASTING (ANTICIPATION OF DEBATES)

By E. S. Taylor, Ph.D.

A Senior Clerk in the House of Commons and Clerk to the Select Committee on Broadcasting (Anticipation of Debates)

On 9th February, 1956, a Select Committee was appointed[1] to consider

whether any changes are desirable in the present methods of giving effect to the principle that there should be some limitation to the anticipation of Parliamentary debates by broadcasting,

or, more briefly, to examine the "14-day rule" by which the British Broadcasting Corporation was prohibited from discussing any subject which was to be debated in Parliament within fourteen days of the proposed broadcast. The appointment of the Committee followed a resolution which had been moved by the Government in the House of Commons previously (30th November, 1955),[2]

That this House considers that it is in the interests of Parliament and the nation to preserve the principle of some limitation to the anticipation of Parliamentary debates by broadcasting; and would welcome the appointment of a Select Committee to consider whether any changes are desirable in the present methods of giving effect to this principle.

This resolution was the result of a "free vote" in the House: an amendment seeking to appoint the Select Committee to consider the principle itself having been defeated by 271 votes to 126. The fact that it was left to a free vote, as well as the strength of the negative voting on the motion, would appear to indicate that the "principle" itself was not quite self-evident, as well as a certain hesitation in the leadership on both sides on the matter.

The Committee reported on 17th May, 1956,[3] and among their evidence they reported a memorandum from the British Broadcast-

ing Corporation which set out in detail the history of the "14-day rule".[4] It appeared that what was now asserted as a necessary principle to protect the supremacy of Parliament had originated in the action taken by the Governors of the B.B.C. in 1944 to protect the B.B.C. from undue interference in the shape of ministerial broadcasts: the occasion being a broadcast by the then Minister of Education in favour of his Education Bill, due for second reading. This was embodied, first of all in a resolution of the Governors of the B.B.C.,

> That when a debate on a major matter of public policy is imminent or is actually taking place in Parliament, the B.B.C. cannot allow the broadcasting of any ministerial or other *ex parte* statements thereon,

and later in an *Aide Mémoire* which was accepted by the Government, the Opposition and the B.B.C., after some amendment, on 31st December, 1946.

The relevant portion of the *Aide Mémoire* in its final form was as follows:

> In view of their responsibilities for the care of the nation the Government should be able to use the wireless from time to time for Ministerial broadcasts which, for example, are purely factual, or explanatory of legislation or administrative policies approved by Parliament; or in the nature of appeals to the nation to co-operate in national policies, such as fuel economy or recruiting, which require the active participation of the public. Broadcasts on State occasions also come in the same category.
>
> It will be incumbent on Ministers making such broadcasts to be as impartial as possible, and in the ordinary way there will be no question of a reply by the Opposition. Where, however, the Opposition think that a Government broadcast is controversial it will be open to them to take the matter up through the usual channels with a view to a reply.
>
> (i) As a reply if one is to be made should normally be within a very short period after the original broadcast, say three days, the B.B.C. will be free to exercise its own judgment if no agreement is arrived at within that period.
>
> (ii) Replies under this paragraph will not be included in the number of broadcasts provided for under paragraph 4.
>
> (iii) Copies of the scripts of broadcasts under this paragraph shall be supplied to the leaders of each Party.
>
> (iv) All requests for Ministerial broadcasts under this paragraph shall be canalized through the Minister designated for this purpose—at present the Postmaster-General.

The application of the *Aide Mémoire* had soon been found to be very restrictive, and various attempts had been made by the B.B.C. to secure some release from the restrictions which it imposed, particularly after the Beveridge Commission[5] reported in favour of some reconsideration of it. The leaders of the political parties, however, would not agree to this, and eventually the B.B.C. gave notice of their intention not to maintain the restrictions. They informed the Government that if the Parliamentary leaders insisted on the retention of the restrictions, the Government must take responsibility for

them, and the Postmaster-General must issue a prescription to the B.B.C. This was done on 27th July, 1955. The B.B.C. issued and broadcast a Press statement, making it clear that they accepted the restrictions unwillingly. The Budget, which had always been regarded as exempt from the 14-day rule, was now subject to the full rigour of its application.

The Select Committee examined twenty witnesses, including the Postmaster-General, the leaders of the main political parties and representatives of the B.B.C. and Independent Television Authority. In their Report they emphasise that their order of reference compels them to accept some restriction of anticipation of Parliamentary Debates by broadcasting, but they consider that it should be reduced to a minimum. They therefore recommend that in future the ban upon broadcast discussion of subjects to be debated in Parliament should apply only from the announcement of the business and should be reduced to a maximum of seven days before the subject in question is to be debated in Parliament. They recommend that this should apply to a bill before its Second Reading, but that apart from this no restriction should apply to debates upon bills in their progress through Parliament.[6]

The Report also mentions a curious phase of the Committee's proceedings. A Member of the House, Sir Robert Boothby, K.B.E. (Aberdeen, E.), had alleged, in a letter to the Chairman, that the leaders of the political parties had interfered undesirably with the selection of Members of Parliament appearing in B.B.C. and I.T.A. programmes. This, after some deliberation, the Committee decided was within their scope of enquiry. They examined officials of the B.B.C. and I.T.A. who had been mentioned and might possibly be involved, and decided that there was no truth in Sir Robert Boothby's allegation, although they considered that there was perhaps an unnecessary atmosphere of secrecy surrounding the selection of Members of Parliament to speak in programmes.[7]

As a result of some questioning in the House of Commons after the appearance of this Report, the Government eventually (18th December, 1956) announced that it had decided, after receiving assurances from the B.B.C. and I.T.A. that they would continue to act in a way which did not derogate from the primacy of Parliament in debate, to suspend the 14-day rule entirely for a period of six months. On 25th July, 1957, in response to a question, the Prime Minister announced that the new arrangements were working satisfactorily, and that the rule would therefore be left in its present state of suspense for an indefinite period.[8]

[1] 548 *Com. Hans.*, c. 1933.
[2] 546 *Com. Hans.*, cc. 2315-446.
[3] H.C. 288 (1955-56).
[4] *Ibid.*, pp. 23-31.
[5] Broadcasting Committee of 1949 (Report, Cmd. 8116).
[6] H.C. 288 (1955-56), Report, paras. 2-8.
[7] *Ibid.*, paras. 14-15.
[8] 574 *Com. Hans.*, c. 91.

VII. DISQUALIFICATION OF MEMBERS OF THE PARLIAMENT OF NORTHERN IRELAND HOLDING OFFICES OF PROFIT UNDER THE CROWN

By Major George Thomson, C.B.E., D.S.O., M.A.

Clerk of the Parliaments

An interesting and somewhat unique Parliamentary situation arose in Northern Ireland in the early part of 1956 as a result of the Speaker and several other Members of both Houses being deemed to be disqualified from sitting or voting owing to the fact that they held Offices of Profit under the Crown.

In order to appreciate the circumstances which led to the development of this situation, it is necessary to explain the position in which the Parliament of Northern Ireland found itself regarding the question of Disqualification.

The basis of the disqualification law is an Act of the British Parliament of 1707, called the Succession to the Crown Act, and section 24 of this Act provides that no person holding an office of profit under the Crown shall be capable of being elected or of sitting or voting as a Member of the House of Commons.

This Act was necessary at that time to counteract the extensive use, then being made, of the position of a Member of Parliament to obtain various lucrative posts in the gift of the party then in power.

In 1793 the Irish Parliament in Dublin passed the House of Commons Disqualification Act (Ireland), and section 1 of this Act imposed a similar disqualification in respect of the Irish House of Commons.

After the Union of the two Parliaments in 1800 the British Parliament passed another Act, the House of Commons (Disqualification) Act, 1801, section 1 of which provided that all persons disabled from, or incapable of being elected, sitting or voting in the House of Commons of any Parliament of Great Britain should be disqualified from being elected or voting in the House of Commons of any Parliament of the United Kingdom as a Member for Great Britain.

Section 2 of this Act further provided that all persons disqualified from being elected, sitting or voting in the House of Commons of any

Parliament of Ireland should be disqualified from being elected, sitting or voting in the House of Commons of any Parliament of the United Kingdom as Members for Ireland.

Section 3 of this Act further provided that persons disqualified by British Statutes should not be enabled to sit or vote in the House of Commons of the Parliament of the United Kingdom as Members for Ireland, nor should persons disqualified by Acts of the Parliament of Ireland be enabled to sit or vote in the Houses of Parliament of the United Kingdom as Members for Great Britain.

These are still the grounds for Disqualification, but at present there is a Bill before the British House of Commons to clarify the whole position, which bristles with many legal complexities.[1]

When the Government of Ireland Act, 1920 (which established the Parliament of Northern Ireland), was passed, section 18, subsection (2) of that Act applied the law for the time being in force relating to the qualification and disqualification of Members of the House of Commons of the Parliament of the United Kingdom to the Members of the Senate and House of Commons of Northern Ireland.

It will be seen, therefore, that the law of Disqualification, as laid down from the Act of 1707, and continued through the Act of 1793 of the Irish Parliament, and the Act of 1801 of the United Kingdom, is made to apply to Northern Ireland through section 18, subsection (2), of the Government of Ireland Act, 1920; and that is the situation to-day.

The present law of Disqualification has been greatly complicated by the establishment of the many and various statutory boards, authorities, advisory committees, tribunals and councils during the past ten years or so. It was as a result of membership of some of these statutory bodies that trouble developed in Northern Ireland, and in ways which were never anticipated nor foreseen.

The Speaker of the Northern Ireland House of Commons, Sir Norman Stronge, was one of the victims of this peculiar situation, and this created an unfortunate Parliamentary situation in that, when his attention was called by the Prime Minister to the fact that it was possible that as Chairman of the Central Advisory Committee for the Employment of the Disabled under the Disabled Persons (Employment) Act (Northern Ireland), 1945, he was disqualified from sitting or voting, the Speaker tendered his resignation to the House as Speaker.[2]

It may be of interest to set forth the grounds on which these Members were found to be disqualified from sitting or voting by the Select Committee appointed by each House[3] for the purpose of finding the facts and reporting whether, in their opinion, on the evidence submitted to them, these Members were in fact disqualified.

If we take the case of the Speaker, for example, and the principle governing his case applies to all the others, the facts were as follows:

Sir Norman Stronge, at the request of the then Minister of Labour

and National Insurance, accepted appointment on 14th June, 1947, as Chairman of the Central Advisory Council for the Employment of the Disabled under the Disabled Persons (Employment) Act (Northern Ireland), 1945, and he continued in this appointment until he resigned on the 16th January, 1956, on the receipt of a letter from the Prime Minister informing him that he may have been disqualified from sitting or voting in the House of Commons as the Chairmanship of this Council might be considered an office of profit under the Crown. Sir Norman was first elected to the House of Commons on 29th September, 1938, and was last re-elected in October, 1953.

A Select Committee of the House of Commons was set up to consider Sir Norman's case, together with two other Members who found themselves in a similar position. The Attorney-General gave evidence before the Committee[4] and stated, in his opinion, that as Sir Norman was in fact Chairman of this Advisory Council and as emoluments were payable under paragraph 4 of the Second Schedule of the Act, then, notwithstanding that no such emoluments were ever paid to Sir Norman, the appointment constituted an office of profit under the Crown within section 24 of the 1707 Act.

The Committee agreed with this opinion and found accordingly, stating at the same time that they were satisfied that Sir Norman acted in all good faith, without any knowledge of the legal complexities involved, and that at no time did he apply for or receive any remuneration or expenses of any kind whatsoever during the period of his Chairmanship.[5]

The paragraph 4 of the Second Schedule above referred to lays down:

> 4. There shall be paid by the Ministry out of moneys provided by Parliament to the members of the said council, of each of the said committees and of any panel established as aforesaid, and to any person requested by the said council or any of the said committees or such a panel to attend before them and so attending, such travelling and other allowances, including compensation for loss of remunerative time, and such other expenses of the said council, of any of the said committees or of any panel established as aforesaid, as the Ministry with the approval of the Ministry of Finance may determine.

The important words in this paragraph are " compensation for loss of remunerative time ". It was on these grounds that the Committee, on the advice of the Attorney-General for Northern Ireland, found Sir Norman's election to be invalid.

There is no need to go into the other cases except to mention that the principle was the same in each case, that if there was statutory permission to pay for " loss of remunerative time " whether the payment was claimed or not that fact constituted the office one of profit under the Crown.

Steps had now to be taken to elect a new Speaker in place of Sir Norman, who had resigned. The procedure was briefly as follows:

(1) The Speaker sent his letter of resignation, dated 16th January, to the Clerk of the Parliaments.

(2) The Clerk of the Parliaments informed the Governor that the resignation of the Speaker had been received and sent a copy of the letter to His Excellency.

(3) The Governor then sent to the Prime Minister a letter authorising the Prime Minister to inform the House at its next sitting that His Excellency, on behalf of Her Majesty, directed the House to proceed to the Election of a new Speaker and present him on a given date and time for Her Majesty's Royal Approbation.

(4) The House met on the day to which it had been adjourned (24th January), without any Speaker in the Chair, and the Clerk of the Parliaments read from his place at the Table the letter of resignation from the Speaker. The Prime Minister then informed the House, that he had it in command from His Excellency for the House to proceed to the Election of a Speaker and present him at 2.30 p.m. on the following day for Her Majesty's Approbation, and then asked leave of the House for the Clerk to put the Question for the adjournment of the House to the stated day. The Clerk of the Parliaments put the Question and the House accordingly adjourned till to-morrow.[6]

(5) On 25th January the House met in the morning and elected the new Speaker according to ancient custom and in the afternoon proceeded to the Senate, on a summons from His Excellency, for the Speaker-elect to receive Her Majesty's Royal Approbation. On return to the Commons Chamber the new Speaker thanked the House, and business then proceeded according to the Order Paper.[7]

After the validation of these elections by an Act of the Imperial Parliament[8] (the Northern Ireland Parliament has no power to indemnify Members or validate elections), the Speaker in office (Mr. W. F. McCoy, Q.C., M.P.) tendered his resignation through the Clerk of Parliaments to the House[9] and the same procedure was adopted for the election of Sir Norman Stronge as Speaker for the second time during the life of this Parliament.[10]

[1] *See* Chapter VI, pp. 25-31. [2] 39 *N.I. Com. Hans.*, c. 3141. [3] 39 *Sen Hans.*, c. 927; 39 *Com. Hans.*, c. 3159. [4] H.C. 1185, pp. 11-16. [5] *Ibid.*, pp. 8-9. [6] 39 *Com. Hans.*, cc. 3141-4. [7] *Ibid.*, cc. 3145-9. [8] Validation of Elections (Northern Ireland) Act, 1956 (5 Eliz. 2, c. 35). [9] 40 *Com. Hans.*, c. 927. [10] *Ibid.*, cc. 929-33.

VIII. CANADA: HOUSE OF COMMONS: RELATIONS BETWEEN CHAIR AND OPPOSITION IN 1956

By J. Gordon Dubroy

Second Clerk-Assistant of the House of Commons of Canada

The Pipeline Bill

The pipeline issue highlighted the 1956 session of the Canadian Parliament, when the first use of closure in twenty-four years touched off a series of procedural wrangles that produced twenty-five appeals from rulings of the Chair in eighteen days of acrimonious, and at times disorderly, debate, and culminated in the only motion of censure of a Speaker in the history of the Canadian Parliament.

The pipeline had its beginning in 1951, when the Trans-Canada Pipe Line Company proposed to build an all-Canada pipeline to carry natural gas from Alberta to the Province of Quebec, a distance of more than 2,000 miles. About 675 miles of the route runs through the sparsely populated and extremely rugged pre-Cambrian shield of northern Ontario. It was stated that the cost of building and operating this section of the line presented an insuperable difficulty in the financing of the project by private investment.

On 15th March, 1956, after dividing on a motion for Mr. Speaker to leave the Chair, the House went into committee to consider a resolution to provide for the constitution of a crown corporation for the purposes of constructing, maintaining and operating a natural gas pipeline in northern Ontario, and of leasing, with an option to purchase, the said line to the Trans-Canada Pipe Lines Limited; and to empower the corporation to borrow money not to exceed, at any time, the sum of one hundred and thirty million dollars. At the close of the sitting, the committee reported progress.

When introducing the resolution, the Minister of Trade and Commerce said:

> It is a vital link in a plan which would give central Canada the benefit of a secure source of additional energy, and would give Alberta gas producers the benefits both of the central Canadian market and of a market for surplus gas in the United States. We believe this temporary help to private enterprises will benefit both producers and consumers, and will contribute to the continued increase of Canadian productivity.[1]

Speaking to the resolution, the Leader of the official Opposition, and the Leader of the Co-operative Commonwealth Federation Party, stated:

> We are asked to give our support to a proposal which places the handling of Canadian gas under the control of powerful United States interests, where it will remain. We are being asked to help with public money to place control in the hands of United States financial interests whose main concern is the delivery of gas to the United States. That is the market in which they are interested. . . .[2]
>
> We have before us today a proposition not for supplying natural gas to Canadian homes and industry, but a proposition which will send the bulk of the gas to the United States via Emerson (Manitoba) and transport the rest through a spur line to eastern Canada; via a spur line, let it be said, which Canada and Ontario are to build with public funds for a company under foreign domination.[3]

On 8th May, the company signed an agreement with the government by which it undertook, provided certain loans were authorized by Parliament on or before 7th June, 1956, to construct the Alberta-Saskatchewan-Manitoba section of the line in 1956. This agreement, in effect, placed a deadline of 7th June on the passage of the projected measure.

On 9th May, 1956, the government gave notice of a new resolution which comprised the terms of the initial proposal and also a provision to enable the proposed crown corporation to make short term loans not to exceed eighty million dollars to assist the Trans-Canada Company in the building of a pipeline from a point on the Alberta-Saskatchewan boundary to the vicinity of Winnipeg, Manitoba.

On 10th May, a question of order was raised that since a proposal with respect to the pipeline was already under consideration, it was irregular to proceed with another resolution dealing with the same subject matter. Mr. Speaker ruled that two measures dealing with the same question could be entertained provided that when a decision was given with respect to one of them, the other was not proceeded with. He also stated that, in his opinion, the second resolution presented a new proposition since it contained a provision which ordinarily could not be proposed as an amendment to the initial resolution. This ruling was confirmed, on division. After the House had divided on motions to read the orders of the day and to adjourn, the resolution was referred, on division, to Committee of the Whole for consideration at the next sitting.

On 14th May, upon the order being read for House in Committee on the resolution, a question of order was raised that the House could not properly proceed with the resolution since it was substantially the same proposal as the one that had been considered previously in Committee of the Whole. Mr. Speaker, after debate, ruled to the effect that the resolution could be proceeded with since it was not the same proposal as that which had been partially considered by the House. The ruling was confirmed, on division. The motion

that the House do go into committee was then agreed to, on division.

A question of order was raised that the committee could not proceed with the resolution since it already had a similar resolution under consideration. The Chairman ruled that the Committee had been constituted to consider a specific proposition and it had no knowledge of any other proceeding. This ruling was confirmed, on division. When the committee resumed, a Minister gave notice of closure in these words:

> It is obvious that some hon. members prefer to obstruct this motion rather than debate it; therefore I beg to give notice that at the next sitting of the committee I shall move that the further consideration of this resolution shall be the first business of the committee and shall not further be postponed.[4]

The following day, 15th May, closure was adopted, on division. Later in the sitting, when the Chairman put the question on the resolution, a Member attempted to raise a question of order. The Chairman stated that pursuant to the closure rule no Member could rise after 1 a.m., and directed him to resume his seat. When the Member declined to do so, the Chairman reported to the House. The Speaker took the Chair and, after debate, the report was dropped.[5] The committee then resumed.

Thereupon, the Member who had been reported to the House raised a question of order that the motion to rise and report the resolution was not covered by closure and since it was not open to any Member to take the floor after 1 a.m., the motion was not in order. The Chairman ruled that according to Standing Order 33 (closure), all questions, including the motion to report the resolution, must be decided forthwith. The ruling was confirmed, on division. The resolution was then reported and concurred in, on division.

A question being put for leave to introduce a bill based on the resolution, a point of order was raised that only the resolution was covered by closure proceedings, and since it was after the ordinary hour of adjournment, the bill could not be introduced in that sitting. Mr. Speaker ruled that it was customary to introduce a money bill immediately after a resolution has been concurred in. The ruling was confirmed, on division. After a division on a motion to adjourn, leave to present the bill was agreed to, on division. The bill was then read a first time, also on division.

On 17th May, upon the calling of the order for second reading, a point of order was raised that the bill violated the principle of parliamentary control over finances since the agreement referred to therein was not being submitted to the House. Mr. Speaker ruled that the bill could be proceeded with, since it met the requirements of the British North America Act and of the standing orders with respect to financial measures. The ruling was confirmed, on division. When the motion for second reading was put, an amendment was proposed to refer the subject-matter of the bill to a standing com-

mittee. This was followed by a sub-amendment which proposed in effect that the entire project be placed under public ownership. The debate continued on 18th May. On Monday, 21st May, notice of closure was given. The next day, closure was agreed to, on division, and later in the sitting the bill was given second reading, after four divisions.

On 23rd May, when the order for House in committee was read, three instructions were proposed. Two being ruled out of order on the ground that when the subject-matter of a proposal is relevant to and within the scope of a bill, an instruction is irregular since the committee had the power to make the required amendment, the ruling in the second instance was confirmed, on division. In the third case, the Speaker ruled that a motion to instruct a committee was not debatable. This ruling was confirmed, on division. The instruction was then negatived, on division. The sitting having been spent in debating questions of order and in taking three divisions, the House adjourned without going into committee.

On 24th May, after a division on the motion for Mr. Speaker to leave the Chair, the House went into committee on the bill. A Minister spoke briefly to clause 1, and then moved that the further consideration thereof be postponed. A point of order was raised that a motion to postpone a clause was debatable. The Chairman ruled that the point of order was not well taken. His ruling was confirmed, on division. The committee having resumed, a question of order was raised that, according to the closure rule, each clause must be considered before it is postponed, and the brief remarks of the Minister could not be construed as such. The Chairman ruled that the calling of a clause brought it under consideration, and since it was in order to postpone the further consideration of a clause, the point of order was not well taken. This ruling was confirmed, on division.

Clause 2 being called, a Minister moved that the further consideration thereof be postponed. This produced a point of order that the clause could not be postponed since it had not been considered by the committee. The Chairman ruled that the point was one upon which the House had decided that day and he could not disregard that decision. This ruling was confirmed, on division.

When the committee resumed, a point of order was raised that the proceedings were irregular in that no opportunity had been afforded the Leader of the Opposition to take part in the debate. The Chairman stated that when the Minister of Trade and Commerce and the Leader of the Opposition rose in their places, he called the Minister as is the custom and, since the committee had negatived a motion that the Leader of the Opposition be now heard, the point of order was not a true one. This ruling was sustained, on division. A point of order was then raised that a motion "that the Minister of Citizenship and Immigration be now heard" must be put to the

committee. The Chairman ruled that in negativing the motion to hear the Leader of the Opposition the committee had decided to hear the Minister of Trade and Commerce. This ruling was confirmed, on division. Later the committee reported progress.

On 25th May, the Chairman reported that when he ruled a question of privilege could not be raised while he was addressing the committee, a Member had refused to resume his seat when the Chair had directed him to do so. After a debate on whether a Member has the right to raise a question of privilege when the Chairman is addressing the committee, the Speaker ruled that he could not review proceedings in the committee since the appeal from the Chairman's decision was to the House and not to the Speaker. The Leader of the House then moved that the Member in question be suspended for the balance of the sitting. When an amendment was proposed, the Speaker ruled that the motion was neither debatable nor amendable. This ruling was confirmed, on division. The motion to suspend the Member was then agreed to, on division. The committee having resumed, a point of order was raised that it was irregular to postpone the further consideration of clause 3, the only effective clause of the bill, until subordinate clauses had been considered. The Chairman stated that the question of order was similar to those which were raised previously and accordingly he was bound by precedents to rule that the point was not well taken. This ruling was sustained, on division. The committee then reported progress.

Alleged subordination of the office of Chairman of Committees to Government interests

On Monday, 28th May, the Leader of the Opposition asked leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, namely:

the subordination by the government of the office of chairman of the committee of the whole to serve the partisan interests of the government.[6]

He said:

The role of Speaker and the role of chairman of the committee is of just as much concern to me and to every private member as it is to those who occupy that office. This is part of the whole procedure of parliament. What we are complaining about is the extent to which this government has shamelessly subordinated the office of chairman to its personal interests. I submit, Mr. Speaker, that the motion by notice is one which is limited expressly to the condemnation of the chairman as its primary purpose, whereas our motion is clearly drawn to deal with a situation in which the government has exercised its authority to damage an office which is of immense importance not only to the members of this House but to all the people of Canada.[7]

In refusing to accept the motion, Mr. Speaker stated:

Notwithstanding what may be the purpose of the Leader of the Opposition's

motion, he has not convinced me that the person himself, that is the chairman of committees, would not, in the course of the debate on this motion, have his conduct criticized and I still say that it is not possible to divorce the two. If certain hon. members want to blame the government for the conduct of the chairman, well, that is their privilege; but if, in the motion in which they want to do that, the chairman of committees is to be involved, he has the right to have his own conduct properly debated in a separate and distinct motion.'

Although the question of the Chairman's conduct was left in abeyance, the deputy chairman presided at subsequent sittings of the Committee of the Whole.

Later in the sitting, a point of order was raised that the committee was not properly on clause 4 of the bill, since no opportunity had been provided for the consideration of clauses 1, 2 and 3. The Chairman ruled that the committee was regularly on clause 4, since clause 3 had been duly and regularly postponed this day. This ruling was sustained, on division. A motion to revert to clause 1 of the bill was ruled out of order in that it was irregular to revert to a postponed clause until other clauses had been called in their proper order. The ruling was confirmed, on division. The committee then reported progress. On Tuesday and Wednesday, 29th and 30th May, the committee continued with the consideration of clause 4 of the bill. In the latter sitting, the Prime Minister gave notice of closure.

On 31st May, after a procedural move had been decided on division, the House went into committee. The Prime Minister then moved,—

> That at this sitting of the Committee of the Whole House on Bill No. 298, An Act to establish the Northern Ontario Pipe Line Crown Corporation, the further consideration of clauses 1, 2, 3, 4, 5, 6, 7, the title of the said Bill, and any amendments proposed thereto, shall be the first business of this Commitee and shall not further be postponed.

A question of order was raised that since certain clauses of the bill had been postponed before being considered, and others had not been considered by the Committee, the said clauses could not come within the ambit of the closure motion. The Chairman ruled that in accordance with the rules and practice of the House the motion was in order. The ruling having been appealed, the Chairman reported the appeal to the House, but before the Speaker could put the question upon it another question of order was raised that the decision of the Chairman of the Committee should be subject to review by Mr. Speaker. After debate, Mr. Speaker rose to deal with the question, when it was suggested that he defer his concluding remarks until after the dinner recess.

When the House resumed, a motion to adjourn was negatived, on division. Mr. Speaker then stated that from the decision of the Chairman of Committee of the Whole no appeal should be made to the Speaker, and quoted from the authorities to the effect that

in the case of an appeal to the House, it was the duty of the Chairman to leave the Chair immediately and report in writing the point of order which he had decided; the Speaker must then submit the matter to the determination of the House in the language reported to him and put the question that the decision of the Chairman be confirmed; no discussion being allowed on the appeal.[9]

Whereupon, the decision of the Speaker was appealed. Mr. Speaker stated that in his opinion there could be no appeal of his statement since his sole duty in regard to the Chairman's report consisted of submitting it to the House. However, he added, the House might make better progress if an appeal were allowed, but the incident should not be drawn into a precedent. The Speaker's ruling was then confirmed, on division.

A motion to adjourn was then negatived, on division. As Mr. Speaker was beginning to put another question, a Member rose on a question of privilege, and complained of certain letters published in a local newspaper, which were read by the Clerk. The Member then moved, "That the statements in the said newspaper are derogatory of the dignity of Parliament and deserving of the censure of the House of Commons". Debate on this motion was interrupted at 10 p.m., pursuant to standing order, and the House adjourned without having come to any decision upon the appeal from the Chairman's ruling.

At the opening of the following sitting, Friday, 1st June, Mr. Speaker stated:

I rise at this moment to deal with this order which appears under "Motions" as follows:

> "Resuming the adjourned debate on the motion that the statements in the Ottawa Journal of May 30 and 31 are derogatory of the dignity of Parliament and deserving of the censure of this House."

I have read carefully the articles complained of and I have come to the conclusion that because of the unprecedented circumstances surrounding this pipeline debate and because of the remarks that were made in this House by Members themselves, it was and it is impossible, if we are to consider freedom of the press as we should, to take these two articles as being breaches of our privileges. It is my opinion that if it had not been for some of the insinuations or attacks directed perhaps to one another or the Chair or to the occupants of the Chair, these articles may not have been written. I think we should settle our problems among ourselves and that those who outside of this House either in editorial comment or by letters to the editor, write what I consider to be—and this is the case of these two articles—comments which do not go beyond the bounds of unfairness, I think they should be allowed. Therefore, I rule the motion out of order.[10]

This ruling was confirmed, on division.

Mr. Speaker's ruling on his omission to put question

After a motion to adjourn had been negatived, government orders were called. The Speaker then said:

It may be said that because the chairman's report was not placed before the house yesterday, the order "House again in committee of the whole" should not appear on the order paper; but, of course, what has happened is absolutely unprecedented. No such interruption has ever taken place. It is in the same category as the interruption which takes place when the Black Rod comes to tell us that a message is coming to us from the Senate.

Therefore I had to deal with the problem last evening before I left, and the matter which was before the house was, as provided in the rules, an appeal of a ruling made by the chairman in committee, and that report must be submitted to the house and the committee must resume the consideration of its business at once. Therefore I gave instructions to the Clerk to put the order on the order paper. An hon. gentleman says he rises on a point of order. I have explained why it is happening the way it is. What more can hon. members ask than that the matter be left to them to decide? That is exactly what I propose to do.

What I intend to submit to the house is that in neglecting to submit at once to the house yesterday the report of the chairman of the committee on an appeal from his ruling I made a serious mistake and the house should not suffer any prejudice or detriment on my account, and that the house, which is master of its own proceedings, should be placed in exactly the same position as it was when I resumed the chair yesterday to submit the chairman's ruling to the house.[11]

This question was agreed to, yeas—143; nays—nil; two of the opposition parties abstained from voting because, it was stated, "there was no question properly before the House". Thereupon, the Speaker put the question on the appeal from the ruling of the Chairman with respect to the validity of the closure motion, which ruling was confirmed, on division.

The committee then resumed. A point of order was raised that the Chairman was improperly in the Chair since the order of the day for the House to go into committee had not been read when Mr. Speaker was in the Chair. The Chairman ruled that he could not rule upon the regularity of any proceeding that occurred when the Speaker was in the Chair. This decision was sustained, on division. A point of order was then raised that the committee was improperly sitting since the Chairman in yesterday's sitting had failed to obtain leave to sit again. The Chairman ruled that the point of order was not well taken. The ruling was confirmed, on division.

The committee having resumed, a question was raised that the business was a nullity since the closure motion contained the words "at this sitting of the committee" and since those words had reference to yesterday, the motion was not valid in to-day's sitting (Friday), and also that the validity of the notice given Wednesday expired in yesterday's sitting. The Chairman ruled that the notice given in Wednesday's sitting was effective and that the motion decided this day was and is effective in regard to the committee's proceedings. This ruling was confirmed, on division. Later, the bill was reported without amendment, and ordered for third reading at the next sitting.

Motion of censure on Mr. Speaker, and conclusion of debate on the Bill

On Monday, 4th June, the Leader of the Opposition moved,—

In view of the unprecedented action of Mr. Speaker in (*a*) improperly reversing his own decision without notice and without giving any opportunity for discussion; (*b*) repeatedly refusing to allow members to address the House on occasions when the Rules provide that they have the right to be heard; (*c*) subordinating the rights of the House to the will of the Government, this House resolves that it no longer has any confidence in its Presiding Officer.

He said:

During the present session it must have been recognised that there has been a steady deterioration in the relationship of the occupant of that high office and many of the members in this house. I should like to emphasise that long before there was any open criticism in this house there was widespread criticism in the press of the conduct of the Speaker in the performance of his duties. That was not good for Canada; that was not good for the people of Canada whose servants we all are. It could have been overcome. Even though the criticism had raised some questioning, it could have been overcome if the Speaker had listened to the advice which was being given to him outside the house as well as inside this house.

Unfortunately for all of us the criticism emerged openly in the house during the debate on what we have come to know as the pipeline bill. It came to a head last week. Hansard records several expressions of that criticism on earlier occasions, but it was during the last two days of the past week that all the criticism was brought into focus by events which every member in this house must greatly deplore. I know that for all of us the last two days and the past week are days we would like to erase from our memories, erase from our hearts, erase from the records that are kept of the proceedings in this house. But, unhappily, that cannot be.[12]

The Leader of the C.C.F. Party added:

I join with the Leader of the Opposition in saying that I am sure all of us regret the scene in this house last Friday afternoon. The bells were ringing even after some of us had risen to try to get a word in on a point of privilege which we felt was justifiable at the time. Members were called in to vote, I thought, without being given the opportunity to express themselves on a point of order or a question of privilege that I believe was really valid. I felt that the division had been hurried along in order, once again, to prevent those expressions of opinion that should have been heard by the Chair.

I do not think any of us like the position in which we find ourselves. We do not like the breaches in those personal friendships that have been established over the years in this house. Some of us do not like the feeling that we have perhaps lost respect for one another. In this connection I should like to feel that we could go back to the position in which we found ourselves three weeks ago and wipe the slate clean. But that cannot be done. We must face up to this situation. There is no doubt, Mr. Speaker—as the Leader of the Opposition has said—that no matter what we may do or say for the balance of this parliament, the Speaker has not the confidence of the entire house, something which is so necessary to conducting the business of this house.[13]

A spokesman for the Social Credit Party then said:

I have listened with attention to the two previous speakers, and I agree

with the Leader of the C.C.F. party that the present situation is an unfortunate one. Let me say right at the start that I do not like the motion that is before the house. The suggestion that the government should resign as a solution is, of course, a suggestion that the government should surrender to the minority.

I listened to the Leader of the Opposition and it seemed to me that his main weapon was that of exaggeration. It is true that he was able to keep himself fairly well controlled, mainly no doubt because there were no interruptions. He referred at length to what transpired in this house on May 31 and June 1. I would say that what transpired on Thursday and Friday cannot be judged by those days alone. It was the culmination of days of lawlessness in this house; shouting and defiance of the Speaker. I am not surprised that the Leader of the Opposition would say he would like to forget those days. It is not easy to forget what transpired in this house during that time.[14]

Later the Prime Minister stated:

Now I recognise, sir, that strong feelings and great heat have been demonstrated in this debate. I recognise that hon. gentlemen opposite have, and probably still feel, that the government has applied standing order 33 with undue severity. We do not feel we have done so. We have acted within the rules to protect the rights of all hon. members on both sides of the house to express their opinion by their vote on this measure in time to be effective. . . .

There was, and still is apparently, the suggestion that in doing so you (Mr. Speaker) were subordinating the rules of parliament to the will of the government. Well, we absolutely repudiate any such suggestion. We do say that proceedings of the character of this motion would constitute a very serious precedent that would enable any factious group that was opposed to any bit of legislation to resort to it, and thus prevent the normal operations of the House of Commons in the progress of its business.

It has been stated, and we must all recognise it, that if there are hon. members who are prepared to vote for this motion there are very many more on both sides of the house who are prepared to assert by their votes that they still have confidence in the presiding officer of this house. Such a vote would not be a happy situation. It may be an inevitable situation.

I feel that, on this side of the house, we are entitled to some time for the consideration of what should be the ultimate disposition of this motion. It is not a situation which cannot be cured. It is not a situation which is going to destroy this parliament; and there should be in the minds of reasonable men, after they have had an opportunity of expressing their views, the feeling that after all, something has to be done to allow parliament to continue to operate in the true traditions of British institutions and to carry on its work effectively.[15]

A motion to adjourn debate on the motion of censure was then agreed to, on division. After the third reading of the Pipeline bill had been proposed, the Prime Minister gave notice of closure for the next sitting. An amendment and a sub-amendment were proposed, and the debate continued for the rest of the sitting.

The next day, 5th June, after two procedural moves had been decided, on divisions, closure was agreed to, also on division. After further debate, the amendments were negatived, on divisions, and the bill given third reading, on division. When the Speaker put the

question, that the bill do now pass and the title be as on the order paper, a point of order was raised that this motion did not come within the terms of closure and as it was a separate question it could not be taken after the ordinary hour of adjournment. The Speaker ruled that a vote could take place on the motion, but it was a formal procedural question, and since it was part of the question for third reading it must be decided forthwith in accordance with the closure rule. This ruling was confirmed, on division. The motion that the bill do now pass, etc., was agreed to, on division.

Thus, closure, for the first time in the Canadian House, was applied at every stage in the passage of a money bill. The bill was sent up to the Senate on 6th June, where it received royal assent 7th June, 1956, the date fixed as a deadline for its passage in the agreement of 8th May, between the government and the Trans-Canada Pipe Line Company.

On 6th and 7th June, debate on the motion of censure of Mr. Speaker quietly continued, and on 8th June, the motion was negatived, yeas—35, nays—109. The total membership of the House is 265.

Resignation tendered to the House by Mr. Speaker

On Friday, 29th June, 1956, the Leader of the Opposition raised a question in regard to the propriety of a letter which had been quoted in a newspaper article wherein Mr. Speaker had commented upon the actions of certain Members in the recently concluded pipeline debate.

The Leader of the Opposition said:

> I rise both on a question of privilege and of major public importance. In view of the intolerable situation created in this house by the utterly unprecedented actions of the Speaker in improperly impugning the motives of many of the hon. members in a letter, I ask the Acting Prime Minister to assure us that the government will deal with this situation in the only way in which it can be dealt with effectively, by taking the necessary steps to dissolve the house and give the people of Canada the earliest possible opportunity to elect a new parliament.[16]

He later added:

> Whatever the unhappy circumstances were which resulted in the publication of this communication, the hon. members who disagreed with the procedure which took place have now been told that in the Speaker's opinion they distorted or falsified facts for their political ends. How is it possible for any hon. member to divest himself of that knowledge and to start afresh with any pretence that there is impartiality in the mind of the Speaker?[17]

Mr. Speaker stated:

> May I be allowed to say a word of personal explanation? It seems to me the point at issue at the moment is whether or not a person who occupies the office that I have the honour to occupy at the moment is or is not deprived of being able to write personal correspondence. It has been established, I

think—if it has not been established, I am prepared to establish it to the satisfaction of all hon. members, I am sure—that I made the comment in a personal letter which was never intended to be published and which I never thought would ever be published—I can assure you of that—and which unfortunately has been published.

Now, because one or two paragraphs of a private letter that I addressed to a man who is a free lance writer appears in a newspaper—a letter addressed to his residence—of course it becomes known that with respect to a certain matter I have an opinion which is at divergence with the opinion held by other hon. members.[18]

I am very sorry that part of that letter has been quoted. I may say that, as if I did not have enough trouble so far, I was certainly hoping that no other trouble would arise, and I was greatly shocked when I saw that those paragraphs had been taken out of that private letter and put in a newspaper article.[19]

The Acting Prime Minister then said:

The Speaker was elected not by the government but by the House of Commons. He was nominated by the Prime Minister and that nomination was seconded by the Leader of the Opposition. He was elected unanimously by the whole House. This is a situation for the House to consider. The government was elected by a large majority to carry on the Queen's business for the usual period. It has now been in office a little less than three years. Whether or not the government should go to the country is a matter apart from the present dispute and will be settled by the procedure that governs dissolution of parliament under the usual circumstances.

The conduct of the Speaker has been impeached by the Leader of the Opposition. The motion was voted upon and voted down. Whether or not the publishing of an extract from a private letter changes that situation is a matter that must be considered.

Unfortunately, the Prime Minister is away and I would not wish to comment on the situation until he returns. However, I shall report the situation to him and he will make such statements as seem appropriate at that time.[20]

In the next sitting, Monday, 2nd July, Mr. Speaker addressed the House as follows:

I should like to make a statement to the House. On Friday last the Leader of the Opposition rose on a question of privilege in connection with the publication in a newspaper of two paragraphs extracted from a private letter that I wrote to a free lance writer who occasionally contributes an article to the Montreal newspaper *La Patrie*.

On Friday last the Leader of the Opposition contended that if the expression " my accusers falsified the facts for their own political ends " was used in the House it would be the duty of the Speaker to call for a retraction immediately. My view, well-supported, I think, that the expression would be unparliamentary only if it read " my accusers *deliberately* falsified the facts ", was completely disregarded.

After referring to several incidents wherein the words, " falsified the facts " had been used and allowed in debates, Mr. Speaker continued:

Notwithstanding what has happened during the pipeline debate and the motion of censure that followed, no hon. member has ever suggested that I should resign. I may say, however, that I intended to resign more than once during that period for the purpose of regaining my full freedom of speech both

in and outside this House. I had received communications and I had an exchange of views with some of the 35 members who had voted in favour of the motion of censure on Friday, June 8, last. It appeared to me that time might bring about a situation by virtue of which it might be possible for me to carry on at least until the prorogation of this session. When paragraphs of a private letter of mine were published in a newspaper I knew I had to take immediately the course I had in mind to follow.

In public life all men have had the experience of being quoted when they spoke off the record, or of being misquoted. I realise, however, that if the accident happens to one who is occupying my position, the House to which I am responsible—and I am responsible to the House alone—may ask for an account of the incident. That was done last Friday. It appeared to me that the hon. members of the Opposition exaggerated the importance of the incident, and since they were accusing me of improper conduct and of having used unparliamentary language I felt that the traditional parliamentary recourse in such cases should be taken, a recourse which I think is a protection for the House and for the Chair—namely, that a motion dealing with the accusations should be placed on the order paper, debated and decided.

The Speaker went on to say:

I thought that I was entitled to have the House judge my actions. I have been in public life since 1945. My strongest critics have said that until the pipeline debate I had acquired a good reputation as Speaker of this House. I have a family, friends and a constituency. For their sakes, as well as for my political future, I thought that I was entitled to get the judgment of the House on the incident referred to last Friday. Otherwise, notwithstanding the fact that I had admittedly a good record until the pipeline debate and that the motion of censure arising out of the pipeline debate was defeated by a vote of 109 against 35, would it not appear, if I were to resign now without a judgment of the House, that because a newspaperman published extracts of a private letter of mine, I have done worse than anything I might have been accused of before?

Last Friday the Leader of the Opposition, speaking about the above-mentioned paragraphs that were published, concluded by asking the Acting Prime Minister to dissolve the House. I do not wish my actions to be part of the many considerations which must be weighed before such a grave decision is taken. Furthermore, I am anxious to regain my full freedom of speech. I realise that the Prime Minister is away. Were I to resign today the House would have to adjourn immediately. The Senate being adjourned for three weeks, it would have to be called back in session and the presence of His Excellency the Governor-General or his deputy would be required for the approval of the new Speaker.

I place now my resignation before the House to take effect at the pleasure of the House. I would wish that it be accepted as soon as possible.

This is my farewell speech; I shall always remember with pleasure my term of office as Speaker. I have enjoyed every moment of it, even the most difficult parts, because I know that deep down in their hearts members understood certainly much more perhaps than they were indicating.

In private I had conversations and exchanges of views and I know that, notwithstanding what has happened, I retain in this House the friendship of many more members than one would like perhaps to believe. I must have enjoyed every moment of it. I have never been avoidably absent since I became Speaker. I have been in this House every sitting day since November 12, 1953.

I have no animosity whatever against anyone. Throughout my term of office, I assure you, I have never acted, nor have I ever been motivated, by any other interests but the best interests of the House itself. Never was I

motivated by any partisan feelings; and my conscience is perfectly clear. Had it not been as clear as it is, I do not think I could have gone through all the difficulties that came my way in the past month.

I thank you very much for the privilege and the honour that you have given me of serving you as Speaker of the House, and I want to assure you that as long as I live I shall never forget this honour that you have given me and this kind gesture on your part. Unintentionally I might have done something wrong or I might have done something offensive to hon. members. I want to ask them—and I do say this is the last favour, if I may be deserving of a last favour—that, if I have done something offensive or anything wrong to any hon. member, an act of oblivion will be passed. Gentlemen, thank you very much.[21]

The Acting Prime Minister then said:

Mr. Speaker, I am sure we are all moved by your remarks. I appreciate your forebearance in not pressing the matter you have raised in the absence of the Prime Minister. As we all know, the Prime Minister is in London attending to Her Majesty's business, and I think it is a courtesy observed by all Commonwealth parliaments not to raise difficulties affecting the office of the Prime Minister in his absence.

I sincerely hope that hon. members will be prepared to consider your statement and not raise the matter of the office of Speaker until the Prime Minister is in his seat, which I hope will be next Monday.[22]

On Monday, 9th July, 1956, the Prime Minister made the following statement:

Mr. Speaker, since I returned from London on Saturday morning I have given careful consideration, with my colleagues, to the situation which arose in the House on Friday, June 29, and on Monday, July 2.

I have also, as I am sure every hon. member would have expected me to do, seen Mr. Speaker and discussed the situation with him.

I think all of us can understand the desire of the Speaker to be able to answer fully and freely the criticisms levelled against him as a result of the position in which he had been placed by members of two of the Opposition parties who supported the motion which was moved on June 4, and which asked this House to say that it no longer had any confidence in its presiding officer.

It is not hard to understand the reactions of any man, regardless of the office he may occupy, who feels he has been unfairly charged and has not, himself, been able to reply to those charges.

I am sure most hon. members will sympathise with the desire of the Speaker to place himself, as soon as possible, on a basis of equality with other hon. members so he will have freedom to explain the conduct, which was vindicated by the very large majority which rejected the motion I have just referred to.

And that, I understand, is the position Mr. Speaker wished to achieve when he stated on Monday of last week that he was placing his resignation before the House to take effect at the pleasure of the House.

Of course, all hon. members are aware that such a statement or declaration of intention does not constitute the formal action required as the actual resignation of a Speaker.

Because of my absence in London, Mr. Speaker refrained from taking any such formal action so that I might have the opportunity to consider the situation, and for that I wish to thank him.

As Prime Minister I have the ultimate responsibility for the leadership of the House, and I do not intend to shirk that responsibility in any way.

I have had to ask myself whether the matter referred to by the Leader of the Opposition and others on Friday, June 29, really has sufficient gravity to justify the resignation of a Speaker who recently received an overwhelming vote of confidence from the House.

I have no hesitation in saying I do not think so.

I share, and I am sure most hon. members share, the regret of the Speaker that any part of his personal letter was published. I cannot, however, share the view that because the Speaker had expressed in private the views he did express in that letter, he could no longer continue to be an impartial and competent Speaker. It does not seem to me that the publication by someone else of an extract from a private letter would justify me, or the majority in this House, in taking any formal action in consequence of what has taken place.

During the debate on the motion relating to his conduct and subsequently Mr. Speaker has discharged his duties in this House with dignity and impartiality.

My confidence in Mr. Speaker is unshaken, and I know of no other member better qualified than he is to preside over our deliberations; I believe that confidence is shared by an overwhelming majority of members, a majority by no means confined to the supporters of the government.

Now, as the one responsible for the leadership in this House, I have expressed the view to Mr. Speaker and I have found that he was willing to subordinate his personal feelings to his duty to parliament and the country, and to continue in the office in which he has served with great distinction. I am happy to be able to make that announcement to the House.[23]

[1] Can. Com. *Hans.*, 1956, p. 2170. [2] *Ibid.*, p. 2178. [3] *Ibid.*, p. 2183.
[4] *Ibid.*, p. 3864. [5] *Ibid.*, pp. 3967-69. [6] *Ibid.*, p. 4365. [7] *Ibid.*, p. 4367.
[8] *Ibid.*, p. 4367. [9] Beauchesne, *Parliamentary Rules and Forms* (3rd Ed.), p. 162, para. 428. [10] Can. Com. *Hans.*, p. 4537. [11] *Ibid.*, p. 4551.
[12] *Ibid.*, pp. 4643-45. [13] *Ibid.*, p. 4650. [14] *Ibid.*, p. 4651.
[15] *Ibid.*, p. 4659. [16] *Ibid.*, p. 5509. [17] *Ibid.*, p. 5512. [18] *Ibid.*, p. 5509.
[19] *Ibid.*, p. 5510. [20] *Ibid.*, p. 5513. [21] *Ibid.*, p. 5553. [22] *Ibid.*, p. 5555.
[23] *Ibid.*, p. 5763.

IX. AUSTRALIAN COMMONWEALTH: DOUBLE DISSOLUTION OF 1951: PUBLICATION OF RELATED DOCUMENTS

By B. R. Odgers, B.Com.

Clerk-Assistant of the Senate

In Volume XIX (pp. 191-3) and Volume XX (pp. 142-3) of THE TABLE appear articles describing the events which led to the simultaneous dissolution of the Senate and the House of Representatives by His Excellency the Governor-General on 19th March, 1951.

Section 57 of the Constitution provides the machinery for the settle-

ment of continuing legislative disagreements between the Senate and the House of Representatives. That section reads—

Disagreement between the Houses.

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

The 1951 double dissolution was proclaimed on the ground that the Senate had failed to pass the Commonwealth Bank Bill after it had, on the first occasion, been unacceptably amended by the Senate.

After the ensuing election, the Leader of the Opposition in the Senate (Senator McKenna), on 17th October, 1951, moved in the Senate:

That the Government lay on the table of the Senate a copy of all written advices from the Prime Minister or other persons tendered by or on behalf of the Government to His Excellency the Governor-General, in relation to the dissolution of both Houses of this Parliament proclaimed on or about the 19th day of March, 1951.

Speaking to this motion, Senator McKenna said that the production of the documents would do a great deal to clarify certain constitutional issues involved, namely: (i) whether the period of three months which must elapse before the same Bill is again presented commences from the beginning of the dispute between the two Houses, or from the end of the first dispute between the two Houses;

(ii) in what circumstances apart from outright rejection of a measure, or the making of amendments to it which are unacceptable to the House of Representatives, can the Senate be deemed to have failed to pass it; (iii) has the Governor-General, under section 57, an absolute discretion either to grant or to refuse a request for a double dissolution, or is he bound to act upon the advice tendered to him by his Ministers of the Crown; and (iv) whether the Government based any portion of its case upon the general conduct of the Senate apart altogether from the Commonwealth Bank Bill.

In reply, the Government Leader in the Senate (Senator O'Sullivan) quoted the answer that was given by the Prime Minister (Mr. Menzies) in the House of Representatives to a question in substantially the same terms that was addressed to him by the Leader of the Opposition (Dr. Evatt), as follows:

> I have given consideration to this matter. I agree that the communications that passed between myself and the Governor-General and between His Excellency and myself on the occasion of the request for a double dissolution and the granting of it are of first-class historic and constitutional importance. They must, therefore, be tabled at a proper time. I do not propose to table them at a time when they would give rise to discussions in which the present occupant of the position of Governor-General would be involved.

Senator McKenna's motion was negatived, on division.[1]

In due course, however, the documents relating to the 1951 double dissolution were tabled in both Houses on 24th May, 1956.[2] They comprise:

> Foreword by the Prime Minister on the events preceding the tendering to His Excellency the Governor-General on 16th March, 1951, of advice to dissolve simultaneously both Houses of the Commonwealth Parliament;
>
> Advice tendered to His Excellency by the Prime Minister on 16th March, 1951;
>
> Opinion of the Attorney-General;
>
> Opinion of the Solicitor-General (Professor K. H. Bailey) in relation to the legal construction of section 57 of the Constitution, as distinct from its application to the then circumstances; and
>
> Acceptance by His Excellency the Governor-General of the advice tendered by the Prime Minister.

Of particular interest is the Solicitor-General's opinion on the starting-point of the interval of three months. If the Senate has passed a proposed law with amendments to which the House of Representatives will not agree, from what point does the interval of three months, which must elapse before the House of Representatives again passes the proposed law, commence to run? In the Solicitor-General's opinion, the relevant date is the passing of the Bill, with amendments, by the Senate.

Dealing with the words "fails to pass", the Solicitor-General's opinion states:

> The question whether the Senate has "failed to pass" a Bill is a question of fact, to be established in each particular case. What has to be established

is, of course, a real disagreement between the two Houses, constituted by the Senate's refusal to accept a legislative proposal of the House of Representatives. This disagreement may be shown in formal fashion either by rejection of a Bill or by passing it with amendments. The addition of the words "fail to pass" is intended to bring the section into operation if the Senate, not approving a Bill, adopts procedures designed to avert the taking of either of these definitive decisions on it. The expression "fails to pass" is clearly not the same as the neutral expression "does not pass", which would perhaps imply mere lapse of time. "Failure to pass" seems to me to involve a suggestion of some breach of duty, some degree of fault and to import. as a minimum, that the Senate avoids a decision on the Bill.

The opinion goes on to quote Sir Robert Garran (former Solicitor-General) as stating that reference of a Bill to a select committee

would be fair ground for suspicion, but all the circumstances would need to be looked at.

In his submission, Mr. Menzies pointed out that the Senate did not seek or appoint a select committee when the first Commonwealth Bank Bill was under consideration. He submitted that the reference of the second Bill to a select committee (when no new issues had arisen in relation to it) was conclusive evidence of an intention to delay the Bill, and clearly constituted a failure to pass it.

While not affirming that any circumstance other than those referred to in section 57 were relevant to the granting or refusal of a dissolution of both Houses, the Prime Minister, in his submission to the Governor-General, referred to disagreement between the two Houses on three legislative matters entirely apart from the banking legislation.

On the question of the responsibility of the Governor-General to satisfy his own mind about the performance of the conditions precedent to the granting of a double dissolution, the documents reveal that Mr. Menzies made it clear to His Excellency that, in the Prime Minister's view, the Governor-General was not bound to follow his Prime Minister's advice in respect of the existence of the conditions of fact set out in section 57, but that His Excellency had to be himself satisfied that those conditions of fact were established.

These documents have not been debated in either House of Parliament, but it is possible that they may be considered by the Constitution Review Committee, which was appointed in May, 1956,[3] to review such aspects of the working of the Constitution as the Committee considers it can most profitably consider, and to make recommendations for such amendments of the Constitution as the Committee thinks necessary in the light of experience. This is a joint committee, whose Chairman is the Attorney-General (Senator O'Sullivan).

[1] 214 *Hans.*, 737-41. [2] 1956 *Sen. Hans.*, 981; *H.R. Hans.*, 2451.
[3] 1956 *H.R. Hans.*, 2453; *Sen. Hans.*, 981 (24th May); *H.R. Hans.*, 2521 (29th May).

X. AUSTRALIA: SALARIES AND ALLOWANCES OF MEMBERS OF THE COMMONWEALTH PARLIAMENT

By A. A. Tregear, B.Com., A.I.C.A.

Clerk of the House of Representatives

On 8th August, 1955, the Prime Minister announced that, with the consent of all Parties of the Commonwealth Parliament, it had been decided to set up an independent Committee to inquire into the salaries and allowances paid to Senators and Members of the Commonwealth Parliament. The Committee consisted of a leading businessman, a leading accountant, and a retired senior Public Servant.

The Committee's terms of reference were:

1. To inquire into and report upon the salaries and allowances payable to Senators and Members of the House of Representatives.
2. If it be reported that it is necessary or desirable to alter such salaries and allowances, or any of them, then to recommend the nature and extent of the alteration that should be made.
3. Generally, to inquire into and report upon any other matters arising out of or affecting the premise which may come to the notice of the Committee in the course of its inquiries and which it may consider should be reported upon.

The Committee was not required to report on Ministerial salaries and salaries paid to Office Bearers of the Parliament, nor on the matter of pensions for Members of Parliament, nor on the allowance paid to the Prime Minister. The Committee was specifically asked for its views on travelling allowances and allowances paid for attendance in Canberra during Sessions of the Parliament.

On 18th April, 1956,[1] the Prime Minister tabled the Committee's Report[2] which the Government decided to adopt entirely. The necessary legislation was introduced into the House of Representatives on 24th May,[3] and passed both Houses without amendment.[4]

Sources of Information

As sources of information, the Committee examined the report of Mr. Justice Nicholas (1952),[5] and two more recent reports of Committees which inquired into the salaries and allowances of Members of the Parliaments of Victoria and Tasmania respectively. During

the course of the inquiry the Committee also had available to it the 1955 report of the Royal Commission upon Parliamentary Salaries and Allowances in New Zealand.[8] The Committee sent to each Member and Senator a questionnaire asking for factual information and for an expression of views on a number of problems related to the Committee's work. Eighty-one per cent. of the Members of both Houses were examined, either by personal interview or by studying their written submissions. Representatives from outside bodies were not called, but interviews were arranged with the Commissioner of Taxation and the Chairman of the Public Service Board.

The Commonwealth Statistician supplied figures which showed that since the Nicholas Committee Inquiry the Retail Prices (Cost of Living) Index and Average Earnings had increased by 22·2 per cent. and 33·5 per cent. respectively. The Committee emphasised that its recommendations were not based on any set formula but account was taken of the above indications.

The Report

The principal points developed in the report were as follows (unless otherwise indicated, the term "Members" is used to indicate both Senators and Members of the House of Representatives):

1. The general public, without full information and often in complete ignorance of the true facts, tends to offer unreasonable opposition to any alteration in Parliamentary allowances. Much of the publicity given to the matter is deliberately distorted and, in the long run, unjustly lowers the prestige of elected representatives.

2. A periodic review of Parliamentary salaries is necessary but should not be automatic.

3. Parliamentary allowances should not be set at a figure which is so low that it will fail to attract the class of men whose services are needed in the Parliament.

4. There is a widespread misconception that Members of Parliament devote only a fraction of their time to Parliamentary duties. Eighty-four per cent. of Members of the 21st Parliament devoted the whole of their time to Parliamentary and electorate duties and ninety-three per cent. of the Members devoted not less than ninety per cent. of their time to their electorate duties.

5. Parliamentary representation is fast becoming the full-time occupation of almost all Members who are thus precluded from earning any other income from personal exertion. Seventy-three per cent. of those who supplied information had no other income from personal exertion.

6. In recommending that the tax-free allowances granted by the Nicholas Committee be abolished, the Report stated:

> We consider that no section of the community should receive as an allowance for their expenses any sum of money which is statute barred from income

tax. There is widespread unpopularity—shared by many Members—against any allowance given as tax-free allowance.

We have endeavoured to achieve two things in our recommendations as to expense allowances. Firstly, we have sought to reimburse a Member for what he spends in legitimate expenses. Secondly, we have sought to minimise the number of points of entry into the public purse—by making the electorate allowance as all-embracing as possible. We recommend an amount which we consider to be a fair estimate of the needs of the average Member.

This sum, if paid, will be included in the Member's taxation return in which he will be entitled to claim, as a deduction, legitimate expenses in the same way as every other taxpayer.

7. The justification for separating Members into six classes for the payment of an electorate allowance, as recommended by the Nicholas Committee, was questionable, because although there is a difference between the expenses of a city and a country Member, it is not easy to differentiate between the different country electorates. The Committee therefore agreed that all Members who were formerly classified as Group I (City) should receive an allowance of £600 per annum; all other Members to receive £800 per annum, and Senators £700 per annum.

8. Donations and subscriptions are items which plague Members and form a big part of their expenditure. In many cases they amount to political blackmail. Some Members, particularly those in safe seats, are impervious to these demands, whilst others, particularly those in marginal seats, seem to think it is a part of the cost of holding the seat, and the Committee felt that unreasonable sums of money were being paid under that heading.

9. Thirty-one per cent. of Members found that the Gold Pass giving free rail travel throughout Australia was, intrinsically, either of no use or of very little use. Since the Gold Pass system cost the Commonwealth £160 per annum for each pass and approximately £30,000 per annum in total, the Committee recommended that as authority for free travel the Pass should be abolished. In its place the Committee recommended that the cost of all legitimate country and inter-state railway journeys be met by the use of warrants, and that a medallion, or similar device, be issued only as a badge of office. The Committee believed that a Member should meet the cost of his holiday travel, suburban rail fares, tram fares, bridge tolls, etc., in the same way as any other taxpayer.

Summary of Recommendations

	At Present	*Recommended*
Parliamentary allowance—All Members of both Houses	£1,750 *p.a.*	£2,350 *p.a.*
Allowance for reimbursement of Parliamentary expenses (Electorate Allowance)	Six categories ranging from £400 to £900 p.a. (tax-free)	Three categories as follows: City Members—£600 p.a. Country Members—£800 p.a. Senators—£700 p.a. (subject to taxation)
Special Allowance to Ministers and Office Bearers of the Parliament	All Ministers and Leader of Opposition—£1,000; Speaker, President, Leader of Opposition in Senate, Deputy Leader of Opposition in House of Representatives — £250 (tax-free)	No change in amount (subject to taxation)
Living Allowance in Canberra	All Senators and Members—£2 10s. per day (Ministers—Nil)	No change. (Ministers and Leader of Opposition—Nil)
Travelling Allowance—other than in Canberra or home base—on official business	Prime Minister and other Ministers—£5 5s. per day Speaker and President—£5 5s. per day	Prime Minister—£10 10s. per day All other Ministers, President, Speaker and Leader of Opposition—£7 1s. per day
Typist-Secretary	One to each Senator and Member	No change
Stamp Allowance	£6 per month	Nil. Provided for in electorate allowance
Telephone Facilities	No allowance for local calls and rent on home telephone	Allowed for in electorate allowance
Rail Travel	Gold Pass allows free travel on Government railways and tramways	Gold Pass not available for travel. All country railway travel on Parliamentary business allowed for the Member only, on production of a warrant
Air Travel	Allowances ranging from £50 to £150 p.a. (for Member and his wife)	Allowance abolished. All air travel on Parliamentary business allowed for the Member only, on production of warrant

	At Present	*Recommended*
Travel facilities for wives and families	Air or rail travel for a Member's wife from her home to Canberra four times per year. Members representing Northern and Western Australia can bring dependent children to Canberra once per year	No change
Life Gold Pass	Qualifying period of 25 years for a member (Prime Minister — 1 year; Ministers — 3 years; Leader of Opposition—6 years) (Not available for air travel)	No change in qualifications. Pass to be issued after Member leaves Parliament. (Not available for air travel)
Travel to Australian Territories	Two parties of Members each year	Additional allowance of one visit per Member during each Parliament
Air Insurance	Equivalent to general Public Service rate	No change

[1] *Hans.*, p. 1415. [2] Parl. Paper No. 7 of 1956 Session. [3] *Hans.*, pp. 2479-83. [4] Parliamentary Allowances Act (No. 29 of 1956), and Income Tax and Social Services Contribution Assessment Act (No. 2) (No. 30 of 1956). [5] *See* THE TABLE, Vol. XXI, pp. 64-72. [6] *Ibid.*, Vol. XXIV, pp. 183-5.

XI. NEW SOUTH WALES: COMPOSITION OF A JOINT COMMITTEE

By L. C. Bowen

Clerk-Assistant of the New South Wales Legislative Council

It has been the frequent plaint of the various State Governments of Australia, during recent years, that there has been a complete reversal of the concept on which federation was based, namely, a partnership between the States and the Commonwealth, and that profound changes had occurred in this relationship that were never authorised by the people or legislated for by any parliament.

Some of the changes have followed decisions of the High Court of Australia on the interpretation of certain sections of the Constitu-

tion, and it is these decisions, together with other difficulties, unforeseen by the fathers of the Constitution, that have given emphasis to the necessity of a review of the instrument.

Three of the most pressing problems confronting the States at present are: (1) the distribution of taxing powers, (2) the conflict in industrial arbitration laws, and (3) section 92 of the Constitution that prohibits any restriction of interstate trade, and thereby allows operators of heavy transport vehicles to pound the main interstate highways with but little contribution towards the cost of building or maintaining them—a High Court decision that was upheld by the Privy Council.

It was the eventual recognition that an instrument framed in the past century could not be as serviceable to-day to the people of Australia as it was fifty years ago which no doubt prompted the decision of the Commonwealth Government to set up a Joint Committee of the Senate and the House of Representatives of the Commonwealth Parliament to review the Constitution and make recommendations for amendments.

The composition of this committee caused the New South Wales Government a certain amount of apprehension, as it was felt that the Constitution could not be effectively revised without a clear understanding of the purpose it was to serve and without full cognizance of present and future needs of the community, and that, if the Committee proceeded to deliberate without knowing what the States deemed desirable, amendments that could detrimentally affect the States might not be fully appreciated by it.

Careful consideration was given by the Government of New South Wales to the question of seeking State representation on the Federal Committee, but it was envisaged, firstly, that the States, if represented, would almost assuredly be a minority of the Committee, and secondly, that even if representation was granted, it would be highly desirable for a State Committee to be set up to report on the questions involved.

After further consideration, it was resolved that New South Wales should set up an independent Joint Committee, representing both Houses of the State Parliament.

It was at this stage that Privilege reared its disputatious head.

A Message was forwarded by the Legislative Assembly, seeking the agreement of the Legislative Council to the appointment of a Joint Committee, comprising eight members of the Legislative Assembly and five members of the Legislative Council, which number was to include the Attorney-General—the Government's representative in the Council—who was to be the Chairman of the Joint Committee.

Although there is nothing laid down in the New South Wales Constitution Act, nor in the Standing Orders of this Parliament, precedent has established that there shall be equal representation of both Houses on all Joint Committees.

Anticipating objection from the Legislative Council, the Assembly added this final paragraph to the Message:

> In proposing the appointment of this Committee the Legislative Assembly requests that, on this occasion, the Legislative Council waive its claim to equal representation on Joint Committees.

As was only to be expected, despite this conciliatory request, emphatic protests were made by members of the Legislative Council against this invasion of its privileges. The Attorney-General, who, as mentioned above, is the Representative of the Government in the Legislative Council, in explanation said:

> I intended, on the subsequent motion asking the House to waive its equal representation, to refer to the matter raised by the Hon. Sir Henry Manning. I know that a number of members of this Council were concerned that the privileges of this House were to be invaded by the appointment of a Committee in which there were fewer members of the Legislative Council than of the Assembly. Knowing that concern, I asked the Government to give further consideration to the matter, and I inform the House that the Government considered it carefully but felt that the Council should be asked on this occasion to waive that privilege, without creating a precedent, for a number of reasons similar to those that apparently prompted the composition of the Commonwealth Government's committee, with which the proposed Joint Committee is virtually identical. Hon. members of the House of Representatives are more than twice as numerous as are members of the Senate. Although there are not twice as many members in another place as there are in this House, the appropriate proportion would be five members here to eight members in the Legislative Assembly. Practical difficulties stood in the way of a different composition of the Joint Committee. For example, if the Committee were to comprise eight members from the Legislative Assembly and eight members from this House, and if the proposal that I should be chairman were persisted in this House would have a representation of nine members against the Assembly's eight. This is a non-party House; but in the Legislative Assembly the Opposition is composed of members of the Country party and members of the Liberal party. If it were suggested that there should be only six representatives from the Assembly, this would mean three from the Government side and three from the Opposition, and proper representation could not be given to the Opposition parties. Those considerations, although some hon. members may not think them valid, influenced the Government in deciding to ask the Council to waive its privilege to equal representation on this occasion. It is felt that the Committee of the proposed size is the most desirable; that a smaller one would result in reduced representation and efficiency; that a larger one could result in the Committee's becoming unwieldy. For these reasons the Government, after further consideration at the request of hon. members, decided to ask the Legislative Council to waive its privilege and to agree to the appointment of five members of this House to act upon the Joint Committee.

After hearing the Attorney-General's explanation, the House agreed.[3] Incidentally, the Commonwealth Committee is visiting all the States to hear evidence, and the New South Wales Joint Committee has tabled its first interim report,[4] which deals with the present system of uniform taxation under which the Commonwealth Government imposes and collects all taxation upon incomes, which conflicts

with the principle that a government should be solely responsible for raising moneys necessary to give effect to its legislative and executive policies.

[1] V. & P. (L.A.), 20th June, 1956 (Entry No. 3). [2] N.S.W. *Hans.*, 19th July, 1956, cc. 1073-4. [3] Min. of Proc. (L.C.), 19th July, 1956 (Entry No. 6). [4] N.S.W. Parl. Paper No. 79 (1956-57).

XII. SOUTH AUSTRALIA: PRESENTATION OF MACE TO HOUSE OF ASSEMBLY

By G. D. Combe, M.C., A.A.S.A., A.C.I.S.

Clerk of the House of Assembly

To commemorate the centenary of the inauguration of responsible government in South Australia, the State Government generously approved and financed the fabrication of an ornate Mace for use in the House of Assembly.

The Mace was made by the famous London firm of goldsmiths, Garrard and Co., Ltd. It is fashioned in sterling silver gilt, and it has an overall length of 4 ft. and weighs 14 lb.

It is conventional in form, and follows the style of English Maces made over hundreds of years, including that of the House of Commons and those of the Serjeants-at-Arms displayed at the Tower of London. In the beautiful ornamentation on the Mace is to be found a harmonious blend of traditional British symbols and devices of a South Australian character.

The head of the Mace bears a Royal Crown in which superb specimens of South Australian opal are used with fine effect in the cross surmounting the orb and in the band at the base of the Crown. On the cushion is a finely chased representation of the Royal Arms.

Beneath the Crown, the head of the Mace is divided into four panels by applied straps of wheat ornament. On opposite panels, chased in relief are the Crown and Royal Cipher E. II R. of our present Sovereign, Her Majesty Queen Elizabeth II, and on the reverse appears the Royal Cipher V. R. of Queen Victoria, the reigning Sovereign when responsible government was inaugurated in South Australia in 1857. This use of the royal monograms was graciously authorised by Her Majesty Queen Elizabeth II and symbolises the beginning and end of the first century of responsible government in this State.

On the remaining two panels of the head the coat-of-arms of the State of South Australia is chased in relief. To emphasise the alle-

giance of the State to the British Crown there are finely chased scrolled brackets with lion head terminals to support the head on the upper part of the shaft or stem.

The shaft is flat chased with an incised wheat ornament; and the knops which divide the shaft into sections are beautified with traditional Tudor roses and flat chased scroll work. On the heel of the Mace is reproduced a motif of vine and wattle which form an integral part of the State's coat-of-arms.

The Mace is an outstanding example of the art of true craftsmen.

At the request of the South Australian Government, the Mace was presented by the Right Hon. Lord Carrington, M.C., High Commissioner for the United Kingdom in Australia, during the course of the special one day session held on 24th April, 1957, to commemorate the centenary. The occasion was unique in that the practice of the House was suspended to enable members of the Legislative Council and strangers to be seated in the Assembly to view the ceremony of the presentation of the Mace and to enable the proceedings to be photographed for television.

At the invitation of the Speaker (Hon. B. H. Teusner), the Premier (Hon. Sir Thomas Playford, G.C.M.G.) and the Leader of the Opposition (Mr. M. R. O'Halloran) conducted Lord Carrington to a seat on the floor of the House. With the unanimous approval of the House, Lord Carrington addressed the Chamber and then presented the Mace to the Speaker; who then handed it to the Serjeant-at-Arms (Mr. A. F. R. Dodd). The Speaker responded to Lord Carrington's speech and the Mace was then placed upon the Table of the House. A vote of thanks to Lord Carrington was carried, *nemine contradicente*.

The Mace as fashioned by London craftsmen and presented on behalf of the South Australian Government bears witness in a tangible and beautiful form to a continuing belief in the institution of Parliament and serves as a constant reminder of our heritage from the Mother of Parliaments at Westminster.

XIII. NEW ZEALAND: THE 1956 CONSTITUTION

By K. J. Scott, M.A., LL.B., D.P.A.

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The Electoral Act, 1956,[1] is a consolidating and revising measure, and also makes an important constitutional innovation. It gives a superior sanctity to some of its provisions. It does this not by

placing effective legal obstacles in the way of a Parliament that wants to amend any of these provisions, but by registering an agreement between the two parties that neither of them will employ a bare Parliamentary majority to do so.

The modesty of the title of the Act should not be allowed to blind us to the constitutional importance of these provisions. They are so important that we should, perhaps, now get into the habit of talking about New Zealand's 1956 Constitution. True, they do not make up the whole of our constitutional law. But no country has a single document or set of documents of superior sanctity embodying the whole of its constitutional law. The document that invites comparison with the Electoral Act is the Constitution Act of 1852. The Constitution Act covered one subject, the provinces, for which there is no modern counterpart. Apart from that, the two Acts are similar in scope. The statute law on elections and the life of Parliament was an important part of the Constitution Act in its original form, and makes up most of the Electoral Act. The other important provisions of the Constitution Act were various limitations on the powers of Parliament. Some of these provisions remained a fetter on the New Zealand Parliament until 1947, when the Act lost its superior sanctity, and Parliament acquired plenary powers. The modern counterpart to these limitations on the powers of Parliament is the limitation in the Electoral Act on what the parties will ask Parliament to do by bare majority. If it is correct to say that a Constitution was conferred on New Zealand in 1852 there is, perhaps, some merit in the suggestion that we should now begin to talk of the 1956 Constitution.

This terminology would suggest, and rightly, that the core of New Zealand's constitutional law is contained in a 1956 document of superior sanctity. It would not carry the false implication that the whole of New Zealand's constitutional law is contained in this document. It might carry the false implication that the superior sanctity is of a legal nature, but this is the sort of price we must reconcile ourselves to paying when we are deciding what language to apply to new kinds of facts.

The Entrenching Provision

The Act does place an obstacle in the way of amendment of the reserved provisions, but this obstacle is not likely to be legally effective. If Parliament, in defiance of the Electoral Act, passed what purported to be a parliamentary statute, the Courts would probably hold that the purported statute is in fact a statute. As the Attorney-General said: "Under our constitution Parliament cannot bind successive Parliaments, and each successive Parliament may amend any law passed by a previous Parliament". The reserved, or entrenched, provisions, which the Act provides may not be amended

or repealed by a bare Parliamentary majority, are those dealing with the following subjects:

(i) The constitution, and order of reference, of the Representation Commission;

(ii) The number of European electoral districts, and the basing of their boundaries on total population;

(iii) The fixing of the tolerance within which the Commission must work at five per cent.;

(iv) The age of voting;

(v) The secret ballot;

(vi) The life of Parliament.

Section 189, which contains the entrenching provision, is not itself entrenched. Mr. J. G. Edwards drew attention to this in the House, but apparently the Minister did not hear him.[2] This flaw in the drafting will, no doubt, be remedied by amending legislation. Until it is remedied a bare majority of the House that wanted to amend or repeal any of the reserved provisions could confer upon itself the power to do so by repealing Section 189 by a bare majority. The Act provides that a reserved provision may be amended or repealed only if the proposal:

(i) Is passed by the concurring votes of 75 per cent. of the total membership of the House; or

(ii) Is carried by a majority of the valid votes cast in a referendum.

The Moral Effect

But the entrenching provision, though it may not be legally effective even when the present defect is cured, will, perhaps, be morally effective. As the Attorney-General said:

> . . . The effect of these reserved sections is not in their legal force to bind future Parliaments but in their moral force as representing the unanimous view of Parliament. . . . Those reserved provisions . . . will only really be entrenched if they become universally accepted as rules which commend themselves to the sense of fairness of the people as a whole. Only then can they be regarded as a permanent part of our democratic way of life. That is perhaps the unique and the most important part of this Bill.[3]

The 1956 Constitution is an ingenious constitutional invention. But though an invention it has its roots in the past, and is a development of pre-existing institutions. Popular ideas about constitutional propriety have long been an important constitutional safeguard. This has been appreciated since Jennings pointed out that the sanctions that dissuade politicians from disregarding the conventions of the Constitution are political sanctions. The earlier view had been Dicey's that the sanctions that guard the conventions of the Constitution are legal sanctions. Dicey had illustrated his point by saying that the reason why a Government that loses its majority has

either to resign or to obtain a dissolution is that if it stays in office without a majority a breach of the law will ultimately result, for instance through the expiry of the annual legislation under which the maintenance of the British Army is authorised. Jennings criticised this view by saying that conventions are obeyed long before there is any possibility that breaches of the law will result from their non-observance, for instance that a Government that has lost its majority will not hang on to office even if it will not need any more annual legislation for months. A Government that disobeys the conventions of the Constitution will be punished by the electorate. To take a New Zealand illustration, one of the reasons for the defeat of the Coalition Government in 1935 was that many New Zealand electors thought the Government had behaved unconstitutionally in getting a peace-time Parliament to extend its own life. The extension of the life of Parliament was not unconstitutional in the sense that it offended the law of the Constitution, but it was unconstitutional in the sense that it offended the ideas of constitutional propriety that were held by many electors. To this extent the Constitution is what the people think it is; and one reason why neither a National nor a Labour Government would be likely to ask Parliament to legislate by a bare majority in defiance of the Electoral Act is that if it did so the Opposition would be able to persuade a very large number of electors that the Government had acted unconstitutionally. The Electoral Act is thus a very neat synthesis of constitutional law and constitutional convention.

The Party Negotiations

It is conventional in two senses. It is conventional in the sense that it embodies some of those extra-legal constitutional rules called conventions that Governments must obey lest adverse consequences ensue; and it is conventional in the sense that it is the result of an agreement, or convention, reached by the two parties and evidenced by the House's unanimous approval of the Bill. This agreement was attained by negotiation during the deliberations of the Special Select Committee that was set up to examine the Bill. The entrenching clause was inserted by the Committee. Apparently there was agreement that the Constitution should be safeguarded, and what needed settling was the nature of the constitutional rules that were to be entrenched. Two provisions re-enacting the existing law were amended to meet the wishes of the Opposition. First, the composition of the Representation Commission was changed; second the tolerance was reduced from $7\frac{1}{2}$ per cent. to 5 per cent. The way this was a concession to Labour is that the Commission usually employs the tolerance to enable it to reduce the size of the geographically biggest electoral districts, *i.e.*, to give something in the nature of the country quota. On the other hand, the Opposition agreed to the entrenching of two provisions that operate to the advantage of the

National Party: the Commission's terms of reference, which enabled National to win ten seats more than Labour in 1954 with very nearly exactly the same number of votes; and the use of total population instead of number of voters as the basis of the Commission's calculations, another variant of the country quota.

Pious Resolutions

The entrenching provision in the Electoral Act will no doubt increase the reluctance of a future Government to make use of a temporary majority to amend the electoral laws in its own party interest. But a determined Government that feels it can change the electoral laws without endangering its majority in the electorate will not be deterred. There is one illustration in the Commonwealth of the futility of pious resolutions. When the South African Parliament passed a Resolution in 1931 requesting the United Kingdom Parliament to enact the Statute of Westminster it unanimously adopted an amendment moved by General Smuts, as he then was, who was then Leader of the Opposition, that the Resolution was agreed to "on the understanding that the proposed legislation will in no way derogate from the entrenched provisions of the South Africa Act". It is a matter of history that a subsequent South African Parliament purported to legislate in defiance of those provisions, and that the Appellate Division of the Supreme Court of South Africa found that the purported legislation was not legislation at all. The moral sanction failed, but the legal sanction prevailed. In New Zealand, where there will be no legal sanction, we must just hope that the moral sanction will prevail.

[1] Act No. 107 of 1956. [2] 310 *Hans.*, p. 2847. [3] *Ibid.*, pp. 2839-43.

XIV. PRECEDENTS AND UNUSUAL POINTS OF PROCEDURE IN THE SOUTH AFRICAN HOUSE OF ASSEMBLY, 1956, WITH GENERAL NOTE ON JOINT SITTINGS

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

Clerk of the House of Assembly

A. House of Assembly

Day for private members' business.—When private members' day was changed from Tuesdays to Fridays, it became necessary to make Friday the day on which a further Friday becomes available so as

to have three Fridays available on any day for private members' business. S.O. No. 46 was accordingly altered so as to provide that no notice may be set down for any day beyond *fifteen* consecutive sitting days following the day upon which it is given.[1]

Adjournment to discuss matter of urgent public importance.—During the Joint Sitting regulations to control the transfer of funds consequent upon the increase of the British bank rate had become applicable, and on the first sitting day of the House after the Joint Sitting a motion for the adjournment of the House under S.O. No. 33 was allowed in order to provide an opportunity for discussing these control measures, and under the rule it stood over until four o'clock.

Immediately after the first Order of the Day had been disposed of, however, it was resolved, upon an unopposed motion by the Leader of the House, to allow the other business of the day to stand over until the urgency motion had been disposed of.[2]

Consolidation of laws on constitution of Union.—On 29th May a bill to consolidate the laws relating to the constitution of the Union of South Africa was introduced and after First Reading referred under S.O. No. 186 to a Select Committee for examination and report as to whether it in any way alters the existing law. On 5th June the Select Committee reported that owing to the advanced stage of the session it would not be able to complete its enquiry within the time available and recommended its re-appointment next session.[3]

B. Joint Sitting, 1956

Joint Sitting convened.—The Governor-General by message convened a Joint Sitting of both Houses of Parliament on 13th February. The Joint Sitting met on 11 sitting days.[4]

Rules for Joint Sitting.—The rules adopted were the same as those that applied to the Joint Sitting of the 1954 session.[5] except that provision was made for the bells to be rung for three minutes on the division on the question "That the Bill be now read a Third Time".[6]

Bill passed.—The South Africa Act Amendment Bill[7] was agreed to at the Third Reading by 174 votes, a full two-thirds of the total number of members of both Houses being 166.[8]

Members making interruptions ordered to withdraw from Joint Sitting.—On 16th February Mr. Speaker ordered a Minister and two other members to withdraw from the Joint Sitting for the remainder of the day's sitting for making interruptions.

Later during the same day Mr. Speaker, in a statement to the Joint Sitting, referred to the growing tendency amongst members to converse aloud or to interrupt the member speaking, and after making an appeal to members to assist the Chair in maintaining order, indicated that only relevant interjections would be allowed.[9]

Member named.—On 23rd February, during the debate on the Second Reading of the Bill, the hon. member for Wynberg (Mr.

Russell) was named for disregarding the authority of the Chair. After a division, on the motion of the Prime Minister, the hon. member was suspended from the service of the Joint Sitting.[10]

Ministerial Statements during Joint Sitting.—During the Joint Sitting leave was given to Ministers to make statements in regard to an increase in the British bank rate and the murder of policemen at Bergville, as there would be no other early opportunity to inform Parliament.[11]

C. General note on Joint Sittings

Since Union there have been twelve Joint Sittings of both Houses of Parliament.

1. *On disagreements with the Senate.*

Section 63 of the South Africa Act made provision for convening a Joint Sitting of the members of the Senate and the House of Assembly if the Senate in two successive sessions rejected or failed to pass a bill passed by the House of Assembly (and in the case of an appropriation bill a joint sitting could be convened in the same session in which the Senate rejected or failed to pass such a bill).

Under this provision Joint Sittings were convened and passed the following three bills, *viz.*:

1926 session:	(i) *Mines and Works Amendment Bill* (also known as the "Colour Bar Bill"),
1927-28 session:	(ii) *Precious Stones Bill,*
	(iii) *Iron and Steel Industry Bill.*

The above section 63 of the South Africa Act was repealed by the Senate Act of 1955. This Act substituted a new section 63, which provides that if the Senate in two successive sessions rejects or fails to pass a bill passed by the House of Assembly, the bill must be presented to the Governor-General for assent and becomes an Act of Parliament notwithstanding that the Senate has not consented to it (and in the case of a taxation or appropriation bill, the bill must be presented to the Governor-General for assent if the Senate rejects or fails to pass it in the same session in which it is passed by the House of Assembly).

2. *On entrenched sections.*

Section 152 of the South Africa Act laid down that Parliament could repeal or amend any provision of that Act; but that no repeal or amendment of the provisions contained in—

(*a*) sections 33 and 34 (until number of members of House of Assembly reached prescribed limits of 150 or for 10 years, whichever was the longer),
(*b*) section 35 (franchise rights).

(*c*) section 137 (equality of English and Dutch languages), and
(*d*) section 152 (amending procedure),

would be valid unless such repeal or amendment was passed by a joint sitting of both Houses and agreed to at the third reading by not less than two-thirds of the total number of members of both Houses.

Under the above provision nine Joint Sittings have been convened to consider the following Bills, *viz.*:

(i) 1918 session—*Electoral Divisions Redelimitation Amendment Bill.*
(ii) 1925 session—*Official Languages of the Union Bill.*
(iii) 1929 session—(*a*) *Natives' Parliamentary Representation Bill.*[12]
(*b*) *Coloured Persons' Rights Bill.*[13]
(iv) 1930 session—*Natives' Parliamentary Representation Bill.*[12]
(v) 1936 session—*Representation of Natives Bill.*
(vi) 1953 (2nd ses.)—*South Africa Act Amendment Bill.*[12]
(vii) 1953 (2nd ses.)—*Separate Representation of Voters Act Validation and Amendment Bill.*[13]
(viii) 1954 session—*Separate Representation of Voters Act Validation and Amendment Bill.*[12]
(ix) 1956 session—*South Africa Act Amendment Bill.*

[1] V. & P., p. 14. [2] *Ibid.*, p. 195. [3] *Ibid.*, pp. 568, 595. [4] J.S. Minutes, p. 1. [5] *See* THE TABLE, Vol. XXII, 87; Vol. XXIII, 91. [6] J.S. Minutes, p. 4. [7] J.S.B., 1-'56. [8] J.S. Minutes, p. 45. [9] *Ibid.*, pp. 10, 11. [10] *Ibid.*, pp. 20-22. [11] *Ibid.*, pp. 16, 22. [12] Not passed by the necessary two-thirds majority at the third reading. [13] Dropped owing to prorogation.

XV. UNION OF SOUTH AFRICA: PENSION SCHEME FOR MEMBERS

By J. M. Hugo, B.A., LL.B., J.P.
Clerk of the House of Assembly

In an article in a previous Volume,[1] reference was made to the fact that a pension scheme on a contributory basis for members of Parliament and Cabinet Ministers had been recommended by a Select Committee and that a bill giving effect to the Committee's recommendations had been introduced and passed during that year.

During 1956 a bill amending the Parliamentary Service Pensions Act, 1951, was introduced and passed[2] and the following is a summary of the main provisions of the pension scheme, as amended—

(1) *Application.*—The scheme, which is compulsory, applies to all members who were members on a fixed date, *i.e.*, 1st July, 1951, or who become members after that date.

(2) *Contributions.*—All members except the Prime Minister or an ex-Prime Minister are liable for contributions in respect of current and past pensionable service at the rate of £6 for each month of service. Current contributions are payable at the rate of £6 per month and arrear contributions, in respect of pensionable service prior to 1st July, 1956, at not less than £3 per month. Contributions are payable until such time as a member is entitled to the maximum pension under the Act. If a member has paid contributions in excess of the amount entitling him to the maximum pension he will be refunded the excess amount deducted from his allowance.

(3) *Minimum period of contributions.*—Every member except the Prime Minister or an ex-Prime Minister must contribute in respect of a minimum period of 10 years to qualify for a pension. (See also para. 14.)

(4) *Previous service.*—A person who was a member prior to 1st July, 1956, and who on that date was no longer a member, but thereafter again becomes a member, may elect within a period of 90 days of the date on which he again makes or subscribes the oath or affirmation, to count his previous service for pension purposes. The total amount due by him in respect of such previous service shall be deducted from his Parliamentary allowance at a rate of not less than £3 per month.

(5) *Rate of pension.*—A member who has contributed in respect of not less than 10 years' service shall be entitled on the termination of his service as a member to a pension of £375 p.a. for the first 10 years of his service and to an additional £37 10s. p.a. for each completed year of service in excess of 10 years. The maximum pension of £750 p.a. is reached after contributions in respect of 20 years' completed service have been paid and no further contributions are payable thereafter.

(6) *Age at which pension payable.*—The pension contemplated by paragraph (5) above shall be payable to a member who has attained the age of 50 years from the day following the termination of his service. A member who is under the age of 50 years on the date of the termination of his service shall receive a pension as from the date on which he attains such age.

(7) *Option of cash payment in lieu of pension.*—A member may elect to take an amount equal to the amount of his contributions in lieu of any pension which may be due to him.

(8) *Other benefits.*—A member whose service terminates before

he has contributed in respect of 10 years' service shall be entitled to an amount equal to his total contributions.

(9) *Widow's pension.*—The widow of a member (provided she was married to him prior to or during the time he was a member) shall receive a pension equal to two-thirds of the pension her husband was receiving or would have received. A widow's pension is payable during widowhood only and she qualifies for a pension irrespective of her husband's age.

(10) *Other benefits to widows.*—The widow of a member who has contributed in respect of less than 10 years' service shall be entitled to an amount equal to her husband's total contributions.

(11) *No benefits to other dependants.*—Dependants other than widows do not receive any benefits.

(12) *Arrear contributions to be first charge against pension payable.*—Any amount due but unpaid by a member in respect of his pensionable service prior to the 1st July, 1956, shall form a first charge against any pension awarded to him or to his widow.

(13) *Prime Minister's pension.*—A person who has had service as Prime Minister shall be paid a pension of £2,000 p.a. on the termination of his service as a member, irrespective of the age he has attained or the period of his pensionable service.

(14) *Special pensions.*—

(i) *Speaker, Ministers (including Minister without Portfolio) and Leader of the Opposition:* A member (other than the Prime Minister) who has had service as Speaker, Minister of State (including a Minister without Portfolio) or Leader of the Opposition, shall receive a pension of £150 p.a. for each completed year of service as Speaker, Minister or Leader of the Opposition in addition to any pension for which he may qualify as an ordinary member: Provided that the sum of the pensions payable to such member shall not exceed £1,800 p.a. and that the minimum shall be not less than £150 p.a.

(ii) *Deputy-Speaker and Chief Government Whip.*—A member who has had service as Deputy-Speaker or as Chief Government Whip shall, in addition to any pension for which he may qualify as an ordinary member, receive a special pension of £75 p.a. for each completed year of service as Deputy Speaker or as Chief Government Whip: Provided that the sum of the pensions payable to such member shall not exceed £1,275 p.a. and that the minimum shall not be less than £75 p.a.

(iii) *Deputy-Chairman of Committees.*—A member who has had service as Deputy-Chairman of Committees shall, in

addition to any pension for which he may qualify as an ordinary member, receive a pension of £50 p.a. for each completed year as Deputy-Chairman of Committees: Provided that the sum of the pensions payable to such a member shall not exceed £960 p.a. and that the minimum shall not be less than £50 p.a.

In respect of the special pensions referred to above, a period of service of more than six months but less than one year counts as one full year for pension purposes.

(15) *No contribution in respect of additional benefits.*—No additional contributions shall be paid in respect of additional benefits contemplated in paragraph (14). The provisions set out in paragraph (6) shall *mutatis mutandis* apply in respect of such additional benefits.

(16) *Service as Speaker.*—The period between the date of dissolution of the House of Assembly and the subsequent election of a new Speaker, during which the Speaker holding office at the time of dissolution is, in terms of any law, required to perform any function as Speaker, will count as service in the calculation of the special pension payable to the Speaker.

(17) *General.*—

(*a*) A member whose pensionable service is more than nine years and six months but less than ten years shall be regarded as having completed ten years' pensionable service and shall pay contributions for the whole period of ten years.

(*b*) If a member's service terminates by reason of the dissolution of the House no pension or other benefits shall be paid to him until the ensuing general election has taken place.

(*c*) The period between the date of dissolution of the House and the date of the ensuing election will count as service for pension purposes for members who were members immediately prior to the date of dissolution and who are re-elected. This provision will apply only to a dissolution which occurs after 30th June, 1956.

(*d*) No interest is payable on arrear contributions in respect of service prior to 1st July, 1956.

(18) *Application of new provisions.*—The provisions of the amending Act will apply to persons who were members on 1st July, 1956, or who become members after that date.

[1] *See* THE TABLE, Vol. XX, p. 156. [2] The Parliamentary Service Pensions Amendment Act, 1956 (No. 68, 1956).

XVI. THE STATES REORGANISATION IN INDIA

By S. L. Shakdher

Joint Secretary, Lok Sabha Secretariat

Historical Background

The political map of India was redrawn on 1st November, 1956, with the implementation of the States Reorganisation Act.

Even before independence, the question of reorganisation of States on a more rational basis had been raised on many occasions. It was alluded to as early as 1918 in the Report on the Indian Constitutional Reforms.[1] The Indian National Congress formally resolved at its Nagpur Session in 1920 that the reorganisation of States should be undertaken on the principle of linguistic homogeneity.[2] These aspirations have to be appreciated in the context of the conditions prevailing under the British rule, for the political map under them had been shaped more by the military, political and administrative exigencies of the situation than by the linguistic or cultural affinities of the people. The merger of about 600 "princely" states, after independence, either into the neighbouring provinces or their constitution into new administrative units, had further complicated the picture.

Soon after Partition, the question of reorganisation of States was taken up by the Constituent Assembly of India, which appointed in June, 1948, a Linguistic Provinces Commission, known as the Dar Commission, to inquire into the desirability of creating certain linguistic provinces like Andhra, Karnataka, Kerala and Maharashtra. While reporting against any reorganisation being undertaken at that stage of the country's political development, the Dar Commission laid down that

> in forming the provinces, the emphasis should be primarily on administrative convenience, and homogeneity of language will enter into consideration only as a matter of administrative convenience and not by its own independent force.[3]

In order "to review the position and to examine the question in the light of the decisions taken by the Congress in the past and the requirements of the existing situation, in view of the report of the Linguistic Provinces Commission", the Indian National Congress at its Jaipur Session in December, 1948, appointed a Committee consisting of Shri Jawaharlal Nehru, Shri Vallabhbhai Patel and Dr.

Pattabhai Sitaramayya.[4] This Committee, known as the J.V.P. Committee, expressed the view that in considering this problem

> the primary object should be the security, unity and economic prosperity of India, and every separatist and disruptive tendency should be rigorously discouraged.[5]

The Committee added that "if public sentiment was insistent and overwhelming" in any area for the creation of a linguistic State, the practicability of satisfying the demand should be examined "subject to certain limitations in regard to the good of India as a whole". They added:

> Public sentiment must clearly realise the consequence of any further division so that it may fully appreciate what will flow from their demand. We feel that the case of Andhra Province should be taken first and the question of its implementation examined before we can think of considering the question of any other province.[6]

Thus, while the general approach was to discourage the formation of States purely on linguistic grounds, exception was made in the case of Andhra, which was formed out of the State of Madras on 1st October, 1953. This was done partly on the suggestion of the J.V.P. Committee and partly due to the exigencies of the situation. Subsequently, similar demands were pressed by the leaders of Kannada and Marathi-speaking areas. As each such problem was closely inter-related with other problems, it was felt increasingly difficult to consider the issue of formation of a new State in isolation.

The States Reorganisation Commission

Consequently, on 22nd December, 1953, the Prime Minister made a statement in the Lok Sabha announcing the Government's decision to set up a Commission to examine the whole question of the reorganisation of the States of the Indian Union.

The States Reorganisation Commission, consisting of Shri S. Fazl Ali as Chairman, and Shri H. N. Kunzru and Shri K. M. Panikkar as Members, was accordingly appointed on 29th December, 1953.

The Commission was asked to examine—

> the reorganisation of the States of the Indian Union objectively and dispassionately, so that the welfare of the people of each constituent unit as well as of the nation as a whole is promoted.

The Commission was required to make recommendations regarding

> the broad principles which should govern the solution of the problem of reorganisation and to lay down the broad lines on which a particular State should be organised.[7]

The Commission's Recommendations

The Commission travelled extensively, visited 104 places and interviewed more than 9,000 persons for gathering public opinion on

the subject. It received, in response to a Press note, 152,250 documents from individuals, parties and associations for consideration, though the number of "well-considered" memoranda did not exceed 2,000.

In its Report,[8] submitted to the Government on 30th September, 1955, the Commission proposed a scheme of reorganisation in which the component units of the Indian Union were to comprise two categories, namely "States" forming primary federating units and "Territories" to be Centrally-administered, in place of the hitherto complicated categorisation into Part A, B and C States and Part D Territories.

The States proposed by the Commission were:[9]

1. Madras
2. Kerala
3. Karnataka
4. Hyderabad
5. Andhra
6. Bombay
7. Vidarbha
8. Madhya Pradesh
9. Rajasthan
10. Punjab
11. Uttar Pradesh
12. Bihar
13. West Bengal
14. Assam
15. Orissa
16. Jammu and Kashmir

The three territories, proposed to be centrally-administered, were: 1. Delhi; 2. Manipur; and 3. Andaman and Nicobar Islands.

Disagreeing with his colleagues, the Chairman in a separate Note recommended that Himachal Pradesh should not be merged with the Punjab but should become a centrally-administered territory.[10] Shri Panikkar, in a Note of Dissent, favoured the creation of a new State to be called the State of Agra comprising parts of Uttar Pradesh, Madhya Bharat and Vindhya Pradesh.[11]

Debate on the Report in Parliament

Since the issues involved were not free from controversy, the Government decided to refer the Report to the various Legislatures for preliminary discussion in advance of the formal consultations as required under the provisions of the Constitution.[12] The Report was discussed at length by the State Legislatures and Parliament. Motion that the Report be taken into consideration was moved by the Minister of Home Affairs in the Lok Sabha on 14th December, 1955. In the debate, which lasted 55½ hours in the Lok Sabha and 41 hours in the Rajya Sabha, as many as 244 Members participated.

With a view to making the debate fully representative of diverse views, it was suggested by the Speaker that Members, having a common view on certain aspects of reorganisation, should hold informal discussion among themselves and then apprise him of the specific points and the names of their spokesmen.[13]

Another suggestion made by the Speaker and accepted by the

House was for laying on the Table of the House written memoranda by Members who were not able to get a chance to speak. Such memoranda were treated as part of the proceedings.[14] In this way, 145 written memoranda were included in the proceedings.

After the details of the Report had been fully discussed both inside and outside Parliament and certain controversial issues had been settled with the general agreement of the parties concerned, the Government incorporated their decisions in the form of a draft Bill, known as the States Reorganisation Bill.

On 16th March, 1956, the Bill was placed before Parliament and referred the same day to the State Legislatures under Article 3 of the Constitution. The State Legislatures were requested to communicate their views within 30 days. Though strictly, according to the provisions of the Constitution, only such States as were being affected by the Bill need have been referred to, the Government extended the reference to cover all the Part A and Part B States as well as the Legislatures or the electoral colleges of Part C States.

The Bill was approved by the Legislatures of 11 out of 12 affected States (in Travancore-Cochin, the Assembly was not functioning and the legislative powers devolved on Parliament), a few of which also offered some suggestions.

After the views of the States concerned had been ascertained, the Bill was introduced in the Lok Sabha on 18th April. A motion for reference of the Bill to a Joint Committee was moved in the House on 23rd April and was, after a lengthy discussion, adopted on 26th April.

Since the Bill entailed some financial commitments and the Government desired to refer it to a Joint Committee of the Lok Sabha and the Rajya Sabha, the first proviso to Rule 92 of the Rules of Procedure and Conduct of Business in the House of the People* was suspended by the House, on a Motion moved by the Home Minister under Rule 402.[15] The Committee consisted of 51 Members, 34 from the Lok Sabha and 17 from the Rajya Sabha, with the Home Minister in the Chair.

The Committee presented its report to the Lok Sabha on 16th July; the report was laid on the table in Rajya Sabha on 30th July, 1956, when the Council met after recess.

* *Excerpt from Rule 92 of the Rules of Procedure:*

When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely:

* * *

(iii) that it be referred to a Joint Committee of the Houses with the concurrence of the Council.

* * *

Provided that no such motion as is referred to in clause (iii) shall be made with reference to a Bill making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution.

Ten Members appended their minutes of dissent to the report and one of the common points of their dissent was their objection to Bombay City being constituted into a Union Territory.

The Bill, as reported by the Committee, was subjected to another lengthy and intensive debate in both the Houses, the Lok Sabha devoting as many as 57 hours and 42 minutes to it. An important development during the course of the debate was the move initiated by a private Member in the Lok Sabha on 2nd August, for creating a bigger bilingual State for Bombay, comprising Maharashtra, Gujarat, Bombay City, Vidarbha, Marthwada, Saurashtra and Kutch. The move gained considerable support, and on the following day a memorandum signed by 180 Members, endorsing the new proposal, was submitted to the Prime Minister. Acceptance of the proposal was formally announced in the House by the Home Minister on 7th August.

The Bill, as reported by the Joint Committee and as subsequently amended by the House to provide for a bigger bilingual Bombay, was unanimously passed by the Lok Sabha on 10th August, and by the Rajya Sabha on 25th August, and received the Presidential Assent on 31st August.[16]

Bihar-West Bengal (Transfer of Territories) Bill

Though the States Reorganisation Commission had recommended the transfer of certain areas from Bihar to West Bengal, the issue of the readjustment of boundaries of these two States was excluded from the States Reorganisation Bill and left to any possible mutual arrangement that could be arrived at between the two States. A proposal to merge the two States was in fact mooted but had later to be given up for lack of popular support. As the readjustment of boundary was considered an administrative necessity, it was effected through the Bihar and West Bengal (Transfer of Territories) Act, which sought to link the northern and southern parts of West Bengal by transferring it to certain areas which were within the jurisdiction of Bihar State.

The Reorganisation Scheme

With a view to giving constitutional effect to the reorganisation of States and territorial adjustments envisaged in the States Reorganisation Bill, it became necessary to make certain amendments to the Constitution also. The full reorganisation scheme, as emerging from Parliament, is, therefore, embodied in the States Reorganisation Act, 1956, the Bihar and West Bengal (Transfer of Territories) Act, 1956, and the Constitution (Seventh Amendment) Act, 1956 (see p. 128).

As against the hitherto 28 constituent units comprising the Indian Union, the final Reorganisation Scheme makes provision for only 20 units—14 States, *viz.*, Andhra Pradesh, Assam, Bihar, Bombay, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab,

Rajasthan, Uttar Pradesh, West Bengal and Jammu and Kashmir, and 6 centrally-administered territories, namely, Delhi, Himachal Pradesh, Manipur, Tripura, the Andaman and Nicobar Islands, and the Laccadive, Minicoy and Amindive Islands.

The scheme effects no territorial change in the case of Assam, Orissa, Uttar Pradesh and Jammu and Kashmir. The boundaries of Madras, Bihar and West Bengal have been adjusted. The broad composition of the remaining seven States is as under:

The previous State of Andhra, with the addition of the Telangana area of the old State of Hyderabad, has been renamed as Andhra Pradesh;

The new State of Bombay has been formed by merging the States of Kutch and Saurashtra and the Marathi-speaking areas of Hyderabad and of Madhya Pradesh in the old State of Bombay after transfer therefrom of the Kannada-speaking areas to the new State of Mysore and a small portion to Rajasthan;

The new State of Kerala comprises the territories of the former State of Travancore-Cochin, after some exchange of boundary-territories with Madras;

The new State of Madhya Pradesh has been formed by merging the previous State of that name (excepting eight districts) with the former States of Madhya Bharat, Bhopal and Vindhya Pradesh;

The new State of Mysore brings together the Kannada-speaking people and comprises the territories of the former States of Mysore and Coorg; and certain territories from the former States of Bombay, Hyderabad and Madras;

The new State of Punjab comprises the territories of the former States of Punjab and of Patiala and East Punjab States Union; and

The new State of Rajasthan has been formed by merging the territories of the former States of Ajmer and Rajasthan.

Some of the important features of the scheme thus implemented are:

(i) The new pattern of States is mainly unilingual in character with two exceptions—Bombay and Punjab, both of which are bilingual.

(ii) The institution of Rajpramukhs and classification of States as "A" and "B" has been given up. All the States are now equally autonomous.

(iii) Safeguards for protection of linguistic minorities have been provided. In addition to certain administrative safeguards, the Constitution (Seventh Amendment) Act[17] also calls for the appointment of a Special Officer to report to the President on the working of these safeguards and whose reports are to be laid before Parliament and sent to Governments of States concerned.

(iv) The new States and "Territories" are grouped together in five different Zonal Councils: the Punjab, Rajasthan, Jammu and Kashmir, Delhi and Himachal Pradesh form the Northern Zone; Uttar Pradesh and Madhya Pradesh, the Central Zone; Bihar, West Bengal, Orissa, Assam, Manipur and Tripura, the Eastern Zone; Bombay and Mysore, the Western Zone, and Kerala, Andhra Pradesh and Madras form the Southern Zone.

The Zonal Councils, which are advisory bodies, would discuss and make recommendations to the Centre with regard to matters of common interests in the field of economic and social planning, border disputes, linguistic minorities, inter-State transport and any matter connected with and arising out of the reorganisation of States. Each Council will have a Union Minister as Chairman and have as members the Chief Ministers and two other Ministers of the component States—all nominated by the President of the Union. In the case of

Centrally-administered areas the President will nominate two members.

(v) In addition to the formation of Zonal Councils, another new feature introduced in the scheme is the setting up of Regional Standing Committees in the States of Andhra Pradesh and Punjab in order to provide adequate safeguards to the Telangana region in the former and the Hindi and Punjabi regions in the latter. Composed of members of the Assembly representing these regions, the Committees will be consulted regarding legislation relating to certain specific matters. Proposals can also be made by the Regional Committee to the respective State Government in this respect or with regard to questions of general policy not involving any financial commitments other than expenditure of a routine and incidental character. The advice tendered by the Committee will normally be accepted. In case of difference of opinion, a reference will be made to the Governor concerned, whose decision will be final and binding.

Although the task of redrawing the political map has been completed, the infinitely more exacting task of consolidating and stabilising these administrative units remains.

[1] Report on Indian Constitutional Reforms, 1918, para. 246. [2] *Pattabhi Sitaramayya—History of the Indian National Congress*, Vol. I. [3] Report of the Linguistic Provinces Commission, para. 131. [4] J.V.P. Report, p. 1. [5] *Ibid.*, p. 15. [6] *Ibid.*, p. 16. [7] Report of the States Reorganisation Commission, para. 2. [8] Released for public information on 10th October. [9] *Ibid.*, para. 754. [10] *Ibid.*, p. 238. [11] *Ibid.*, pp. 251-52. [12] Constitution of India, Art. 3, see *infra*. [13] L.S. Deb., dt. 9.12.55. [14] *Ibid.*, dt. 19.12.55. [15] *Ibid.*, dt. 23.4.56. [16] Act No. 37 of 1956. [17] Article 350B.

XVII. CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN

By M. B. Ahmad, M.A., LL.M.

Secretary of the National Assembly

On 29th February, 1956, and the 17th day of Rajab, 1375, the new Constituent Assembly, which was set up under the Governor-General's Order of 28th May, 1955, adopted and enacted the Constitution of Pakistan. The Constituent Assembly started its deliberations on Constitution-making on 9th January, 1955, when Mr. Ismail I. Chundrigar, the then Law Minister of the Government of Pakistan, introduced in the Assembly a Bill to provide a Constitution for the Islamic Republic of Pakistan. The Constituent Assembly sat for 30 days to pass this Bill and concluded its deliberations on 29th February, 1956. The Constitution as it finally emerged com-

prises 234 Articles and six schedules. The provisions of the Constitution came into force on the 23rd day of March, 1956, which was fixed under the Constitution as the Constitution Day. On this day Pakistan became a Federal Republic to be known as the "ISLAMIC REPUBLIC OF PAKISTAN".

Preamble

The Preamble to the Constitution recognises that sovereignty over the entire Universe belongs to Allah Almighty, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust.

Emphasis is placed in the Preamble on the principles of democracy, freedom, equality, tolerance and social justice, which have been further defined by stating that these principles should be observed in the Constitution as they have been enunciated by Islam. Since these terms are generally used in a loose sense, it was necessary to define them further in order to give them a well-understood meaning. The word democracy in the Islamic sense pervades all aspects of our life. It relates to our system of Government and to our society with equal validity, because one of the greatest contributions of Islam has been the idea of equality of all men. Islam recognises no distinctions based upon race, colour or birth. It is this tolerance which is envisaged by Islam, wherein a minority does not live on sufferance, but is respected and given every opportunity to develop its own thought and culture, so that it may contribute to the greater glory of the entire nation. In the matter of social justice, too, Islam makes a distinct contribution. It envisages a society in which social justice means neither charity nor regimentation. Islamic social justice is based upon fundamental laws and concepts which guarantee to man a life free from want and rich in freedom.

The Constitution gives effect to the above principles stated in the Preamble by creating a Federal Democratic Republic, by making general provisions for the protection and benefit of all citizens and by making special provisions for the Muslims and the minority communities.

Fundamental Rights[1]

Part 2 of the Constitution provides for all those fundamental rights which are necessary to safeguard the life, liberty, religion, culture and property of the people. Any laws inconsistent with or in derogation of the fundamental rights are void.

The Fundamental Rights ensure to all citizens equality before the law and equal protection of law. No person shall be deprived of life or property save in accordance with law. Freedom of speech and expression, freedom from arrest and detention, freedom of assembly, freedom of association, freedom of movement and right to hold and dispose of property, freedom of trade, business and pro-

fession, subject to reasonable restrictions imposed by law in the interest of public order and morality, are guaranteed. No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by authority of law which provides for compensation or specifies the principles on which and the manner in which compensation is to be determined and given. The right to profess, practise and propagate any religion, subject to law in the interest of public order and morality, is guaranteed. Any section of citizens having distinct language, script or culture shall have the right to preserve the same. Every religious denomination and every sect thereof has the right, subject to law, public order and morality, to establish, maintain and manage its religious institutions. No citizen shall be discriminated against in respect of any appointment on the ground of race, religion, caste, sex, residence or place of birth. No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship if such instruction, ceremony or worship relates to a religion other than their own.

These fundamental rights ensure all "freedoms" equally to all citizens of Pakistan. Fundamental Rights guaranteed in the Constitution can be enforced by resort to the Supreme Court, who have been further empowered to issue to any person or authority directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, for the enforcement of these Rights.

Special Provisions for Minority Communities

The outstanding features of the Constitution are the provisions which safeguard the religious, cultural and educational rights of the minorities, who are entitled to all the fundamental rights enumerated above. A member of any minority community may enforce his rights by filing a petition in the Supreme Court. Extensive powers have been conferred on the Supreme Court so that it may effectively protect the right of the citizens including those of the minority communities.

The religious rights of the minorities are protected by Article 18, which provides that every citizen has, subject to law, public order and morality, the right to profess, practise and propagate any religion. Every religious denomination and every sect of such a denomination has the right to establish, maintain and manage its religious institutions. These rights are further safeguarded by Article 21, which provides that no person shall be compelled to pay any special tax, the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.

The State does not impose a common culture on all its citizens. Adequate provision has, therefore, been made for safeguarding the distinctive culture of the minority communities. The cultural rights

of these communities are protected by Article 19 which provides that any section of citizens having a distinct language, script or culture, shall have the right to preserve the same.

The educational rights of the minorities are protected by Article 13, which includes the provision that no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth. This provision, however, does not prevent any public authority from providing special facilities for the advancement of any socially or educationally backward class of citizens. In schools, students belonging to minority communities are exempted from receiving religious instructions or taking part in religious ceremonies which relate to religions other than their own. Every religious community or denomination is permitted to provide religious instruction for its pupils in any educational institution which is wholly maintained by that community or denomination. Similarly, every religious community has the right to establish and maintain educational institutions of its own choice and the State shall not deny recognition to any such institution on the ground only that the management of such institution vests in that community. These rights have been further protected by the provision which prohibits discrimination against any community in the granting of exemption or concession in relation to taxation in respect of any religious institution.

Recruitment to the superior services will be on the basis of free and open competition, and if the members of the minority communities stand high in competitive examination held for recruitment to these services they can hold these offices in excess of their proportion in the population of the country. They have equal opportunity of being members of the National Assembly and the Cabinet. They are equally eligible to hold the most important offices of the Prime Minister and Chief Ministers. There is no constitutional bar against their acquiring a place in the seat of real power. They are only made ineligible for the office of the President because it is an office which symbolically represents the State and the person occupying that office only represents the spirit of the State and does not wield any real power. The Constitutions of many democratic countries contain provisions that the sovereign or head of the State should belong to a particular religious denomination, but such a provision has not been construed as conferring an inferior citizenship status on persons not belonging to that religious denomination.

Provisions for Depressed Classes

The "Depressed Classes" or "Scheduled Castes" constitute the lowest castes recognised within the Hindu religious and social system. According to the tenets of orthodox Hinduism, their essential characteristic is that they are "untouchables". They are not only the lowest in the Hindu social and religious system, but with few

individual exceptions, are also at the bottom of the economic scale and are quite uneducated. Article 20 of the Constitution protects the "Scheduled Castes" or "Depressed Classes" by providing that untouchability is abolished and its practice in any form is forbidden and shall be declared by law to be an offence. Special provisions have also been made for the promotion of the interests of "Scheduled Castes" and backward classes. Article 205 enjoins on the Federal and Provincial Governments to promote with special care the educational and economic interests of the "Scheduled Castes" and backward classes in Pakistan, and to protect them from social injustice and exploitation. Article 206 has made provision for the appointment of a Commission to investigate the conditions of the "Scheduled Castes" and backward classes. This Commission will make recommendations as to the steps to be taken and grants to be made by the Federal or Provincial Governments in order to improve their conditions. Provision is also made m Article 207 for the appointment of a Special Office to look after their interests.

Directive Principles of State Policy

Part III of the Constitution,[2] which deals with the Directive Principles of State policy, enjoins on the State the sacred and onerous duty of promoting social and economic well-being of the people, irrespective of race, caste or creed.

Directive principles are found in very few Constitutions in the world—Ireland was the first and India was the second to have incorporated them in their constitutions. These provisions are a sort of guidance to the Legislature and the Government of the country in the formulation of their policies. Several provisions have been made therein which might be useful for the reconstruction of society on higher moral basis. Article 24 deals with promotion of Muslim unity and international peace, and Article 25 deals with promotion of Islamic principles. Article 26 discourages parochial, racial, tribal, sectarian and provincial prejudices among the citizens. Article 27 provides that the State shall safeguard the legitimate rights and interest of the minorities, including their due representation in the Federal and Provincial Services. Articles 28 and 29 contain principles of social uplift and promotion of social and economic well-being of the people. Article 30 relates to the separation of the Judiciary from the Executive and provides that the State shall endeavour to separate Judiciary from the Executive as soon as practicable. Article 31 contains provisions for equal participation in national activities by the people of Pakistan.

The President[3]

The President, who is Head of State, is elected by an electoral college consisting of the members of the National Assembly and the

Provincial Assemblies. His term of office is limited to five years, and no person shall hold office as President for more than two such terms. He can be impeached on a charge of violating the Constitution or gross misconduct.

Except in a few matters enumerated in the Constitution, the President shall, in the exercise of his functions, act in accordance with the advice of the Cabinet or the appropriate Minister. This virtually places the complete administration of the Government in the hands of a Cabinet, headed by the Prime Minister, who has support of the majority of the members of the National Assembly.

The Constitution vests in the President all executive authority of the Federation, including the supreme command of the Armed Forces and the power to grant pardons, reprieves and respites, and to remit, suspend or commute any sentence passed by any court, tribunal or authority established by law. All important appointments will be made by him, including those of governors, judges of the Supreme and High Courts, the Chairman and members of the Federal Public Service Commission, the Attorney-General of Pakistan, and the Comptroller and Auditor-General of Pakistan. He will also appoint the Election and National Finance Commissions, National Economic Council, Islamic Laws Commission and the Commission to investigate the conditions of Scheduled Castes and backward classes in Pakistan.

The legislative authority of the President extends to the issuing of Ordinances when the National Assembly is not in session. He can summon, prorogue or dissolve the National Assembly. He may also address the National Assembly and send messages thereto. Nc demand for grant can be made unless recommended by the President, nor can money bills or bills which if enacted and brought into operation would involve expenditure from the revenues of the Federation be introduced in the National Assembly except on his recommendation. He also gives his assent to bills passed by the National Assembly.

The Cabinet[4]

The Constitution establishes a Federal Democratic Republic. Sovereignty under the Constitution is vested in the people and the Government is carried on by a Cabinet which is collectively responsible to the National Assembly. The President in his discretion appoints a Prime Minister who, in his opinion, is most likely to command the confidence of the majority of the members of the National Assembly.

The Prime Minister must be a member of the National Assembly, and nobody from outside the National Assembly can be called upon to form a Government. Whenever a Prime Minister is appointed under Article 37 of the Constitution, he has to face the National Assembly which, if at the time of his appointment it is not sitting and

does not stand dissolved, shall be summoned to meet within two months thereafter.

Other Ministers, Ministers of State and Deputy Ministers are appointed and removed from office by the President on the advice of the Prime Minister. No person can be appointed a Minister of State or Deputy Minister unless he is a Member of the National Assembly.

Parliament of Pakistan[5]

The Central Legislature is called the Parliament, which consists of the President and one House, known as the National Assembly. The President is an integral part of Parliament. All bills passed by the National Assembly must have his formal assent.

The strength of the National Assembly is fixed at 300 members directly elected by the voters in the Provinces. Provision has been made for the reservation of ten additional seats for women for a period of ten years from the Constitution Day. Normally the life of the National Assembly is five years from the date of its first meeting, unless it is dissolved earlier.

The Constitution stipulates that the National Assembly should meet at least twice a year and that not more than six months should elapse between the two sessions. At least one session of the National Assembly in each year should be held at Dacca.

The quorum prescribed is 40 members. All decisions shall be taken by a majority of the members present and voting. The person presiding is given only a casting vote.

Subject to the provisions of the Constitution, the procedure of the National Assembly is to be regulated by rules of procedure framed by the Assembly. Until such rules are framed, the procedure shall be regulated by the Rules of Constituent Assembly functioning as Federal Legislature, in force immediately before the Constitution Day, subject to such amendments as may be made therein by the President.[6]

The Provinces[7]

Provisions similar to those for the Federation have been made for the government of Provinces, which have been given, as far as possible, complete provincial autonomy. A very large number of subjects are within the legislative and executive competence of the Provincial Legislatures and Provincial Governments. The executive authority of the Federal Government is confined to subjects enumerated in the Federal List, which contains a bare minimum of what is required for the defence and integrity of the State and for maintaining its relations with foreign States.

Provision has been made under Article 199 to constitute a National Economic Council consisting of Ministers of the Federal Government and the Provincial Governments for the purposes set out

therein, so that uniform standards may be attained in the economic development of all parts of the country.

Disputes between the Federal Government and one or both Provincial Governments can be referred to the Chief Justice of Pakistan, who shall appoint a tribunal to settle the dispute.

Islamic Provisions

Since Pakistan is a Federal Democratic Republic, the Muslims, who constitute an overwhelming majority of the population of the country, will be free to live their own way of life and develop their own culture. The Directive Principles of State policy enjoin on the State to take steps to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the Holy Quran and Sunnah. The State shall also endeavour, as respects the Muslims of Pakistan, to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah, to make the teaching of the Holy Quran compulsory, to promote unity and the observance of Islamic moral standards and to secure the proper organisation of Zakat, Wakfs and Mosques.[8]

The Constitution further provides for the setting up of an organisation for Islamic research and instruction in advanced studies in order to assist in the reconstruction of Muslim society on a truly Islamic basis. The Parliament has been authorised to impose a special tax on the Muslims in order to meet the expenses of the above organisation.[9]

The Constitution also provides that no law shall be enacted which is repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah, and the existing law shall be brought into conformity with such injunctions.

Provision has been made to set up a Commission to compile in a suitable form for the guidance of the National and Provincial Assembly such Injunctions of Islam contained in the Holy Quran and the Sunnah as can be given legislative effect. The Commission will also examine the laws in force in the country and make recommendations for bringing them into conformity with the said Injunctions of Islam. The Commission is required to submit its report within five years of its appointment, which shall be laid before the National Assembly within six months of its receipt. The National Assembly is required, after considering the report, to enact laws in respect of the report of the Commission. It may also be stated that the Constitution specially provides that these provisions shall not affect the personal laws of non-Muslim citizens, or their status as citizens, or any provision of the Constitution. The various sects among the Muslims are also protected by the Constitution, which provides that in the application of the above provisions to the personal law of any Muslim sect, the expression "Holy Quran and

Sunnah" shall mean the Quran and Sunnah as interpreted by that sect.[10]

Elections[11]

Fair and free elections to the National Assembly and the Provincial Assemblies are guaranteed through an independent Election Commission, which is appointed by the President in his discretion. Subject to certain conditions, such as residence, etc., every citizen of Pakistan, irrespective of race, religion, caste, sex or place of birth, who is 21 years of age and is not subject to any disqualifications imposed by the Constitution or an Act of Parliament, is entitled to vote and to elect his representative to the National Assembly and the Provincial Assembly. Similarly, every citizen of Pakistan who is 25 years of age and is qualified to be an elector can be elected to the National Assembly or the Provincial Assembly, provided he is not disqualified for being a member by the Constitution or an Act of Parliament.

Judiciary[12]

The Supreme Court, the High Courts and the Judiciary have been made entirely independent of the Executive. Appointment of Supreme Court and High Court Judges is in the hands of the President and will be made after consultation with the Chief Justice of Pakistan and Chief Justices of the High Courts concerned. Once appointed to their offices, these High Judicial dignatories will not be removable except on the ground of misbehaviour or infirmity of mind or body. The Supreme Court Judges can be removed from office only by impeachment in the National Assembly if the majority of the total number of members of the Assembly agrees and such majority contains votes of not less than two-thirds of the members present and voting. The High Court Judges can be removed from office only on a report of the Supreme Court on the ground of misbehaviour or infirmity of body or mind. In order to keep the Judges clear of politics they have been made ineligible to hold political offices like that of the Governor.

Services[13]

Services through which the country has to be served and administered have been kept outside the influence of politics. Recruitment to services through a public service commission is a well-recognised principle in democratic countries. The Constitution provides for a Public Service Commission for the Federation and a Public Service Commission for each Province. Appointments of the Chairman and other members of a Public Service Commission shall be made by the President in his discretion, in the case of the Federal Public Service Commission, and by the Governor of the Province in his discretion, in the case of a Provincial Public Service Commission.

The members of the Public Service Commission can be removed from office only on a report of the Supreme Court on the ground of misbehaviour or infirmity of mind or body. In order to ensure integrity and impartiality, the Chairman and members of the Commissions have been made ineligible for further employment in the service of Pakistan.

Appointments to public services will be made on the recommendations of the Public Service Commissions after holding competitive examinations. Such recommendations will not be easily ignored as reasons for rejecting them will have to be explained and the explanation will have to be laid before the Legislature.

[1] Arts. 3-22. [2] Arts. 23-31. [3] Arts. 32-5. [4] Art. 37. [5] Arts. 43-57.
[6] In exercise of the power conferred on him by paragraph 5 of the Fourth Schedule to the Constitution of the Islamic Republic of Pakistan, the President made certain amendments in the Constituent Assembly (Legislature) Rules and Standing Orders in force immediately before the Constitution Day—namely, the 23rd March, 1956. The Rules as so amended are known as the National Assembly Rules and came into force on 25th March, 1956. [7] Arts. 70-132. [8] Art. 25.
[9] Art. 197. [10] Art. 198. [11] Arts. 137-47. [12] Arts. 148-78.
[13] Arts. 179-90.

XVIII. EAST PAKISTAN: EFFECT OF CONSTITUTIONAL AMENDMENT ON A PROVINCIAL LEGISLATURE

By S. N. Azfar, B.Sc.

Joint Secretary to the East Pakistan Legislative Assembly

The Constitution of the Islamic Republic of Pakistan came into force with effect from the 23rd day of March, 1956, and it has changed the law concerning Provincial Executives, Parliaments, their members, privileges, electoral system and official status. The salient changes are as follows:

(i) By the provisions of Article 71, the Governor shall in his discretion appoint from among the members of the Assembly a Chief Minister and with the advice of the Chief Minister other members of his Cabinet. But in the Government of India Act, 1935, as adapted in sub-section (5) of Section 51, the following was the provision which limited the power of the Governor of a Province:

in the exercise of his function under this section in respect of choosing and summoning and the dismissal of ministers, the Governor shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by the Governor-General

that is to say, before the Constitution came into force even in the Provincial Ministerial spheres, the Central Government exercised fuller power than it can now exercise.

It is implicit in the terms of Article 71 that a person who is not a member of the Provincial Assembly cannot be the Chief Minister of his Province; there was no such provision in the old Government of India Act, 1935. By the same Article, power is given to the Chief Minister for making recommendation to the Governor for dismissal of any particular member of his Cabinet, and the Governor is bound to accept it. This particular provision has empowered the Chief Minister to drop a particular member of the Cabinet while at the same time allowing the Cabinet to continue to function. This was not possible under the old Government of India Act, 1935, since under that Act all the Ministers would hold office during the pleasure of the Governor; if the Governor declined to dismiss a Minister, there was no possibility of dropping a particular Minister without dissolving the Cabinet entirely. Such an incident happened once in undivided Bengal when the present Governor of East Pakistan, Mr. A. K. Fazlul Huq, was the Chief Minister. He wanted to drop Mr. Syed Nausher Ali, Minister of L.S.G. Department; Mr. Syed Nausher Ali was asked to resign but refused, and Mr. Fazlul Huq had therefore to tender resignation of his Cabinet for the removal of Mr. Syed Nausher Ali and to form a Cabinet again without Mr. Syed Nausher Ali.

(ii) The Parliament of the Province is called now "Provincial Assembly" and not "Provincial Legislative Assembly".

(iii) Vacation of seat by absence for 60 consecutive days has been made *ipso facto*.

In this connection, Article 80 of the Constitution provides that if a member of Provincial Assembly is absent from the Assembly, without leave of the Assembly, for 60 consecutive days, *his seat shall become vacant*, whereas provision of the Government of India Act, 1935, as adapted, was otherwise and to the effect:

> 68(4) If for sixty days a member of a Provincial Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:
>
> Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued, or is adjourned for more than four consecutive days.

(iv) The Oath is now administered to a new member at a meeting of the Assembly by the person presiding and not to be taken by the member himself before the Governor or somebody appointed by him in this behalf.

Section 67 of the Government of India Act, 1935, as adapted, provided:

> Every member of a Provincial Legislative Assembly shall, before taking his seat, make and subscribe before the Governor, or some person appointed by

him, an oath according to the form set out in that behalf in the Fourth Schedule to this Act.

Whereas in the Constitution of the Islamic Republic of Pakistan, the provision is as follows—

5. . . . An oath (or affirmation) shall be administered at a meeting of . . . the Assembly by the person presiding.

It has been provided in Article 81 of the Constitution that if a member of the Provincial Assembly fails to make and subscribe an oath or affirmation in accordance with the provision of the Constitution within the period of 6 months from the date of the first meeting of the Assembly after his election, his seat shall become vacant. There was no such provision in the Government of India Act, 1935, as adapted. Therefore, to implement this provision of the Constitution, statutory provisions have been made in Article 84 of the Constitution for two sessions within a year. There was no such provision in the Government of India Act, 1935, as adapted, for holding two sessions of the Assembly within a year.

(v) Under the Government of India Act, 1935, as adapted, a member willing to resign his seat had to address the Governor; whereas according to the new provisions in the Constitution a member may resign his seat by giving notice in writing under his hand addressed to the Speaker. The provision for this in the Government of India Act, 1935, as adapted, was—

68(3) (b). If a member of a Provincial Legislative Assembly by writing under his hand addressed to the Governor resigns his seat, his seat shall thereupon become vacant.

and for this we find the following in the Constitution of the Islamic Republic of Pakistan:

82. A member of Provincial Assembly may resign his seat by notice in writing under his hand addressed to the Speaker.

(vi) The provision of the quorum in the Constitution of the Islamic Republic of Pakistan is very liberal. Under the Government of India Act, 1935, as adapted, it was fixed as 1/6th of the total members of the House; whereas in the Constitution it is only 40. This provision of our Constitution corresponds to the provision of Quorum of the House of Commons of British Parliament, which is also 40. We find the following in the Constitution of the Islamic Republic of Pakistan:

88(2). If at any time during a meeting of the Provincial Assembly the attention of the person presiding is drawn to the fact that less than forty members are present, it shall be the duty of the person presiding either to adjourn the Assembly, or to suspend the meeting until at least forty members are present.

And for this the following was the provision in the Government of India Act, 1935, as adapted:

66(3). If at any time during a meeting of a Provincial Legislative Assembly less than one-sixth of the total number of members of the Chamber are present, it shall be the duty of the Speaker or person acting as such either to adjourn the Chamber, or to suspend the meeting until at least one-sixth of the members are present.

(vii) Under Article 89, the validity of any proceedings in the Provincial Assembly may not be questioned in any Court; the officers and members also enjoy the immunity. But a Full Bench of Judges of the West Pakistan High Court reached the conclusion that the High Court had jurisdiction in appropriate cases to exercise its extraordinary writ jurisdiction even in connection with the proceedings of the Provincial Assembly.

(viii) No period of limitation for giving assent in regard to a bill presented to the Governor when passed by the Assembly was provided in the old Constitution. The present time limit is 90 days as in Article 90 of the Constitution. Within this period the Governor shall either—

(*a*) Assent to the Bill, or
(*b*) Reserve the bill for the consideration of the President, or
(*c*) declare that he withholds assent from the bill, or
(*d*) in the case of a bill other than a money bill, return the bill to the Assembly with a message requesting that the bill, or any specified provision thereof, be reconsidered, and that any amendment specified by him in the message be considered.

(ix) In respect of a money bill the Speaker is required to give a certificate which shall be conclusive for all purposes and shall not be questioned in any Court. Hence we find in clause (3) of Article 91 of the Constitution of the Islamic Republic of Pakistan that every money bill, when presented to the Governor for his assent, shall bear a certificate under the hand of the Speaker that it is a money bill. There was no such provision in the Government of India Act, 1935, as adapted.

(x) By the provisions of Article 94, revenue has been divided into two parts; one is called "Provincial Consolidated Fund" and the other is called "Public Account of the Province". In the "Provincial Consolidated Fund", all revenues received by the Provincial Government, all loans raised by that Government, and all moneys received by it in repayment of any loan are credited; but all other public moneys received by or on behalf of the Provincial Government are credited to the "Public Account of the Province". There was no such provision in the Government of India Act, 1935.

(xi) The budgetary provision in the Constitution has also undergone a considerable change. According to the provisions of the Constitution, the provisions as in the Government of India Act, 1935, as adapted, were followed up to the financial year 1956-57, but from the financial year 1957-58 provision of the Constitution is to be applicable in respect of budget. According to the provisions of the

Government of India Act, 1935, as adapted, the schedule of authorised expenditure after being authenticated by the Governor was to be placed before the Assembly when the entire budget was passed by the Assembly. The provisions in the Government of India Act, 1935, as adapted, were as follows:

80(1). The Governor shall authenticate by his signature a schedule specifying—

(*a*) the grants made by the Assembly under the last preceding section;

(*b*) the several sums required to meet the expenditure charged on the revenues of the Province but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Assembly:

(2) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Assembly.

(3) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the Province shall be deemed to be duly authorised unless it is specified in the schedule so authenticated:

Provided that expenditure from the revenues of the Province of East Bengal or the Punjab during the period beginning with the 15th day of August, 1947, and ending with the 31st day of March, 1948, may be authorised or ratified by general or special order of the Governor.

81. If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Assembly a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

But according to the provisions of Article 99 of the Constitution, after the grants in respect of different Departments as in the budget have been voted upon by the Assembly, a Bill, called "Appropriation Bill", is to be introduced in the Assembly to provide for appropriation out of the Provincial Consolidated Fund of all moneys required to meet:

(*a*) the grants so made by the Provincial Assembly; and

(*b*) the expenditure charged on the Provincial Consolidated Fund, but not exceeding in any case the amount shown in the statement laid before the Provincial Assembly.

Subject to the condition in Article 99(2), which provides that no amendment shall be proposed in the Provincial Assembly to any such Bill which shall have the effect of varying the amount or altering the destination of any grant so made, the Appropriation Bill is to be gone through in the Assembly in the same manner as any other legislative proposals. When the Bill is passed by the Assembly, it is presented to the Governor for his assent. This Appropriation Act authorises withdrawal of moneys from the Provincial Consolidated Fund for respective services as provided in the schedule to the Appropriation Act.

The beneficial effect of this procedure is that the Assembly gets

again a chance to examine the entire budget voted upon by it at the consideration stage of the Appropriation Bill and also at the passing stage of the said Bill.

Therefore, according to the provisions of the Constitution, the Assembly has greater opportunity for discussing the budget than was available to it under the provisions of the Government of India Act, 1935, as adapted.

(xii) Further, the provision of votes on Account, votes of Credit, etc., as provided in Article 101 of the Constitution, authorised the administration to approach the Provincial Assembly to make any grant in advance. All these provisions have totally enlarged the power of the Assembly in budgetary provision.

(xiii) As in the previous Constitution, the Governor's recommendation is pre-requisite for the introduction of any Money Bill. But Article 111 contains a provision for making no Act of Provincial Legislature and no provision in any such Act to be invalid by reasons only that some previous recommendation was not made, if assented by the Governor subsequently.

(xiv) The establishment of a National Finance Commission under Article 118 of the Constitution of the Islamic Republic of Pakistan, consisting of the Minister of Finance of the Federal Government, the Ministers of Finance of the Provincial Governments, and such other persons as may be appointed by the President after consultation with Governors of the Provinces, is an unique feature of the Constitution of the Islamic Republic of Pakistan. The recommendations of the National Finance Commission, together with an explanatory memorandum as to the actions taken, are to be laid before the National Assembly and the Provincial Assemblies. The Provincial Assembly has an opportunity to examine the distribution between the Federation and the Provinces of the net proceeds of the following taxes:

(*a*) export duty on jute and cotton, and any other specified export duty;
(*b*) taxes on income other than corporation tax;
(*c*) specified duties of Federal excise;
(*d*) taxes on sales and purchases; and
(*e*) any other specified tax.

Such an opportunity was not available to the Provincial Assembly under the Government of India Act, 1935, as adapted.

(xv) The establishment of the National Economic Council under Article 199 of the Constitution, consisting of four Ministers of the Federal Government, three Ministers of each Provincial Government, and the Prime Minister (*ex-officio* Chairman of the Council) enlarges the power of the Provincial Assembly, as the Council has the duty of reviewing the overall economic position of the country and submitting every year to the National Assembly a report on the results obtained and the progress made in the achievements of its

objects. Copies of the report are also to be laid before each Provincial Assembly.

(xvi) The placing of the Report of the Provincial Service Commission before the Provincial Assembly, as in Article 190 of the Constitution, will further give a chance to the Assembly to ascertain whether the moneys sanctioned were properly utilised and whether the appointments were made in terms of the Rules. Thus, the House gets another chance to control the administration even in the matter of appointment. There was no such provision in the Government of India Act, 1935, as adapted.

(xvii) Under the Constitution, the machinery of parliamentary election has been totally separated from the administrative Government and has been placed in charge of Election Commission and Regional Election Commissioners under clause (2) of Article 78 of the Constitution, which runs as follows:

> If any question arises whether a member has, after his election, become subject to any disqualification, the Speaker of the Provincial Assembly shall obtain the opinion of the Election Commission and, if the opinion is that the member has incurred any disqualification, his seat shall become vacant.

Such provision was not made in the Government of India Act, 1935, as adapted.

(xviii) After the partition of India in 1947, the Province of East Bengal had a Provincial Legislative Assembly consisting of 171 members as in section 61 of the Government of India Act, 1935, as adapted; but under Article 77 of the Constitution of the Islamic Republic of Pakistan, the strength of the Provincial Assembly is for a limited period 310 members, of whom 10 must be women; thereafter, the composition of a Provincial Assembly is to be 300, provided that the Parliament may by Act alter the number of the members of the Provincial Assemblies on certain restrictions that strength of the Provincial Assemblies of East and West Pakistan should be equal.

(xix) Under Article 97 of the Constitution of the Islamic Republic of Pakistan, the administrative expenses, including the remuneration payable to officers and servants of the Secretariat of the Provincial Assembly, are charged on the Provincial Consolidated Fund. This provision is to be read with the provision, in the Fourth Schedule, which provides that the Provincial Assembly shall have its own Secretarial Staff, whose recruitment and condition of services shall be regulated by rules made by the Assembly. The present Constitution has placed the office of the Assembly above the executive in all matters, so that the officers working under the Assembly can do real justice to the members of the Assembly consisting of the Government members and Opposition members. The office of the Assembly did not enjoy such a privilege under the Government of India Act, 1935, as adapted.

XIX. THE FUNERAL OF THE GOVERNOR-GENERAL OF THE FEDERATION OF RHODESIA AND NYASALAND

By Major L. E. Creasy, E.D.

Serjeant-at-Arms of the Federal Assembly

On the morning of 24th January, 1957, news was received of the death of the first Governor-General of the Federation of Rhodesia and Nyasaland, His Excellency the Right Honourable the Lord Llewellin, G.B.E., M.C., T.D., D.L. This was a great blow to the Federation, as Lord Llewellin had enjoyed great popularity with the inhabitants, of all races, by reason of his charming personality and of his capability to understand the many problems which exist, particularly during the first few years, in building a Federation such as this.

It was decided that the Lying-in-State of the Governor-General should take place in the Chamber of the Federal Assembly from 4 p.m. to midnight on Saturday, 26th January. This was done to enable the inhabitants to pay their last respects to His Excellency. The notice, as is usual in such unhappy cases, was extremely short, and as considerable alterations had to be made to the Chamber in order to make it suitable for the occasion, the Public Works Department was called in immediately.

The Catafalque, which was draped with the Union Jack and the Federal Flag, was erected in the middle of the Chamber. By the morning of the 26th all was ready for the reception of the coffin. At an early hour on this day wreaths began to arrive and were laid on tables in the Chamber and in the Strangers' Gallery. Altogether over 300 of these floral tributes were received, amongst which was a beautiful cross of white flowers from Her Majesty the Queen.

At 3 p.m. the coffin arrived and was carried into the Chamber by the bearers, who were the permanent Heads of Federal Ministries. Following the coffin from the entrance of the building into the Chamber was the Speaker, the Hon. T. I. F. Wilson, C.M.G., wearing his ceremonial black and gold gown, preceded by the Chief Messenger and the Serjeant-at-Arms (bearing the Mace) and followed by the three Clerks, Cabinet Ministers and Members of Parliament in that order. After placing the coffin, which was covered with the Governor-General's Standard, on the Catafalque the bearers stood on either side, facing the coffin for a moment and then left the Chamber. The members of the Speaker's Procession who were lined up behind the bearers thereupon turned inwards towards the Catafalque, bowed, and left the Chamber.

The military then posted four officers, one at each corner of the Catafalque, as guards. These were relieved every 30 minutes

throughout the time the Chamber was open to the public, *i.e.*, until midnight. From 4 p.m. onwards a continual stream of people of all races in the Federation passed slowly by the coffin, entering by the East door to the Chamber and leaving by the entrance to the Strangers' Gallery. It is estimated that at least two or three thousand people, of whom a large proportion was Africans, paid their last respects to His Excellency.

At 12 midnight the public were excluded from the Chamber and the coffin was removed to St. George's Chapel in the Anglican Cathedral, in preparation for the State Funeral on the following day, Sunday, 27th January, at 11 a.m.

The Cathedral was filled to capacity, and amongst the congregation was the Acting Governor-General, Sir Robert Tredgold, and the Governor of Southern Rhodesia, Vice-Admiral Sir Peveril William-Powlett, the Cabinet Ministers and leading citizens. The Speakers of the Federal Assembly, the Southern Rhodesia Legislative Assembly (Hon. W. Addison) and the Northern Rhodesia Legislative Council (Mr. T. Williams) were all present with their Serjeants-at-Arms, carrying the Maces, and the Clerks of the respective Houses. As the Serjeant-at-Arms and the Clerk of the Northern Rhodesia Legislative Council were unable to be present, their places were filled by members of the Federal Assembly staff.

The three Speakers, preceded by the Serjeants-at-Arms bearing the Maces and followed by the Clerks, walked in procession from the Federal Assembly building to the Cathedral. The Maces were carried into the Cathedral and were covered with black silk squares on the entry of the Acting Governor-General. At the conclusion of the Service, the Speakers with the Clerks and Serjeants took their places in the main procession in which, followed by the Members of the Federal Assembly, they walked to the Drill Hall, where the coffin was handed over to Lord Llewellin's immediate relatives. The ceremony then concluded.

Some information regarding the clothing worn on this occasion may be of interest. Acting on a precedent for mourning which had been established in the Southern Rhodesia Legislative Assembly on a similar occasion, the three Speakers and their Serjeants wore black crêpe jabots and ruffles. The Serjeants' swords were also covered in black. White gloves were worn. However, it subsequently was ascertained that House of Commons practice on an occasion of this nature is for the Speaker and Serjeant-at-Arms to wear white lawn jabot and ruffles and black gloves. This has been duly noted for future reference, although it is sincerely hoped that such an occasion may not arise for many years yet.

[NOTE.—It may perhaps be pertinent to add that at Westminster during Court mourning the Lord Chancellor and the Speaker, and the Clerks at the Table of the Lords but not the Commons, wear white linen cuffs called "weepers" on their uniform coats. "Weepers" are also worn by Queen's Counsel appearing at the Bar or before Committees.—ED.]

XX. NORTHERN RHODESIA: MACE AND CHAMBER

By T. Williams, O.B.E.

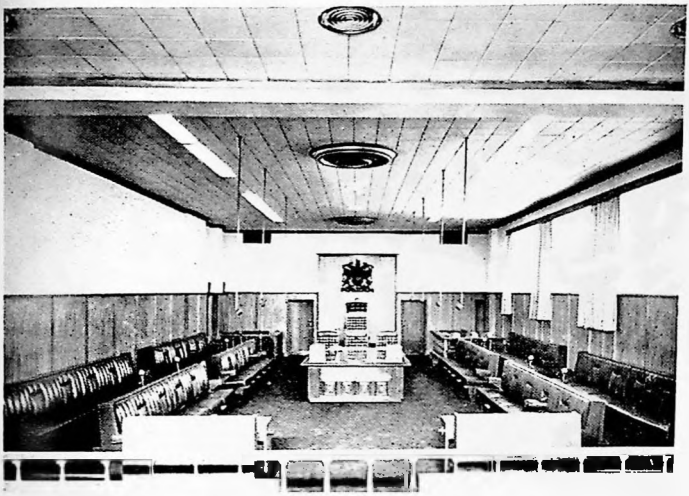
Speaker of the Legislative Council

On the first day of the Third Session of the Tenth Council of the Northern Rhodesia Legislative Council, the Chamber was reopened after being largely rebuilt and completely refurnished. A Mace was taken into use for the first time, borne by the Council's first Serjeant-at-Arms, a new set of Standing Orders came into operation, and a Powers and Privileges Bill was read the first time.

The Chamber

The old Legislative Council Chamber was simply a small hall, badly ventilated, furnished with chairs and tables, with a few rows of chairs at one end for strangers. A Select Committee, appointed on 7th July, 1955, rejected, reluctantly, a proposal to build a new block away from the Secretariat, and decided to enlarge and remodel the existing building. The result is a much larger, beautifully panelled Chamber with Strangers' Gallery, press box and government advisers' bay, and adjoining it a committee room, the Speaker's office, Members' tea room and kitchen, and *Hansard* rooms. Certain existing Members' rooms and the library were not changed, and the provision of adequate offices for the Clerk and his staff was planned as a second stage to be undertaken in 1957. The furnishings are all of carefully selected mukwa, with green leather upholstery, except for the Throne, used only when the Governor addresses the Council, which is red. The floor is covered with a green carpet. The arrangements—Speaker's chair, Clerks' chairs, Table with dispatch boxes, benches, Mace brackets—are modelled on the House of Commons. Microphones convey the sound to tape recorders from which transcribers in sound-proof cubicles produce *Hansard*, and to loudspeakers in various Members' rooms. Hearing aids are provided. The buildings are air-conditioned.

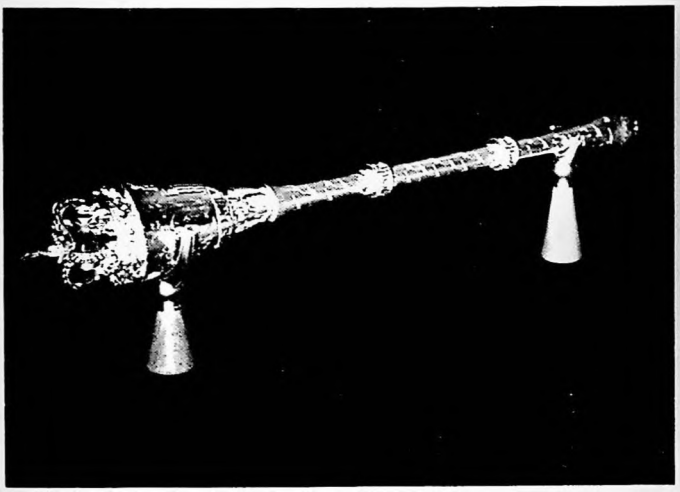
Members had some misgivings about using benches instead of tables and chairs; but no one has doubts any longer about the superior merits of the new system. The dispatch boxes were a gift from the Copper Mining Companies of Northern Rhodesia, who also presented the brackets for the Mace.



NORTHERN RHODESIA

The new Chamber of the Legislative Council.

(Photograph by courtesy of the Federal Information Department, Lusaka, Northern Rhodesia.)



NORTHERN RHODESIA

The new Mace of the Legislative Council.

(Photograph by courtesy of the Northern Rhodesian Information Department.)

The Mace

Designs for a Mace to be presented by the Government to the Council were invited from fourteen designers in the United Kingdom in a competition organised by the Worshipful Company of Goldsmiths in London, who arranged for a jury of eight members, including the Northern Rhodesia Commissioner in London, a Member of the Legislative Council, and the Assistant Serjeant-at-Arms of the House of Commons, to select the best design. One by Mr. Shiner was chosen by the jury and approved by the Council.

The Mace is of silver gilt, traditional in design, maintaining sufficient of the characteristics of the Mace in the House of Commons and yet being typical of the Territory. The main industries, mining and agriculture, are depicted, the history shown by the missionary-explorer David Livingstone, early communications by an African runner carrying a message in a cleft stick, the fauna by the lion, the elephant, and the fish eagle, and the places of attraction by symbolic representation of the Victoria Falls. At the head is the Crown surmounted by the Cross. The Northern Rhodesia coat-of-arms in coloured enamel stands out against the gilt of the rest of the Mace.

The Ceremony

It was decided to have a very simple ceremony. After the usual opening of a session with prayers, the reading of the proclamation, administration of oath to new Members, and the announcement by the Chief Secretary that His Excellency the Acting Governor would declare the causes of his calling the Council together, business was suspended pending His Excellency's arrival. After inspecting the Guard of Honour the Acting Governor was received as usual by the Speaker and proceeded in procession into the Chamber.[1]

His Excellency proceeded to the Throne and seated himself with the Speaker on his right. Distinguished strangers were accommodated in a section of the Chamber on the right of the Throne, separated from the Chamber by a rope (the old Bar of the House). Other strangers occupied the Strangers' Gallery.

His Excellency addressed the Council seated and covered. At the conclusion of the Address, he referred to the Mace, the gift of the brackets and dispatch boxes, and the remodelled Chamber. The A.D.C. to the Governor then took the Mace from its box, mounted the steps to the Throne and handed the Mace to him.

He thereupon said:

> Mr. Speaker, I ask you as the representative of the Legislative Council of Northern Rhodesia, to receive this Mace and, with Her Majesty's approval, already had and obtained, to take it into use.

Mr. Speaker, having advanced to the Throne, received the Mace and thanked His Excellency. He then handed over the Mace to the

Serjeant-at-Arms, who placed it on the brackets and covered it with a cloth of green velvet. His Excellency then declared the session open and withdrew from the Chamber, accompanied to the Bar of the House by Mr. Speaker.[2] On Mr. Speaker's resumption of the Chair, the cloth was removed and the Chief Secretary moved the thanks of the Council to those who had contributed to the production of the Mace, to those responsible for the construction of the Chamber and to the Copper Mines of Northern Rhodesia for their gifts to the Council. This was supported by the senior unofficial member and others and resolved in the affirmative.[3]

[1] 88 *Hans.*, c. 1. [2] *Ibid.*, c. 6. [3] *Ibid.*, cc. 7-16.

XXI. KENYA LEGISLATIVE COUNCIL: METHOD OF CHOOSING AFRICAN MEMBERS

By A. W. Purvis, LL.B.

Clerk of the Legislative Council

Royal Instructions passed to the Governor of Kenya in November, 1951, provide that there shall be in Legislative Council seven Representative Members.[1] Clause XIX of the same Instructions provides as follows:

> The Representative Members of the Legislative Council shall be such persons not holding public office as the Governor may appoint. Of the Members so appointed six shall be appointed to represent the interests of the African Community in Kenya. . . .

It will be noted that the Representatives appointed need not necessarily be Africans themselves. Europeans have occupied one or both of the seats filled by Representative Members prior to 1947. Since 1944, one of these seats has been held by an African, and since 1947 only Africans have been appointed.

The process by which subsequent appointments have been made has been well described by Mr. R. G. Turnbull, C.M.G., Chief Secretary, in a speech to Legislative Council on 24th February, 1956, as follows:[2]

> In 1948, the four African nominations, as they then were, were made from panels of names, produced by a Council of Representatives of the various African district councils in each of the electoral areas. The panels were examined by the Governor and appropriate appointments were made from the names included in those panels. In 1952, the process was taken a step further. Delegates were despatched from locational councils to district ad-

visory nomination committees. Each of these committees then sent up to five of their number to form an advisory nominational college for the electoral area and the college then voted by secret ballot upon the candidates. As in 1948, the appointments were made by the Governor from the lists of names produced by these nominational colleges.

In a statement of policy issued by the Colonial Secretary in April, 1954,[3] the following broad objective is declared by the Government:

It is agreed that during the period up to 1956 the Government will initiate a study, in which Africans will play a prominent part, of the best method of choosing African Members of Legislative Council.

In commenting on this, Sir Evelyn Baring, G.C.M.G., K.C.V.O., Governor of Kenya, in his communication from the Chair at the opening of the Fourth Session of the Tenth Council on 12th October, 1954,[4] stated:

It has been decided, with the approval of the Secretary of State for the Colonies, that the present practice by which African Representative Members of the Legislature are nominated by the Governor shall cease.

To arrive at a decision as to the best alternative method to choose African Representative Members, Mr. W. F. Coutts, C.M.G., M.B.E., was appointed on 22nd February, 1955, to consider and advise on the best system or systems for Africans to choose their representatives to the Legislative Council and his report[5] was laid before Legislative Council with the Government's observations[6] on 10th January, 1956.

Mr. Coutts' Report is the result of a very thorough investigation, as is shown by the statistics he gives of interviews with witnesses, and is based on the assumption that there are three races in Kenya which together will have to work out their *modus vivendi*. He came to the conclusion that direct voting by secret ballot should be adopted for all African elections as the only method which is acceptable to the Africans themselves, but he could not advocate universal adult suffrage at the present stage of African development. He therefore recommended a qualitative vote. While he recognised that there were objections to his system, he felt that it was preferable to any of the suggested alternatives, which he set out in detail. He went on to make proposals as to the qualifications which should be applied to electors and to candidates.

The Kenya Government accepted the recommendations of the Coutts Report in general and embodied them in Legislation as the Legislative Council (African Representation) Ordinance, 1956.[7] This Ordinance, to use the words of the Chief Secretary in the debate on the second reading of the Bill on 24th February, 1956,[8]

is designed to enable Africans to be appointed to the Legislative Council by direct election through a secret ballot on the basis of a qualitative franchise.

The Ordinance provides for the election of six (and by amendment

later of eight) African Members of Legislative Assembly. An African shall be entitled to be included in the register of voters if he or she—

(*a*) is a British subject.
(*b*) is over 21 years of age.
(*c*) is a member of an African tribe indigenous to Africa.
(*d*) was born in the Colony or has ten years' residence; and
(*e*) is entitled to at least one vote on account of
  (i) education,
  (ii) property,
  (iii) long service with the armed forces, or central or local Government, or in commerce, industry or agriculture,
  (iv) having reached the grade of elder or the age of 45 years
  (v) higher education,
  (vi) legislative experience,
  (vii) meritorious service.

An African registered as a voter is entitled to one vote in respect of each of these qualifications possessed by him or her.

The Ordinance also provides for the disqualifications imposed on would-be voters and for the qualifications and disqualification of candidates for election. The candidate must, among other things, be of or over the age of 25 years, be able to read, write and speak English and take an oath of allegiance to Her Majesty.

By an Order in Council[9] it is provided that the Ordinance shall be valid despite the fact that it is not consistent with the Royal Instructions. Additional Royal Instructions passed on 20th July, 1956,[10] provide for an increase in the number of Elected Members from twenty-one to twenty-seven and a corresponding decrease in the number of Representative Members.

By Additional Instructions, published on 7th November, 1956,[11] the number of African Elected Members was increased from six to eight. By Proclamation[12] the boundaries of eight electoral areas were established and Rules for the Registration of Voters[13] and Election of Members[14] complete the arrangements necessary for holding the first African elections in Kenya which are planned to take place in March, 1957.

[1] Royal Instructions, clause XV—prior to 1951 the number of Members (then known as Nominated Unofficial Members) who might be appointed to represent the interests of the African Community were limited to four. In fact, not more than two were ever appointed. [2] 68 *Kenya Hans.*, 198. [3] Kenya Government Notice No. 583 of 1954. [4] 63 *Kenya Hans.*, 6. [5] Report of the Commissioner appointed to enquire into methods for the Selection of African Representatives to the Legislative Council. [6] Sessional Paper No. 399, 1955-56.
[7] Cap. 10 of 1956 as amended by Cap. 30 of 1956 and Cap. 53 of 1956.
[8] 68 *Kenya Hans.*, 196. [9] S.I., 1956, No. 1207—East Africa—Kenya (Validation) Order in Council, 1956. [10] Notice No. 350 of 1956. [11] Notice No. 509 of 1956. [12] Notice No. 572 of 1956. [13] Notice No. 353 of 1956.
[14] Notice No. 573 of 1956.

XXII. APPLICATIONS OF PRIVILEGE, 1956

1. At Westminster

Action taken against a resident in a Colony communicating with a Member.—On 25th July a question of privilege arose in connection with a question which had been put down by Mr. Eric Fletcher (Islington, E.), concerning the appointment of Mr. M. D. Lyon for a third term as Chief Justice of the Seychelles (see also p. 150). In the course of a supplementary question, Mr. Fletcher asked the Colonial Secretary:

> Is he aware that since I put down this Question, one of my correspondents has had his house searched, and his papers seized on the spurious ground that, by writing to me, he was guilty of contempt of court?

Another Member having observed that this appeared to constitute a breach of privilege, Mr. Speaker invited Mr. Fletcher, if he thought fit, to make a formal submission on grounds of privilege on the following day.[1]

Accordingly, on 26th July, Mr. Fletcher informed the House tha three days previously he had received a letter from one of his correspondents in the Seychelles, a Mr. Mullery, in which it was stated that his house had been searched, and his correspondence had been taken away from him, in pursuance of a search warrant signed by the Chief Justice; it might or might not be a pure coincidence that the episode occurred very shortly after Mr. Fletcher's question had appeared on the paper. The warrant appeared to have authorised the search "upon sworn information of contempt of court", a form for which Mr. Fletcher averred that there was no authority in the law of the Seychelles. He continued:

> I need only trouble you, Mr. Speaker, with two short quotations from Erskine May about the relevant precedents. The general proposition is stated in page 109 of the Fifteenth Edition, where it is written:
>
> "It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence."
>
> I cannot find any precise precedent for an offence of this kind. That is hardly surprising, because surely it must be the first time in which a Chief Justice of a Colony administered by the Colonial Office has sought to abuse judicial powers entrusted to him in a way calculated to interfere with Members of this House in the discharge of their constitutional duties. There is, how-

ever, a passage in page 131 of Erskine May which, I respectfully suggest, has a bearing on the matter. That passage states:

"To tamper with a witness in regard to the evidence to be given before either House or any committee of either House or to endeavour, directly or indirectly, to deter or hinder any person from appearing or giving evidence is a breach of privilege."

As I read the authorities referred to in the appendix to that paragraph, the references to "a witness" are not limited to witnesses in proceedings actually pending before this House or a Committee, but are capable of being applied to anybody who, as a result of proceedings in this House, might naturally be expected to give relevant evidence about matters to be raised in this House.

Mr. Speaker, giving his ruling, first stated that he would assume that all the facts were as stated in Mr. Mullery's letter, and that the inference about the dates of the appearance of Mr. Fletcher's question on the paper and the events complained of was valid. He then referred to Mr. Driberg's case of 1955, which has been fully described in a previous Volume.[2] The Committee of Privileges had reported, in the latter case, that they could find no precedent where an attempt by one individual to influence another individual (not a Member of Parliament) as to the nature or content of the latter's communications with a Member of Parliament had been treated as a breach of privilege or as a contempt of the House. Mr. Speaker ruled that the present case, being precisely similar, was not one of privilege, and went on to say:

The hon. Member said there was no law in the Seychelles which justified this search warrant. That, of course, I do not know, but I accept his word for it; but if so, that is a matter for the courts to determine. In the famous case of Wilkes, in the eighteenth century, which was of constitutional importance for this House, it was the courts which decided that a general warrant was illegal—against, perhaps I may say, the wish of a large number of Members of this House at the time. It is a matter for the courts. In so far as this has been a fault of administration, it is a matter about which the House can deal with the Colonial Secretary. I understand that it is to be debated next week.

I am clear on this, that it would be wrong of me, giving a *prima facie* Ruling today, to extend Parliamentary Privilege to cover the correspondents of hon. Members. If hon. Members consider what might be the result of that, they will see that more evil consequences might flow from that than the incident which the hon. Member has related. So, bound as I am by the findings of the Select Committee of Privileges on what, I think, is exactly the same point, I have to rule that the hon. Member has not made out a case *prima facie* which would justify me in giving his Motion now precedence over the Orders of the Day. Therefore, I suggest to him, as I did to Mr. Driberg on that occasion, that his proper course is—and I shall not in the least resent it, of course—to put down a Motion on the matter for the consideration of the House.[3]

There were lengthy subsequent interchanges, but these were concerned exclusively with the legality or illegality of the Chief Justice's actions, and the proper means whereby they could be criticised.[4] (See also p. 151.)

Incitement to molestation of a Member by telephone calls.—On

27th November, Mr. Arthur Lewis (West Ham, N.) complained that he had since 2 a.m. on 25th November been subjected to a continuous stream of telephone calls as the result of an article in the *Sunday Graphic* drawing attention to a question which he had tabled in the House, and inviting readers to ring Mr. Lewis up about it, his telephone number being given. Mr. Speaker ruled:

If this had been a complaint by the hon. Member for West Ham, North (Mr. Lewis), of the usual sort about the contents of a newspaper article, I should have been obliged to rule it out on time, because it is a strict rule of the House, by which I am bound, as well as other hon. Members, that complaints about such articles must be brought at the earliest possible moment; and the earliest possible moment has been construed as immediately the paper appears or as soon after that as may be. This paper appeared on the Sunday, I understand from the hon. Member, and, therefore, if it had been an ordinary complaint about the contents of an article, to be in time it ought to have been raised yesterday afternoon.

But from what I have heard, I think the hon. Member's complaint goes further than that. He says that he does not object to the contents of the article as such, but he complains that up to the moment he is being molested in the way that he has described and his telephone arrangements have been rendered ineffective and that this is still going on; and certainly was going on up to a late hour last night, as he told me then.

In these circumstances, although I would rule a complaint on an article out of time and I therefore do not ask the hon. Member to produce the article at the Table, as I normally would, I think that the hon. Member has disclosed a *prima facie* case of that sort of breach of Privilege which can be called indirect molestation and which has often engaged the attention of the House. I have, therefore, come to the conclusion after careful consideration that I should accept a Motion on the matter.

The matter was accordingly referred to the Committee of Privileges.[5]

The First Report of the Committee was presented upon 17th December, 1956, and reads as follows:

1. On Thursday, 22nd November, Mr. Arthur Lewis gave notice of the following question for Thursday, 6th December:

"To ask the Prime Minister whether he will arrange for part of the money contributed by the Government for relief in Hungary to be allocated to the relief of the several thousand Egyptian people who have been rendered homeless and destitute by British shelling and rocket fire in Egypt."

Notice of the question was published with the Votes the following day.

2. On the Sunday, 25th November, the following paragraph was published in the *Sunday Graphic* under the caption "This man wants to comfort the Egyptians":

"Mr. Arthur Lewis is Labour M.P. for West Ham North. He is elected to the House of Commons to speak for the men and women of Britain in general, and West Ham in particular.

But Mr. Lewis's thoughts are with the Egyptians. He is to ask the Foreign Secretary whether he will arrange for part of the money contributed by the Government for relief in Hungary to be allocated to the relief of the several thousand Egyptian people who have been rendered homeless and destitute by British shelling and rocket fire in Egypt.

Which the *Graphic* thinks is just about the most crazy, mixed-up ques-

tion of the year. If you agree with us, please don't write and tell us so. Ring up Mr. Lewis and tell HIM. His number is Edmonton 6113."

3. This paragraph did not appear in the early editions but in the main editions. Approximately 1,200,000 copies are sold each Sunday and the Editor estimates that it appeared in perhaps 700,000 copies.

4. As a result a great number of persons telephoned to Mr. Lewis at his private house. The first call was received in the early hours of Sunday morning. Throughout that day, Monday the 26th, and Tuesday the 27th November, and until the afternoon of Wednesday the 28th November when the Post Office changed his number, Mr. Lewis was, except for the periods when the line was disconnected, pestered with telephone calls from persons responding to the invitation contained in the paragraph referred to. Many of the callers were abusive. One of them, who apparently telephoned from a public call box, left off the receiver and so disconnected Mr. Lewis's telephone for some time. To secure some peace Mr. Lewis was compelled to leave off his receiver both on the Sunday and on the Monday for some periods of time.

One of his constituents, a local Borough Councillor, had several times on the Sunday, tried to get in touch with Mr. Lewis on a matter of urgency but was, in consequence of these constant telephone calls, and the interruption of Mr. Lewis's telephone service, unable to do so.

5. This treatment to which Mr. Lewis was subjected over this long period was, we are satisfied, the direct result of the paragraph published in the *Sunday Graphic*. We are further satisfied that when the invitation to telephone Mr. Lewis was published it was with the object of securing that a large number of persons should telephone to Mr. Lewis at his private house to express their disapproval of the question tabled by him.

6. In our opinion the Editor of the *Sunday Graphic* is responsible for the treatment to which Mr. Lewis was subjected.

7. To molest a Member of Parliament on account of his conduct in Parliament is, it is well established, a breach of privilege. Mr. Lewis was entitled to table the parliamentary question referred to in paragraph 1. It was because he had done so that he was subjected to this series of telephone calls. In our opinion this conduct clearly amounted to molestation and in our opinion the Editor of the *Sunday Graphic* has been guilty of a breach of privilege in inciting it.

8. This case is very different from that of a communication by constituents to a Member of Parliament. Whether communications to Members of Parliament by constituents or others amount to an improper interference with the performance by a Member of Parliament of his duties depends on the nature and manner of the communications.

In this case the invitation was to all readers of this issue of the paper. It was an invitation to communicate in a particular fashion, namely, by telephone, and it must have been appreciated that communication in this way by a large number of persons would cause annoyance and serious inconvenience to Mr. Lewis.

9. We have not been able to discover in the past a similar case of molestation to that now under consideration, but, as we have said, the principle that to molest a Member of Parliament on account of his conduct in Parliament is a breach of privilege is well established. Lord Simon said in *Harris* v. *Director of Public Prosecutions*, 1952 Appeal Cases, at p. 705, in another connection:

> "It is, I think, an error to attempt to draw up a closed list of the sort of cases in which the principle operates: such a list only provides instances of its general application, whereas what really matters is the principle itself and its proper application to the particular circumstances of the charge that is being tried. It is the application that may sometimes be difficult, and the particular case now before the House illustrates that difficulty."

The principle with regard to molestation being well established, it is its proper application to the particular circumstances of a case that may sometimes be difficult. In our view the principle clearly applies to the circumstances of this case and in our opinion the Editor of the *Sunday Graphic* was guilty of a breach of privilege in that he instigated the molestation to which Mr. Lewis was subjected.

10. Your Committee have received from Mr. J. G. McKenzie, the Editor of the *Sunday Graphic*, a written statement, a copy of which is set out in the minutes of evidence. Mr. McKenzie says that when he read the text of the question of which Mr. Lewis had given notice, he "felt deeply that the matter of the question would have no appeal to the great majority of the readers of the *Sunday Graphic* and . . . thought that Mr. Lewis should somehow be made aware of this immense volume of opinion". He says that he allowed the paragraph in question to appear merely because he thought that telephoning to Mr. Lewis "was a more direct and really simpler method of bringing their views to (his) attention than by writing letters", and that he "neither intended nor foresaw the consequences which resulted from the publication of the paragraph". In our view, his statement and the evidence he gave indicated that it was the Editor's intention to subject Mr. Lewis to molestation on account of his conduct in tabling the question, but we have received his assurance that he did not anticipate the degree of molestation which Mr. Lewis suffered.

11. Having reached the conclusion that Mr. McKenzie is guilty of a breach of privilege, your Committee considered what course they should recommend to the House. They regard the breach as serious, yet it is to be born in mind that molestation has not before taken a similar form and also that Mr. McKenzie has not sought to justify his conduct, but has humbly apologised to Mr. Speaker, to the House of Commons and to Mr. Lewis, an apology he reiterated in his evidence before us. In view of this and of the fact that now that it is made known that such conduct constitutes a serious breach of privilege it is unlikely to be repeated, your Committee are of opinion that on this occasion no further action by the House is necessary.

No debate upon this Report took place in the House.

Alleged pressure on Members in regard to their votes.—On 10th December Mr. Wigg (Dudley) informed the House that there had appeared on Saturday, 8th December, in the *Daily Herald*, the following statement attributed to Mr. Patrick Maitland (Lanark) in regard to a recent vote of confidence taken in the House:

> In view of the extraordinary and unexampled pressures—some of them altogether underhand—which have been used to force Tories into line, I think we did pretty well to have 15 of our number daring to show themselves.

He submitted that as the statement obviously referred to pressures upon hon. Members as to how they should vote, it implied a breach of privilege; he also made it clear that he had been unable to give notice of his intention to raise the matter to Mr. Maitland, who was not then in his place. Mr. Speaker said that he

> could not possibly rule on the matter without hearing that other hon. Member, but I rule for the time being, if it is any satisfaction to the hon. Member for Dudley (Mr. Wigg), that he has raised the point at the earliest opportunity; otherwise, I cannot rule on it without hearing what is said. There appears to be no *prima facie* case of breach of Privilege against the newspaper, anyhow.[7]

On 11th December Mr. Speaker gave the following ruling:

I understand that the hon. Member for Lanark (Mr. Patrick Maitland) does not complain about the newspaper in any way. Therefore, it seems to me that there is no complaint about the newspaper—indeed, the hon Member for Dudley said so yesterday. Nor, in what has been said, do I see any *prima facie* case of any breach of Privilege by the hon. Member for Lanark.

I would remark that animadversions against the conduct of Whips are common on both sides of the House. These have never hitherto been treated as breaches of the Privilege of the whole House. As for any question of breach of Privilege by the usual channels, if that be the proper term, the only hon. Member who could complain about it with real knowledge is the hon. Member for Lanark himself.

As the hon. Member for Lanark made the speech on Friday, if he wanted to complain about the subject on Friday that would have been his earliest opportunity of doing so. Therefore, I cannot see that there is a *prima facie* case of breach of Privilege against anyone such as would enable me to give the matter precedence over the Orders of the Day.[a]

Reflections on conduct of Members in regard to petrol rationing.—On 17th December, Sir Charles Taylor (Eastbourne) submitted that the following article entitled "Privilege", which had appeared in the *Sunday Express* the previous day, constituted a breach of privilege:

Tomorrow a time of hardship starts for everyone. For everyone? Include the politicians out of that.

Petrol rationing will pass them by. They are to get prodigious supplementary allowances.

Isn't it fantastic?

The small baker, unable to carry out his round, may be pushed out of business. The one-man taxi company may founder. The parent who lives in the country may plead in vain for petrol to drive the kids to school.

But everywhere the tanks of politicians will be brimming over.

What are M.P.s doing about this monstrous injustice? Are they clamouring for Fuel Minister Mr. Aubrey Jones to treat politicians like the rest of the community?

If it were a question of company directors getting special preference you may be sure that the howls in Westminster would soon be heard from John o' Groat's to Ebbw Vale.

But now there is not a squeak of protest.

If politicians are more interested in privileges for themselves than in fair shares for all, let it swiftly be made plain to them that the public do not propose to tolerate it.

And let Mr. Aubrey Jones know that, if he is so incapable of judging public feeling, he is not fit to hold political office for a moment longer.

Mr. Speaker observed:

There are cases when contempts of this House as a whole have been treated as breaches of Privilege, but, also, there have been many cases in the past where hon. Members of this House have been subjected collectively to a certain amount of journalistic censure, and possibly abuse.

In the past, these matters have not been considered as breaches of the Privileges of this House. Making the best judgment I can, I think that this is an article about the truth of which anyone can have his own opinion. Although the general tone of the whole article may be regarded by hon. Members as very regrettable, I do not myself think that it comes within the

category of contempts of the House of a serious character which could make it a *prima facie* breach of Privilege.

I have arrived at that conclusion only as a procedural matter. The hon. Member for Eastbourne (Sir C. Taylor) is, of course, quite entitled to test the feeling of the House by putting down a Motion to that effect.

It at once became apparent, from the interventions of Members on both sides of the House, that the feeling of the House needed little testing; Mr. Burden (Gillingham) and Mr. Paget (Northampton) averred that the newspaper's statement was untrue, and therefore needed refutation, and Mr. Sydney Silverman (Nelson and Colne) and Mr. Stevens (Langstone) took exception to the implication that Members were exercising their rights in order to exempt themselves from hardships which they were inflicting on the rest of the community. Mr. Speaker thereupon said:

I always take the view that the Privilege of this House is a very serious matter, not to be lightly invoked. For that reason I do not feel that every attack of this silly nature should be regarded by the House as a breach of Privilege. I have given my opinion on the matter but, as I have said, that does not finish it. If it be the general sense of the House that the matter should go to the Committee of Privileges and the House so decides, I shall not dissent in any way.

The Leader of the House (Mr. R. A. Butler) thereupon moved to refer the matter of the complaint to the Committee of Privileges.[9]

On 18th December, Mr. Charles Pannell (Leeds, W.) made a complaint on similar grounds in respect of a cartoon in that day's *Evening News*:

The cartoon shows the Houses of Parliament in the background and New Palace Yard with a crowded car park and a caption underneath, which reads:

"Very thoughtful o' them M.P.s giving themselves such a generous Supplementary. . . . Nice there's one place in London where a gent can be sure o' getting a drop."

You will note, Mr. Speaker, that in this case, in contradistinction to a matter raised yesterday, the narrow term "M.P.s" alone is used The cartoon shows "spivs" siphoning, or "milking", petrol from what presumably, are hon. Members' motor cars, from full petrol tanks—an operation which is itself illegal. If I may say this in parenthesis, I am not sure that the presence of "spivs" in New Palace Yard is not itself an affront to the reputation of Parliament. There are, of course, far fewer cars these days in New Palace Yard.

I submit that this is an even more flagrant affront than the one complained of yesterday by the hon. Member for Eastbourne (Sir C. Taylor), and which concerned the *Sunday Express*. You will remember, Mr. Speaker, that that case was unanimously referred to the Committee of Privileges. While that complaint must be considered *sub judice*, the *Evening News* has added contempt of this House to flagrant insult.

Mr. Speaker said that, in view of yesterday's decision, he would accept a motion, and the matter was accordingly referred to the Committee of Privileges.[10]

On 20th December, the Second and Third Reports of the Committee of Privileges were laid before the House, relating respectively

to the *Sunday Express* and the *Evening News*. In the Second Report,[11] after having reproduced the article of which complaint had been made, the Committee set forth the following letter received on 18th December by Mr. Speaker from Mr. John Junor, Editor of the *Sunday Express*:

I regret that the leading article in the *Sunday Express* of December 16th has been misread and misunderstood by some Members of Parliament.

It was not in any way intended to show discourtesy towards the House of Commons. The comment was not aimed at Members of Parliament in particular but at Politicians in general.

The purpose of the article was to comment on a system whereby—while ordinary members of the public are subject to such stringent rationing—petrol for motoring up to 3,700 miles a month is to be allowed for Political party use in Parliamentary Constituencies.

This was stated to be so by the Ministry of Fuel and was published in the Press on December 14th.

Stating that they had heard evidence from Mr. A. J. Moyes, the official in the Fees Office responsible for the allocation of supplementary petrol allowances to M.P.s, and from Mr. Junor himself, the Committee reported:

Mr. Moyes stated that the arrangements made are roughly in accordance with the previous petrol rationing scheme; and that all supplementary coupons issued to Members of Parliament are issued from the Fees Office, whether for political or parliamentary duties or for the other purposes for which a member of the public can get a supplementary allowance. For instance, a Member of Parliament who is a doctor may get from the Fees Office a supplementary allowance for his political and parliamentary duties and an allowance in order to carry on his practice as a doctor. The maximum allowance for political and parliamentary purposes is for 200 miles a month though, in exceptional circumstances, this may be exceeded. This is not issued automatically but only on need being shown. The maximum allowance to a Member of Parliament for these purposes is considerably less than the maximum allowance to those in the priority classes.

Mr. Junor asserted in his evidence, as he had in his letter of the 18th December, that his article had been misread and misunderstood. He said that the article did not suggest that Members of Parliament were getting an unfair allocation of petrol.

He admitted, however, that the term "politicians" covers Members of Parliament, but said that he meant to include other politicians.

He agreed that the first paragraph of the article meant that Members of Parliament were with other politicians excluded from the hardship due to petrol rationing which would be suffered by everyone else; that the sentence "They are to get prodigious supplementary allowances" meant that Members of Parliament, among other politicians, would get such allowances, and that the sentence "everywhere the tanks of the politicians will be brimming over" meant that the tanks of Members of Parliament would be brimming over.

Your Committee are satisfied that these statements were and are entirely without foundation. Mr. Junor made no enquiry as to the allocation to Members of Parliament for political and parliamentary purposes and when informed that the maximum allocation for such purposes was for 200 miles a month, expressed the view that it was inadequate for a Member for a country constituency.

Mr. Junor asserted that while the article contained criticism of Members of

Parliament for their failure to make a protest and comment aimed at Members of Parliament, the attack was not aimed at them. He said that he was trying to convey in the article that there was an unfair disparity, as a result of which Members were getting an advantage, and that if there had been no effective protest the House was failing in its duty and that it would be contemptible on the part of Members of Parliament because they were using self-interest to justify their silence.

Your Committee, having heard Mr. Junor's evidence and having considered his demeanour while giving evidence, are unable to accept his evidence that the article had been misread and misunderstood and that it did not suggest Members of Parliament were getting an unfair allocation.

In their view the article clearly meant and was intended to mean that Members of Parliament were getting an unfair allocation, " prodigious supplementary allowances". The word " politicians " would ordinarily be understood to mean, primarily though not exclusively, Members of Parliament.

Your Committee do not accept his evidence that the article did not attack Members of Parliament. In their opinion it was, *inter alia*, intended to hold them up to public obloquy as a result of their alleged failure to protest against unfair discrimination of which they were the beneficiaries. This is, in your Committee's view, confirmed by the fact that before publication Mr. Junor made enquiries to ascertain whether any protest by a Member of Parliament had been reported in the national press.

As your Committee have observed and as Mr. Junor admits, the article alleges that Members of Parliament were to get excessive supplementary allowances, yet Mr. Junor did not before publication ascertain or make any enquiries to ascertain what allocations Members of Parliament might receive for political and parliamentary purposes.

In the opinion of your Committee, Mr. Junor has been guilty of a serious contempt in reflecting upon all Members of the House and so upon the House itself by alleging that Members of the House had been guilty of contemptible conduct in failing, owing to self-interest, to protest at an unfair discrimination in their favour. Such an attack on Members is calculated to diminish the respect due to the House and so to lessen its authority.

Mr. Junor was given every opportunity to express his regret and to apologise for his conduct. He said he did not mean to be discourteous to the House of Commons or to bring it into disrepute and that if it had been interpreted as discourtesy, then he was sorry. Your Committee, having heard these statements, recommend to the House that, in view of the gravity of the contempt committed by Mr. Junor, he should be severely reprimanded.

In their Third Report[12] the Committee stated that they had examined Mr. C. R. Willis, the Editor of the *Evening News*, and went on to say:

The decision to publish the cartoon in question was made about 2.30 p.m. on Monday, 17th December, before the article in the *Sunday Express* had been brought to the notice of the House. The decision to publish it was reached in the Editor's absence, but he has very properly accepted responsibility for the publication. The cartoon was sent to the Processing Department of the *Daily Mail* and the block was sent to the *Evening News* office on Monday evening nearly two and three-quarter hours after the editorial staff had left.

Early on the following morning, before the Editor had arrived, and despite the fact that the first edition had already gone to press, his staff decided, in view of the fact that the House had referred the complaint regarding the article in the *Sunday Express* to the Committee of Privileges, to withdraw the cartoon. It did not appear in any subsequent edition. In fact, out of

a total print of 1,412,000 copies that day, it appeared in 57,000 copies. When this matter was raised in the House, a report of this with an apology was immediately published. This appeared in 291,000 copies. Mr. Willis also addressed a letter to Mr. Speaker tendering to him and to the House his most sincere apologies for the publication of the cartoon. These apologies he repeated when giving evidence before us.

Your Committee, while of the opinion that the words in the caption " very thoughtful o' them M.P.s giving themselves such a generous supplementary " imply that Members of Parliament had improperly favoured themselves in relation to petrol rationing and so constitute a reflection on all Members of the House and a contempt, recommend, in view of the very proper conduct of the Editor and the staff in securing the withdrawal of the cartoon at the earliest possible moment and in voluntarily publishing a full and unqualified apology, that no further action be taken by the House.

No debate took place in the House on the Third Report, but on 23rd January, 1957, the House took the Second Report of the Committee of Privileges into consideration, and the Leader of the House (Mr. R. A. Butler) moved

That Mr. John Junor do attend this House to-morrow at a quarter past three o'clock.

In moving the motion, Mr. Butler said that he thought it would be unwise for the House to adopt the recommendations of the Report now, without knowing whether Mr. Junor had anything further to say, and observed that there would be an opportunity for discussion after Mr. Junor's attendance. Being asked by the Leader of the Opposition (Mr. Gaitskell) on what basis such discussion could take place, Mr. Butler replied:

With permission, I would reply that the Motion I shall move, as Leader of the House, must, I think, be left to be moved spontaneously after I hear, and the House hears, what Mr. Junor has to say. That may perhaps seem not quite clear to some hon. Members, but it is the result of considerable thought on the part of some of us. We think that it is the right procedure to adopt.

It will be a Motion, therefore, in accordance with the statement made by Mr. Junor. It may well follow the Report of the Second Committee and request that its conclusions be drawn to their logical conclusion. I would rather keep the terms of the Motion until we have heard Mr. Junor, but there will be a Motion, and that will be open to debate immediately afterwards. Its terms will be clear and simple, so that the fact that there is no notice of it to-day will not prejudice hon. Members in their desire to speak.

A short debate followed, in the course of which Mr. Shinwell (Easington) expressed the view that the House would be obliged to reprimand Mr. Junor, whatever he said in extenuation, if it was not to throw overboard its own Committee. Mr. Crossman (Coventry, E.) expressed apprehension that Mr. Junor might use his appearance at the bar for the purpose of making publicity for the Beaverbrook Press, and thought that the House should consider whether they would increase the dignity of Parliament and strengthen public confidence by committing Mr. Junor to the Tower because he refused

to apologise. After some further interventions, the motion was agreed to.[13]

Accordingly, on 24th January, the Order was read for the attendance of Mr. Junor; and the House being informed that Mr. Junor was in attendance, Mr. Speaker directed him to be brought to the Bar. The Serjeant-at-Arms, bearing the Mace, then brought Mr. Junor to the Bar, and Mr. Speaker addressed him as follows:

Mr. John Junor, you have been summoned to appear at the Bar of this House in consequence of a Report made by a Committee of this House. That Committee was directed to inquire into the matter of an article published on 16th December, 1956, in the *Sunday Express*, of which you are Editor.

You did not seek, so the Committee have found, to establish the truth of the article, nor did you appear willing to admit its obvious implications. Although given every opportunity to express your regret, you made what the Committee were only able to regard as an entirely inadequate apology. Nevertheless, I have to inform you that before considering the findings of the Committee the House is willing to hear anything that you may have to say in extenuation.

Mr. Junor replied:

Mr. Speaker, I wish to express my sincere and unreserved apologies for any imputations or reflection which I may have cast upon the honour and integrity of this House in the article which I published in the *Sunday Express* of 16th December. At no time did I intend to be discourteous to Parliament. My only aim was to focus attention on what I considered to be an injustice in the allocation of petrol, namely, the petrol allowances given to political parties in the constituencies. In my judgment these allowances were a proper and, indeed, an inescapable subject of comment in a free Press. That was a view which I held then and hold now, Sir, but I do regret, deeply and sincerely, that the manner in which I expressed myself should have been such as to be a contempt of this House.

I have nothing more to say. I now leave myself in the hands of this House.

Mr. Junor was then directed to withdraw, and the Leader of the House moved:

That this House doth agree with the Committee of Privileges in their opinion that Mr. John Junor has been guilty of a serious contempt of this House, but, in view of the apology made to this House by him, this House will proceed no further in the matter.

In the course of his speech he said:

That is a Motion which I have moved after reflection. I had to consider, before I heard Mr. Junor, what other courses would be open to the House, and I must confess that had the apology been couched in different terms, or had the demeanour been different from what we have all observed, it would have been my duty, I think, then to have proceeded to move a different Motion, which I would accordingly have submitted to the House.

Under the circumstances, Mr. Speaker, the less I say the better. The dignity of this House is maintained and sustained by a generous regard for an apology properly given. That we always find in our private regard for hon. Members who have occasion to make apologies or to make excuses when they have transgressed in any way from the traditions or dignity of this House. I think that the traditions of this House would best be upheld by supporting the Motion which I have just moved.

The Leader of the Opposition and Sir Charles Taylor (the original complainant) having expressed their approval, the motion was agreed to without division.[14]

UNION OF SOUTH AFRICA: HOUSE OF ASSEMBLY

Contributed by the Clerk of the House of Assembly

Newspaper article reflecting on Parliament.—On 20th February Mr. Speaker's attention was drawn to an article on the front page of the *Natal Mercury* of Tuesday, 14th February. As the language used in that article in connection with the Joint Sitting of both Houses was of a nature which constituted a grave reflection on the dignity and proceedings of Parliament amounting to a breach of privilege, the editor of the newspaper was requested through its representative in the Press Gallery to publish at the earliest opportunity an unqualified apology.

As the editor was not able or prepared to give an assurance that he would do so, the Press and lobby tickets issued to the representative of the newspaper were withdrawn immediately. On 2nd March, however, an apology, approved of by Mr. Speaker, was published on the front page of the newspaper and the Press facilities of its representative were subsequently restored.

CEYLON: HOUSE OF REPRESENTATIVES

Contributed by B. Coswatte, Clerk-Assistant of the House of Representatives

Disrespectful conduct by Members in the precincts of the House.—At the sittings of the House of Representatives on 6th April, 1955, Mr. Speaker "named" the Member for Moratuwa, and the House thereupon passed a Motion moved by the Hon. Leader of the House that the Member for Moratuwa be suspended from the service of the House. On being thereafter ordered by Mr. Speaker to leave the House, the Member for Moratuwa refused to comply.

Mr. Speaker thereupon ordered the Serjeant-at-Arms to remove the Member from the House, stated, "I suspend the sitting of the House", and vacated the Chair. Some Members left the Chamber and some remained. The Mace remained on the Table. Thereafter, and before the Serjeant-at-Arms had removed the Member for Moratuwa, the Member for Galle, Mr. W. Dahanayake, proposed that the Member for Dehiowita, Mr. E. P. Samarakkody, do take the Chair, and the Member for Kotte seconded the Motion. The Deputy-Speaker and the Deputy-Chairman of Committees were not in the Chamber when this Motion was moved. Thereafter the Member for Moratuwa made a speech and continued to speak until the Serjeant-

at-Arms removed him from the Chamber. Mr. Samarakkody then vacated the Chair. The sitting was again resumed.[15]

The same day, the Leader of the House, Hon. J. R. Jayewardene, made a complaint to Mr. Speaker in Chambers that Mr. Samarakkody, aided by Mr. W. Dahanayake, had committed the offence of disrespectful conduct in the precincts of the House, an offence punishable either by the House or the Supreme Court under the provisions of the Parliament (Powers and Privileges) Act.[16] Mr. Speaker thereupon referred the case to the Attorney-General for a report under the provisions of Section 26 of the Act. The Attorney-General having reported that in his opinion there was sufficient evidence to warrant the taking of further steps under the Act against Mr. Samarakkody, in respect of the offence of disrespectful conduct in the precincts of the House,[17] and Mr. Dahanayake, in respect of the abetment of the said disrespectful conduct,[18] the House, on 6th July, 1955, passed the following resolution on a Motion moved by the Leader of the House:

That the Attorney-General do make an application to the Supreme Court under Section 23 of the Parliament (Powers and Privileges) Act, No. 21 of 1953.

Thereafter an application was made to the Supreme Court by the Attorney-General, under the provisions of Section 23 of the Act, making Mr. Samarakkody and Mr. Dahanayake respondents.

The main points taken by the Counsel for the respondents at the hearing of the application were—

(*a*) the act of the Speaker on 6th April, 1955, namely, his statement "I suspend the sitting of the House" and his vacation of the Chair, did not in law constitute a suspension of the sitting; and alternatively

(*b*) assuming that there was a valid suspension, the conduct of the two respondents, even if it constituted disrespectful conduct, is not justicable by this Court.

Justice Fernando, who heard the case, in his judgment discussed at some length the first point taken on behalf of the respondents, but in view of the opinion he had formed on the second point, namely, that the conduct of the respondents was not justiciable by the Court, he assumed that the suspension was valid and effective.

The conclusion which the learned Judge reached was that, assuming the suspension to have been valid, and assuming an intention on the part of the respondents to be disrespectful, their conduct cannot be questioned or impeached in proceedings taken in that Court, as such conduct is included within the scope of Sections 3 and 4 of the Act, namely:

Section 3. There shall be freedom of speech, debate and proceedings in the House and such freedom of speech, debate or proceedings shall not be liable to be impeached or questioned in any Court or place out of the House.

Section 4. No Member shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything which he may have

said in the House or by reason of any matter or thing which he may have brought before the House by petition, bill, resolution, motion or otherwise.

INDIA: MYSORE LEGISLATIVE ASSEMBLY

Minister sitting in spite of disqualification.—On 2nd April Shri M. Govinda Reddy (Chitaldrug) raised as a point of privilege the eligibility of Shri H. M. Channabasappa (Minister for Industries) to be a Member of the House. He averred that in the general elections of 1952 Shri Channabasappa had been defeated, but that the election had been set aside. When a re-election had been held, he had been elected without contest, since the nomination of another candidate had been rejected; an election petition had, however, been filed on the grounds that the nomination had been improperly rejected, and the Election Tribunal, after sitting for 13½ months, had on 31st March decided unanimously that Shri Channabasappa's election was void for that reason.

Shri Reddy said that Shri Channabasappa had to-day attended the Assembly, and being neither an elected nor a nominated Member, was liable to a penalty of Rs. 500 and had violated the privileges of the House.

A lengthy discussion ensued, at the end of which Mr. Speaker undertook to decide the following day whether the motion of privilege was acceptable.[20]

On 3rd April, Mr. Speaker ruled as follows:

In the light of the express provision of Section 107 of the Representation of the People Act, 1951, I think all the arguments advanced by the Hon'ble Members yesterday are premature. An order of Election Tribunal under Section 98 or 99 takes effect only on its publication in the *Gazette of India* under Section 106. Until, therefore, the order of the Election Tribunal in regard to the petition against Hon'ble Shri H. M. Channabasappa appears in the *Gazette of India*, he continues to be a member and is entitled to sit and take part in the proceedings of the House.

According to Section 106 of the same Act, a copy of the Order will be forwarded to the Speaker by the Election Commission and also published in the *Gazette*. That stage has not yet been reached in the present case. Further, in the light of Article 193 which provides penalties in the case of a person sitting or voting in the House when he is not qualified to do so or disqualified from doing so, there is no question of breach of privilege either.[21]

INDIA: UTTAR PRADESH LEGISLATIVE ASSEMBLY

Contributed by the Secretary of the Legislative Assembly

Failure to inform Speaker of arrest of Member.—Shri Raj Narain, M.L.A., gave notice of a motion of breach of privilege on 16th July, relating to the alleged arrest of Shri Ram Lakhan, M.L.A., in Banaras, information whereof was not sent to the Speaker.[22] After

hearing the Chief Minister on 18th July, the Speaker referred the matter to the Privileges Committee for investigation and report whether the hon. Member was arrested or not.[23] The report of the Committee could not be presented to the House, which was dissolved on 31st March, 1957.

Disrespectful references to Members.—Shri Jagannath Mall, M.L.A., gave notice of another motion of breach of privilege against three members of the House and two members of the public on 16th July, which related to certain remarks alleged to have been made about a Member of the House in a political conference held at Dwarahat in Almora District.[24] On 17th July, the Speaker gave his consent under Rule 44 of the Rules of Procedure of the U.P. Legislative Assembly to raise the matter in the House against Sarvasri Anand Lal Shah and Piarey Lal Shah only. After a short discussion of the matter, the Speaker held the question to be in order on the ground that the reception speech delivered at the said conference contained insinuations against a Member of the House which could both be in connection with his activities inside or outside the House.[25] The report of the Committee could not be presented to the House, which was dissolved on 31st March, 1957.

Shri Jagannath Mall, M.L.A., gave notice of another motion against the editor and publisher of *Shakti*, an Almora paper, in continuation of the motion against Sarvasri Anand Lal Shah and Piarey Lal Shah. Mr. Speaker refused his consent to bring the matter to the notice of the House, but sent the papers received to the Privileges Committee, which was already seized of the matter raised against the persons who made the remarks. He also observed that if the Committee during the course of its investigation found that the paper had published the article deliberately even after knowing that the insinuation against the Member was in connection with his activities inside the House, the Committee might ask for the consent of the Speaker to report on the matter.[26]

KENYA

Disclosure of evidence and deliberations of Select Committee.—On 15th May, the Minister for Education, Labour and Lands (Mr. Coutts) raised as a matter of privilege the publication in the *East African Standard* of 2nd and 3rd May of a report of certain remarks made at a public meeting by a Member of the Council, Mrs. Shaw (Nyanza), in which she indicated that the Select Committee on Domestic Servants, of which she was a member, had reached the stage of considering the form which its report would take, and also revealed the gist of answers to a Questionnaire sent out by the Committee. While convinced that the disclosures were without malice, and observing that he had received a personal apology from the hon.

Member, Mr. Coutts expressed the fear that disclosures of this sort would diminish the usefulness of Select Committees, since strangers would be less inclined to give evidence frankly before them.

Mr. Speaker observed that it would be difficult to inculpate or even criticise a newspaper for publishing or commenting on information given in public by a Member of the Council, who was also a member of the select committee; but he was of opinion that a *prima facie* case of breach of privilege lay against Mrs. Shaw.

Mr. Coutts having moved that the Sessional Committee do inquire into the facts and report thereupon to the Council, Mrs. Shaw rose and apologised unreservedly for her action, after which she withdrew from the Chamber. In view of her apology, Mr. Coutts, with the agreement of the House, withdrew his motion.[27]

SINGAPORE: LEGISLATIVE ASSEMBLY

Contributed by Loke Weng Chee, Acting Clerk of the Legislative Assembly

Detention of a Member under provisions of the Preservation of Public Security Ordinance.—On 29th October, 1956, the Speaker received a communication from the Chief Secretary to the Government of the Colony that Mr. Lim Ching Siong, the elected Member for Bukit Timah, had been detained by the Police under the provisions of section 17(1)(b) of the Preservation of Public Security Ordinance, 1955.[28]

Mr. Speaker announced the receipt by him of this communication to the Assembly at its sitting on 5th November, 1956, as follows:

> I have to announce to Honourable Members that on the 29th day of October, 1956, I received a communication from the Hon. the Chief Secretary informing me that the Honourable Member for Bukit Timah (Mr. Lim Ching Siong) has been detained by the Police under the provisions of section 17(1)(b) of the Preservation of Public Security Ordinance (No. 25 of 1955).

Later on the same day, in the course of a debate on a motion standing in his name, Mr. Lee Kuan Yew, the elected Member for Tanjong Pagar, said:

> Sir, I have so far been unable to trace a Report of the House of Commons, No. 164 of 1940, in which reference was made to a book on constitutional law that a Member of Parliament can be detained by preventive detention by order of executive authority. I do not know how far this particular Report applies to our situation. That was a Report in time of war and we are in a very different position here. But I do hope, Mr. Speaker, Sir, that not only will you have received the information of the arrest of the Member for Bukit Timah, but you would at the same time look into the constitutional position which the Member's detention has created. Amongst other things, one wonders if the Orders in Council which say that a Member who is absent from two consecutive sittings automatically vacates his seat is going to apply in the case of the Member for Bukit Timah.[29]

On 6th November, Mr. Speaker made the following announcement

at the commencement of the proceedings of the Assembly on that day:

The Honourable Member for Tanjong Pagar, in moving the motion standing in his name, in effect invited me to look into the constitutional position relating to the detention of the Honourable Member for Bukit Timah under the provisions of the Preservation of Public Security Ordinance.

I take it the question uppermost in the hon. Member's mind is the question of privilege. I had, of course, already looked into the position.

Under subsection (3), paragraph (e) of section 47 of the Singapore Colony Order in Council, 1955—

"The seat of an Elected or Nominated Member of the Legislative Assembly shall become vacant—

if he shall be sentenced by a Court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term of or exceeding twelve months."

It would therefore appear from that section that Mr. Lim Ching Siong is still a Member of this Assembly.

As a Member, he has, of course, *prima facie*, a right to enter the Assembly and take his seat in this Chamber. Whether or not his detention deprives him of that right is debatable.

Under section 65 of the Singapore Colony Order in Council—I quote—

"It shall be lawful, by laws enacted under this Order, to determine and regulate the privileges, immunities and powers of the Assembly and its Members; but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the Members thereof."

We have, as hon. Members know, the Legislative Assembly (Powers and Privileges) Ordinance, 1955, and I can only draw the attention of hon. Members to paragraph (a) of section 15 of that Ordinance which reads:

"Any stranger in respect of the Assembly who—

hinders or obstructs any member of the Assembly coming to, going from or being within the Chamber or the precincts thereof

shall be guilty of an offence. . . ."

In the House of Commons the detention of a Member under regulation 18 (b) of the Defence (General) Regulations, 1939, made under the Emergency Powers (Defence) Acts of 1939 and 1940, led to the Committee of Privileges being directed to consider whether such detention constituted a breach of the privileges of the House. The Committee reported there was no breach of privilege involved.

As the law now stands in Singapore, it is not for me to express any opinion in the matter. The question is one which will, if raised, have to be resolved elsewhere.[31]

On 13th November, the Speaker received a communication from the Chief Secretary which said that an Order had been made under the provisions of section 3 of the Preservation of Public Security Ordinance for the detention for a period of two years as from 10th November, 1956, of Mr. Lim Ching Siong.

Mr. Speaker announced the receipt by him of this communication to the Assembly at its sitting on 19th November, 1956, as follows:

I have to announce to Honourable Members that on the 13th day of November, 1956, I received a communication from the Honourable the Chief

Secretary informing me that an Order has been made under the provisions of section 3 of the Preservation of Public Security Ordinance, 1955, for the detention for a period of two years from 10th November, 1956, of the Honourable Member for Bukit Timah (Mr. Lim Ching Siong).[32]

Section 3 of the Preservation of Public Security Ordinance reads as follows:

Power to order detention.

3.—(1) If the Governor in Council is satisfied with respect to any person that, with a view to preventing that person from acting in any manner prejudicial to the security of Malaya or the maintenance of public order therein or the maintenance therein of essential services, it is necessary so to do, the Chief Secretary shall by order under his hand make an order directing that such person be detained for any period not exceeding two years.

(2) For the purposes of the foregoing subsection "essential services" means any service, business, trade, undertaking, manufacture or calling included in the First Schedule to this Ordinance.

(3) Every person detained in pursuance of an order made under the provisions of subsection (1) of this section shall be detained in such place as the Chief Secretary may direct and in accordance with instructions issued by the Chief Secretary.

(4) In any case where under the provisions of subsection (1) of this section the Chief Secretary is required to make an order directing that a person be detained he may in lieu thereof by order under his hand make in respect of such person an order for all or any of the following purposes, that is to say:

(i) for imposing upon that person such restrictions as may be specified in the order in respect of the place of his residence;

(ii) for prohibiting him from being out of doors between such hours as may be specified in the order except under the authority of a written permit granted by such authority or person as may be so specified;

(iii) for requiring him to notify his movements in such manner at such times and to such authority or person as may be specified in the order;

(iv) for prohibiting him from travelling beyond the limits of Singapore Island except in accordance with permission given to him by such authority or person as may be specified in the order.

Section 17 of the Ordinance reads as follows:

Power to detain suspected persons.

17.—(1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe—

(*a*) there are grounds which would justify his detention under section 3 of this Ordinance;

(*b*) that he has acted or is about to act or is likely to act in any manner prejudicial to the public safety or the maintenance of public order.

(2) Any police officer may without warrant arrest and detain pending enquiries any person, who upon being questioned by such officer fails to satisfy such officer as to his identity or as to the purposes for which he is in the place where he is found and who such officer suspects has acted or is about to act in any manner prejudicial to the public safety or the maintenance of public order.

(3) No person shall be detained under the provisions of this section for a period exceeding twenty-four hours except with the authority of a police officer of or above the rank of Assistant Superintendent of Police or for a period of forty-eight hours in all:

Provided that if an officer of or above the rank of Superintendent of Police is satisfied that the necessary enquiries cannot be completed within the aforesaid period of forty-eight hours he may authorise the further detention of such person for an additional period not exceeding fourteen days and shall on giving such authorisation forthwith report the circumstances to the Commissioner of Police.

(4) Any person detained under the powers conferred by this section shall be deemed to be in lawful custody and may be detained in any prison, or in any police station or in any other similar place authorised generally or specially by the Chief Secretary.

[1] 557 *Com. Hans.*, cc. 417, 422-4. [2] THE TABLE, Vol. XXIV, pp. 135-7. [3] 557 *Com. Hans.*, cc. 647-53. [4] *Ibid.*, cc. 653-60. [5] 561 *Com. Hans.*, cc. 239-43. [6] H.C. 27 (1956-57). [7] 562 *Com. Hans.*, cc. 32-4. [8] *Ibid.*, c. 225. [9] *Ibid.*, cc. 934-7. [10] *Ibid.*, cc. 1102-4. [11] H.C. 38 (1956-57). [12] H.C. 39 (1956-57). [13] 563 *Com. Hans.*, cc. 201-6. [14] *Ibid.*, 403-5. [15] 20 *Ceylon H.R. Hans.*, 4115-7. [16] No. 21 of 1953 (*see* THE TABLE, Vol. XXII, 158). [17] Schedule to the Act, Part B, Offence No. 7. [18] *Ibid.*, Offence No. 10. [19] 21 *Ceylon H.R. Hans.*, 649. [20] 1956 Mysore L.A. Deb., Vol. XIV, cc. 1432-42. [21] *Ibid.*, c. 1542. [22] 174 *U.P.L.A. Proc.*, p. 15. [23] *Ibid.*, pp. 165-8. [24] *Ibid.*, p. 15. [25] *Ibid.*, pp. 76-88. [26] 179 *U.P.L.A. Proc.*, pp. 464-5. [27] 69 *Kenya Hans.*, cc. 318-21. [28] Singapore Ordinance No. 25 of 1955. [29] 2 *Singapore L.A. Hans.*, c. 411. [30] *Ibid.*, c. 483. [31] *Ibid.*, cc. 494-6. [32] *Ibid.*, c. 631.

XXIII. MISCELLANEOUS NOTES

1. CONSTITUTIONAL

Australian Commonwealth (Change in Cabinet Structure).—On 15th February, the Prime Minister (the Rt. Hon. R. G. Menzies) announced to the House (*H.R. Hans.*, pp. 16-7) the composition of his Sixth Ministry. Two changes in the structure of the Cabinet were proposed, the first being an increase in the number of Ministers from 20 to 22, and the second, a reduction in the size of the Cabinet itself to 12 Ministers (*and see* THE TABLE, Vol. XXIII, p. 151).

The need for the additional ministerial posts arose from a rearrangement of Departments and the allotment of separate Ministers for each of the two service departments of Navy and Army which were previously administered by one Minister.

The newly constituted Cabinet, which to some extent followed the United Kingdom system, was decided upon to permit greater con-

centration of discussion and expedition of decision on policy matters. The Prime Minister explained that Ministers other than those 12 constituting the Cabinet itself were to take part in Cabinet discussions when matters concerning their administration were being considered.

The increase in the number of Ministers involved a consequential addition to the annual sum set aside for Ministers' salaries, and the measure (Ministers of State Bill, 1956: Act No. 1 of 1956) was introduced into the House on 15th February (*Hans.*, pp. 39-40) and subsequently passed both Houses without amendment.

(*Contributed by the Clerk of the House of Representatives.*)

South Australia (Royal Style and Titles).—The Royal Style and Titles Act, 1956 (No. 18 of 1956), adopted for the State of South Australia the use of the new title of the Queen agreed upon between the Prime Ministers of the British Dominions and proclaimed by Her Majesty under the Commonwealth of Australia Act in 1953.

Henceforth, the Royal Style and Title will be

Elizabeth the Second, by the Grace of God of the United Kingdom, Australia and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

(*Contributed by the Clerk of the Parliaments.*)

Western Australia (Site for the Houses of Parliament).—After exhaustive inquiry at the close of the last century, the Government of the day in Western Australia secured about 10 acres of land overlooking the City of Perth and dedicated it under the Land Act as a reserve for Parliamentary Buildings. At the time there was on the reserve a building known as the Barracks and occupied by Public Works Department offices.

In 1902 a start was made on building the new Houses of Parliament. The plan drawn up was for an imposing edifice facing the city and looking down St. George's Terrace, the main business thoroughfare. On the grounds of economy, only the functional sections of the building were then built, and the front sections have yet to be completed.

The reserve, with the area surrounding the Houses of Parliament cultivated as gardens, readily divides into two halves, and the uncultivated portion has always been regarded as Public Works Department territory Up to the time of World War II several other buildings were erected in that portion of the reserve for occupation by subsidiaries of the Public Works Department. It was only in 1951, when a further building was pegged out, that anyone became disturbed. The land which this building was to occupy encroached on the Parliamentary half, and the House Committee of Parliament began to take an interest.

It was then found that the reserve, having been dedicated for a

specific purpose, could not be utilised for any other purpose without Parliamentary sanction, and the House Committee sought legal advice and had work on the new building stopped.

When Parliament met some weeks later the Government introduced a Bill to authorise not only the new building but also those which had been built without approval in the previous forty-five years. After a stormy passage the Bill was passed (by one vote in the Legislative Council) and the building, of a temporary character, was authorised to remain for five years. In 1956 a further three years' occupation was agreed to in the passing of the Parliament House Site Permanent Reserve Bill.

These occasions have given Members an opportunity to stress the need for the completion of Parliament House, and the present Government has in fact announced that some work in this direction will be undertaken.

The site on which the present uncompleted building stands is unsurpassed in Australia; but other Departments are firmly entrenched in the forward areas. A large amount of alternative office accommodation will be required before they can be persuaded to withdraw, and in the meantime the imposing legislative centre envisaged by the planners of 1900 must remain a faint hope in the minds of those connected with Parliament.

(*Contributed by the Clerk of the Parliaments.*)

Union of South Africa (Constitutional Changes).—A number of amendments were made during 1956 to the South Africa Act, 1909, and to the Separate Representation of Voters Act, 1951. In the description which follows, all references are to the original Acts, except where otherwise specified.

SOUTH AFRICA ACT, 1909:

S. 35 (Qualifications of Voters), hitherto one of the entrenched sections, was amended in such a way as to repeal the franchise entrenchments in this section.

(See South Africa Act Amendment Act (No. 9 of 1956), s. 3.)

S. 59 to 67 (Powers of Parliament), 95 to 116 (The Supreme Court of South Africa), 137 (Equality of English and Dutch Languages) and 152 (Amendment of Act): These sections are affected by the following provision, *viz.*:

No court of law shall be competent to inquire into or to pronounce upon the validity of any law passed by Parliament other than a law which alters or repeals or purports to alter or repeal the provisions of section 137 or 152 of the South Africa Act, 1909.

(See South Africa Act Amendment Act, s. 2.)

S. 97 (Appointment of Acting Judges): Previously an acting judge could only be appointed in the place of a judge of any division of

the Supreme Court or in addition to the judges of that division. Provision is now made that an acting judge can also be appointed in any vacancy in any such division. (See General Law Amendment Act (No. 50 of 1956), s. 7.)

S. 112 (Execution of Processes of Provincial Divisions): The provisions of this section, relating to the execution of a judgment or order of a provincial division of the Supreme Court, now also apply to local divisions. (See General Law Amendment Act, s. 8.)

S. 125 (Ports, Harbours and Railways): The construction of certain railway lines may now be undertaken without passing a special Act of Parliament. (See Railways and Harbours Acts Further Amendment Act (No. 39 of 1956), s. 1.)

S. 152 (Amendment of Act): In view of the fact that ss. 33 and 34 of the South Africa Act had already been repealed and in view of the amendments to s. 35 of the Act, described above, the amendments to s. 152, deleting the references to these sections, are merely consequential. (See South Africa Amendment Act, s. 4.)

Summary of Entrenched Sections as Now Amended or Repealed

Ss. 33 and 34—ceased to be entrenched when the total number of members reached 150 in 1933, and were repealed by s. 4 of Act No. 30 of 1942.

S. 35—amended by s. 3 of the South Africa Act Amendment Act, 1956, which repealed the franchise entrenchments in this section.

S. 137—still entrenched.

S. 152—amended by s. 4 of the South Africa Act Amendment Act, 1956, which repealed (*a*) the references to the inoperative ss. 33 and 34 and (*b*) the entrenchment of s. 35.

SEPARATE REPRESENTATION OF VOTERS ACT (NO. 46 OF 1951):

This Act, a summary of which appeared in THE TABLE, Vol. XX, pp. 58-61, was on 20th March, 1952, declared by the Appellate Division of the Supreme Court to be "invalid, null and void and of no legal force and effect". (See THE TABLE, Vol. XXI, pp. 43-4. 146.) During the last session a Joint Sitting of both Houses of Parliament was convened and the South Africa Act Amendment Act, 1956, was passed, in terms of s. 1 of which Act. No. 46 of 1951 is given the force of law.

Subsequent to the passing of the South Africa Act Amendment Act, 1956, Act No. 46 of 1951 was amended by the Separate Representation of Voters Amendment Act (No. 30 of 1956).

The following is a summary of the provisions of the principal Act, as amended, relating to the representation of Coloured voters in the Union Parliament and the Cape Provincial Council:

(i) *Representation*

Senate: One member—nominated by the Governor General on the

ground of his thorough acquaintance with the reasonable wants and wishes of the non-European population in the Cape Province (S. 7.)

House of Assembly: Four members (but should number of members of House of Assembly prescribed by s. 32 of the South Africa Act be increased or decreased in future, the number of members representing the non-Europeans in the Cape Province should be proportionately increased or decreased). (S. 9.)

Cape Province divided into four Union electoral divisions and two provincial electoral divisions, the quota of voters for each such division being obtained by dividing the number of persons registered in the Cape Coloured voters' list by the number of persons to be elected, and the boundaries of such divisions to be fixed in such a manner that the number of Coloured voters residing in each shall be approximately the same. (S. 2 and 6.)

Future delimitation of electoral divisions to take place whenever a delimitation is required to be made in terms of s. 41 of the South Africa Act. (S. 6(8.)

> [Senator and members of the House of Assembly to be in addition to the numbers provided for under the South Africa Act, 1909, the Representation of Natives Act, 1936, and the South-West Africa Affairs Amendment Act, 1949. (S. 7 and 9.)]

Cape Provincial Council: Two members representing each of the two provincial electoral divisions. (S. 11(1).)

> [Members to be in addition to provincial councillors provided for by South Africa Act, 1909, and the Representation of Natives Act, 1936. (S. 11(2).)]

(ii) *Period of Membership and Remuneration*

Same as under South Africa Act. (Ss. 8, 10, 12.)

(iii) *Qualifications and Disqualifications*

Senate: Same as under South Africa Act, save that five years' residence within Cape Province shall be an additional requirement. (S. 8.)

House of Assembly: The same, save that two years' residence within the Cape Province shall be an additional requirement. (S. 8.)

Cape Provincial Council: The same, save that—

(*a*) in addition two years' residence within the Cape Province shall be a necessary requirement;

(*b*) persons qualified to vote for election of member of provincial council in terms of Representation of Natives Act, 1936, shall not be qualified for election as members of provincial council; and

(*c*) only a white person can be elected as a member of the procial council. (S. 12, as amended by Act No. 30 of 1956, s. 1.)

(iv) *Rights and Duties*

Senate: Same as under South Africa Act. (S. 8.)

House of Assembly: The same, save that members shall not have the right to vote at the election of Senators under the South Africa Act. (S. 10(3).)

Cape Provincial Council: The same, save that members shall not have the right to vote at the election of Senators under the South Africa Act. (S. 12(3).)

(*Contributed by the Clerk of the House of Assembly.*)

Union of South Africa (Legislative Competence of Parliament).—After the enactment of the amending legislature described in the foregoing paragraph, two Coloured voters (Collins and another) applied to the Cape Provincial Division for an Order declaring the South Africa Act Amendment Act invalid on the ground that the Senate, as reconstituted by the Senate Act of 1955 (see THE TABLE, Vol. XXIV, pp. 144-6), was not a Senate for the purposes of providing a two-thirds majority at a Joint Sitting of both Houses of Parliament as required by the proviso to section 152 of the South Africa Act.

Judgment in the case was given on 18th May, 1956, by De Villiers, J.P., and Newton-Thompson and Van Winsen, JJ., when the application was dismissed.

In the Appellate Division in a judgment delivered on 9th November, 1956, by Centlivres, C.J., and concurred in by Hoexter, Fagan, De Beer, Reynolds, De Villiers, Brink and Beyers, JJ.A., and Hall, A.J.A., the appeal was dismissed. A separate judgment by Steyn, J.A., also dismissed the appeal, while Schreiner, J.A., in a minority judgment stated that he would allow the appeal and grant an Order declaring the South Africa Act Amendment Act, 1956, invalid.

(*Contributed by the Clerk of the House of Assembly.*)

India (Constitutional amendments in implementation of the States Reorganisation Act).—In order to implement the scheme of reorganisation of the component units of the Indian Union as embodied in the States Reorganisation Act, 1956 (No. 37 of 1956) (see p. 76), and the Bihar and West Bengal (Transfer of Territories) Act, 1956 (No. 40 of 1956), it was necessary to make numerous amendments in the Constitution of India.

The territorial changes and the formation of new States and Union Territories necessitated complete revision of the Fourth Schedule to the Constitution to provide for the reallocation of seats in the Rajya Sabha among the States and the Union Territories. It was also considered necessary to revise on the basis of the latest census figures the allocation of seats in the Rajya Sabha, which was originally based on the population of each State as ascertained at the census of 1941.

The Constitution (Seventh Amendment) Act, 1956, has accordingly amended the Fourth Schedule to the Constitution completely.

The Constitution (Seventh Amendment) Act, 1956 (unnumbered) also amended articles 81 and 82 of the Constitution (which provided for the composition of the House of the People) with a view to simplifying these provisions. The previous upper and lower limits of representation have been abolished and it is now provided that each State shall be allotted seats in the House of the People in such manner that the ratio between the number of such seats and the population of the States is, so far as practicable, the same for all the States. It has also been provided that the ratio between the population of each constituency and the number of seats allotted to it should, so far as practicable, be the same throughout the State. A maximum of twenty has been fixed for the total number of representatives that may be assigned to the Union Territories by Parliament.

As the States reorganisation scheme envisaged bicameral Legislatures for some of the new States, article 168 of the Constitution has been amended to provide for the same.

The Constitution (Seventh Amendment) Act has substituted a new article 170 to lay down the composition of the Legislative Assemblies of the States so as to bring it into line with the revised articles 81 and 82 of the Constitution which deal with the composition of the House of the People.

The former article 171 fixed the maximum strength of the Legislative Council of a State at one-fourth of the strength of the Legislative Assembly of that State. Although in the larger States like Uttar Pradesh and Bihar this maximum strength was adequate, in the case of the smaller States it was felt to be insufficient. Article 171 has accordingly been amended to increase the maximum strength of the Legislative Council to one-third of the strength of the Legislative Assembly.

(*Contributed by the Secretary of the Rajya Sabha.*)

India: Lok Sabha (Numbers).—By the Constitution (Seventh Amendment) Act, 1956, to which Presidential Assent was given on 19th October, Article 81 of the Constitution of India has been altered, and provision been made for an increase in the membership of Lok Sabha by 20 members, *viz.*, from five hundred to five hundred and twenty members. These twenty members would represent the Union Territories (namely, Delhi, Himachal Pradesh, Manipur, Tripura, the Andaman and Nicobar Islands, and the Laccadive, Minocoy and Amindivi Islands) constituted on 1st November, 1956, consequent on the enactment of the States Reorganisation Act, 1956 (No. 37 of 1956). (See p. 76.)

(*Contributed by the Secretary of the Lok Sabha.*)

Mysore (increase in membership of Legislature).—Since November 1956, *i.e.*, after the reorganisation of States in India, the

strength of members of Mysore Legislative Assembly has been increased from 105 to 210. This number includes the 105 members of the old Mysore Legislative Assembly, 24 from the former Coorg State, 46 from Bombay, 25 from Hyderabad, and 10 from Madras. Consequent on the passing of the States Reorganisation Act by the Parliament of India, these members became *ipso facto* the members of the new Mysore Legislative Assembly. Similarly, the membership of the Legislative Council has been raised from 40 to 52. This includes 40 members from the old Mysore Legislative Council, 6 from Bombay, 1 from Coorg, 3 from Hyderabad, and 2 from Madras.

(*Contributed by the Secretary of the Legisilature.*)

Mysore (Removal of disqualification for membership).—The Mysore Legislature (Prevention of Disqualification) Act, 1956 (Act No. 18 of 1956), provides that holders of office of profit under an insurer, the management of whose controlled business has vested in the Central Government, shall not be disqualified for being chosen as, or for being members of, the State Legislature.

(*Contributed by the Secretary of the Legislature.*)

Uttar Pradesh (Disqualification for Membership).—The Uttar Pradesh State Legislature Members (Life Insurance) (Prevention of Disqualification) Act, 1956 (Uttar Pradesh Act No. XXXV of 1956), provides that no person who holds an office of profit under an insurer, the management of whose controlled business has vested in the Central Government under Life Insurance (Emergency Provisions) Act, 1956, shall be disqualified for being chosen as, or for being, a member of either House of the Uttar Pradesh Legislature.

The Uttar Pradesh State Legislature Members (Prevention of Disqualification) (Supplementary) Act, 1956 (Uttar Pradesh Act No. III of 1957), provides that the following offices shall not disqualify the holder thereof for being chosen as, or for being, members of the Uttar Pradesh State Legislature:

(*a*) Offices of a Minister of State or a Deputy Minister or a Parliamentary Secretary under the Government of India,

(*b*) Offices of Vice-Chancellors of Universities established by Law in India,

(*c*) Offices of the Deputy Chief Whips of the Parliament, and

(*d*) Membership of the Auxiliary Air Force or the Air Defence Reserve under the Reserve and Auxiliary Air Forces Act, 1952.

(*Contributed by the Secretary of the Legislative Assembly.*)

Pakistan (Transitional Provisions of Constitution: removal of difficulties).—The final section (Art. 234) of the 1956 Constitution, whose general provisions are described elsewhere in this Volume (see

pp. 82-91), empowers the President to make provision for the purpose of removing any difficulty in relation to the transition from previous Constitutions to the new Constitution. During the course of 1956, this power was exercised on several occasions, with the following effect:

(1) In Art. 55 of the Constitution, the figure 12 was substituted for 40 as the quorum of the National Assembly until after the first general election held under the Constitution (President's Order No. 1 of 1956, dated 25th March).

(2) Power was given to the West Pakistan Elections Tribunal in its inquiries to apply the provisions of certain Orders and Rules made under the repealed West Pakistan Act, 1955 (P.O. No. 4 of 1956, dated 26th April).

(3) Difficulties had occurred owing to the fact that it had been impossible to hold certain bye-elections (*a*) within three months of the vacancy (as provided by Art. 141 of the Constitution) and (*b*) under the direction of the Election Commission (as provided by Art. 140), since that body had not yet been set up; doubts were also raised as to how these Articles could be reconciled with Art. 223(2), which provided that casual vacancies occurring before the first meeting of the new National Assembly should be filled in accordance with rules made by the President. These doubts were removed by three Orders (P.O.s Nos. 6, 7 and 11 of 1956, dated respectively 31st May, 9th June and 4th September).

(4) Provision was made for exemption by Act of Parliament, where necessary, from the constitutional provision that persons holding offices of profit in the service of Pakistan were disqualified for membership of the National or a Provincial Assembly (P.O. No. 10 of 1956, dated 10th July).

(5) Art. 224 of the Constitution provides (*a*) that all laws in force immediately before Constitution Day shall, in so far as applicable and with necessary adaptations, continue in force until altered, repealed or amended by legislation, and (*b*) that the President can make, during the two years following Constitution Day, such adaptations of any law so continued in force as he deems necessary for bringing the provisions of such law into accord with the provisions of the Constitution. Doubts having arisen as to whether such laws should, pending the Order of the President making actual adaptations therein, be construed by the courts with any necessary adaptations, it was ordered that they should be so construed, but that in cases of doubt over any particular adaptation, the matter should be referred for final and binding decision to the Federal or Provincial Government, as the case might be (P.O. No. 15 of 1956, dated 12th November).

Federation of Malaya (Composition of Executive Council, and powers of States).—The Federation of Malaya Agreement, 1948

(*see* THE TABLE, Vol. XVII, p. 265) was amended by the Federation of Malaya (Agreement) Ordinance, 1956 (No. 1 of 1956), which, together with a High Commissioner's Proclamation dated 2nd April, 1956 (L.N. 106), had the effect of repealing Clause 23 of the Agreement and laying down a new composition of the Executive Council, *viz.*, two *ex-officio* Members (the Financial Secretary no longer appearing in this capacity) and between ten and twenty-four Appointed Members, of whom one is to be styled Chief Minister . By an amendment to clause 31, all Members of the Council are entitled to submit questions to it. Should the High Commissioner wish to act contrary to the advice of the Executive Council in any matter other than defence or foreign affairs, he is bound by an amendment to clause 32 to seek the views of the Chief Minister, and, if the latter so requests, to transmit those views, or a communication thereon, to the Secretary of State.

By the Federation of Malaya Agreement (Amendment No. 2) Ordinance (No. 29 of 1956) provision is made for the transfer in individual states of the powers conferred on the British Adviser, British Resident, or General Adviser to His Highness the Ruler in council or any other appropriate body, such transfer to take place in each state on or after a date appointed by the High Commissioner.

East Africa High Commission (Composition of Legislative Assembly).—Considerable changes in the composition of the East Africa Central Legislative Assembly were made by the East Africa (High Commission) (Amendment) Order in Council, 1956 (S.I. 1956, No. 1891), which repealed Part III of the East Africa (High Commission) Order in Council, 1947 (see THE TABLE, Vol. XVII, pp. 279-80) and substituted new provisions. The principal changes were as follows:

Nominated Members: Two of these are now appointed by the Governor of each Territory, making six in all; the three previously appointed (one by each Governor) were designated Nominated Official Members.

Unofficial Members: The number of these has been increased from thirteen to twenty; they now consist of

(*a*) three persons appointed by each Governor (nine in all). The former provision that each Governor shall appoint one European, one Asian and one African no longer applies, but it is provided in the case of Uganda that at least two shall be Members of the Uganda Legislative Council.

(*b*) three persons elected respectively by the European, Asian and African elected Members of the Kenya Legislative Council (formerly, one elected or nominated Unofficial Member of the Council).

(*c*) three Members of the Tanganyika Legislative Council elected

by the Representative Members of that Council (formerly, one Unofficial Member of that Council).

(*d*) three Representative Members of the Legislative Council of Uganda, elected by all such Members (formerly, one Unofficial Member of that Council).

(*e*) two Arabs (formerly one) appointed by the High Commission.

Temporary Members: These may no longer be appointed in the room of the seven *ex-officio* Members (in respect of whose composition no change is made by this Order), but may now be appointed in the room of any Nominated or Unofficial Member declared by the High Commission to be temporarily unable, by reason of absence or illness, to discharge his functions as a Member.

The Order in Council came into operation on 12th December.

Gibraltar (Constitutional Amendment).—By virtue of the Gibraltar (Legislative Council) (Amendment No. 2) Order in Council, 1956, made by Her Majesty on 3rd August, the existing constitution of the Legislative Council was amended as follows:

(i) The elected membership was increased from five to seven, and
(ii) Provision was made for the appointment of a Speaker empowered to preside at sittings of the Council in the absence of the Governor.

(*Contributed by the Clerk of Councils.*)

Jamaica (Composition of the Legislative Council).—By the Jamaica (Constitution) Order in Council, 1956, dated 3rd August, 1956 (S.I. 1956, No. 1209), certain changes were made in the composition of the Legislative Council of the Jamaican Parliament. The Council, previously consisting of three *ex-officio* Members, up to two Official Members and at least ten Unofficial Members, is now to consist of three *ex-officio* Members, an undefined number of Unofficial Members and any Temporary Members whom the Government may appoint to fill the room of an Unofficial Member unable, by illness or absence, to take part in the proceedings of the Council, or suspended from the Council's service. Disqualifications for temporary membership are equated to those for unofficial membership.

The Order in Council was brought into force on 10th August by a Governor's Proclamation of that date (*Jamaica Gazette Extraordinary*, Vol. LXXIX, No. 67).

Kenya (Extension of life of Legislative Council).—On 7th May, 1956, the allotted span of the life of the Tenth Legislative Council was due to expire under the provisions of the Legislative Council Ordinance (Cap. 38 of the Laws of Kenya) which provides at Section 15 that

The Council shall be dissolved on the expiration of a period of four years from the date of each general election.

Since the passing of the Legislative Council Ordinance there was an adjustment of the Colony's financial year. Formerly the financial year coincided with the calendar year and accordingly the debate on the annual estimates could conveniently be held in November and December of each year; but the new arrangements, which provide for a financial year running from 1st July to 30th June, require that the annual estimates be laid before Legislative Council not later than 1st May and that the financial statement be delivered not later than 14th May in each year (see Legislative Council Standing Order 144). It would not be possible to produce the annual estimates in time for the budget debate to be concluded before May. A dissolution of the Legislative Council in May, 1956, would, therefore, have prevented the debate on the annual estimates from taking place at the proper time and would have led to a number of consequential difficulties in providing supply.

To make it possible to debate the budget, the life of the Tenth Council was extended for six months by an amending Ordinance (Cap. 4 of 1956) and the Legislative Council was dissolved at the end of July. The Eleventh Council assembled on 11th October, so that future dissolutions will not clash with the budget debate.

(*Contributed by the Clerk of the Legislative Council.*)

Kenya (Papers Laid).—Readers may be interested to know that the article published in Volume XXIII of THE TABLE (pp. 109-113) has resulted in legislation in Kenya in the form of the Rules and Regulations (Laying) Ordinance, 1956 (No. 39 of 1956). The operative Section of this Ordinance reads:

3. All rules and regulations made after the commencement of this Ordinance under any Ordinance, whether such Ordinance was enacted before or after the commencement of this Ordinance, shall, unless a contrary intention appears in such Ordinance, be laid before the Legislative Council without unreasonable delay, and, if a resolution is passed within the next subsequent twenty days on which the Legislative Council has sat next after any such rule or regulation is laid before it that the rule or regulation be annulled, it shall therefore be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new rule or regulation.

The administrative details in giving effect to this provision are as follows: All Rules and Regulations are published in a supplement to the *Official Gazette*, in the form of Legal Notices. The Secretary to the Ministry concerned advises the Clerk what Legal Notices appearing in the Supplement require to be laid so far as his Ministry is concerned.

The Minister concerned gives notice in Council of the laying of the Rules and Regulations for which he is responsible at the first oppor-

tunity, and the Clerk circulates a list of the Legal Notices in which they appear, giving the appropriate *Gazette* references.

(*Contributed by the Clerk of the Legislative Council.*)

Mauritius (Proposed Constitutional Changes).—Constitutional proposals made by the Secretary of State as a result of discussions with a delegation from Mauritius in 1955 were placed before the Council and debated during the Session. Briefly, the proposals were the following:

(*a*) Appointment of a Speaker.
(*b*) Enlargement of the Executive Council by the election by the Legislative Council of 7 members on the present system of the single transferable vote (instead of 4 under the existing Constitutional Instruments). In addition, the Executive Council should comprise 2 members appointed by the Governor and 3 *ex-officio* members.
(*c*) The Executive Council to undertake real executive responsibility and all its members to be styled Ministers (6 with portfolio and 3 without portfolio).
(*d*) The number of elected members to be increased from 19 to 25.
(*e*) The electoral system to be changed into a system of proportional representation with a single transferable vote.
(*f*) Universal adult suffrage.
(*g*) The system of appointing nominated members to continue but the present number of 12 to be regarded as a maximum.

With regard to (*a*) above, Sir Robert Stanley, K.B.E., C.M.G., was appointed Speaker with effect from 23rd November, 1956, and assumed duty early in January, 1957.

In the course of the debate in Council, objection was taken by the Mauritius Labour Party to the method of selection of members of the Executive Council and to the system of proportional representation. In September, when the election of members to the Executive Council took place in accordance with the terms of the existing Constitution, Members of the Mauritius Labour Party walked out and refused to take part in that election. As a result, the Executive Council which was formed consisted of one elected member and of five nominated members.

In December, the Secretary of State for the Colonies proposed further discussions with a delegation from Mauritius early in 1957 with a view to reaching agreement on the parts of the proposals objected to.

(*Contributed by the Clerk of the Legislative Council.*)

Saint Vincent (Inauguration of ministerial system).—A proclamation dated 8th March, 1956, and the Windward Island Letters Patent, 1955, were read by the President, His Honour A. F. Giles, Administrator, at a Meeting of the Legislative Council on 8th March, 1956, announcing the inauguration of the Ministerial System as from that date.

The aforesaid Letters Patent, the Saint Vincent (Legislative Coun-

cil) (Amendment) Order in Council, 1955 (S.I., 1955, No. 1817), and Additional Instructions, dated 28th December, 1955, passed under the Royal Sign Manual to the Governor to give effect to Her Majesty's directions, were published in a special issue of the *Government Gazette*.

A number of consequential amendments were made to the Legislative Council Rules, 1953; section 12 in particular was so amended as to enable the Council to elect from among the Elected Members four persons to be Elected Members of the Executive Council.

Under the new system, the Governor-in-Council is to nominate three of the four Elected Members to be Ministers with designations as follows:

(1) Minister for Trade and Production,
(2) Minister for Communications and Works, and
(3) Minister for Social Services.

The fourth Elected Member is to be known as "Minister without Portfolio".

(*Contributed by the Clerk of the Legislative Council.*)

Singapore (Constitutional Changes).—The Constitution of the Colony of Singapore, as embodied in the Singapore Colony Order in Council, 1956, was amended by the Singapore Colony (Amendment) Order in Council, 1956 (Statutory Instrument No. 233 of 1956), made on 23rd February and brought into operation on 29th February, 1956.

The following changes were effected:

(*a*) *Part III—Council of Ministers*

(i) Section 17 was amended, increasing the number of appointed Ministers from six to seven. Section 17 now reads—

> There shall be a Council of Ministers in and for the Colony which shall consist of the Governor, as President, three *ex-officio* Ministers and seven appointed Ministers being persons appointed in accordance with the provisions of section 21 of this Order.

(ii) Section 25 was amended to read—

> The Governor shall, so far as is practicable, attend and preside at all meetings of the Council of Ministers; and in his absence such Minister as the Governor, acting in his discretion, may appoint shall preside.

Previously the section provided that only "*ex-officio*" Ministers might be appointed to preside in the Governor's absence.

(*b*) *Part V—Legislative Assembly*

Section 55 which read—

> The official language of the Assembly shall be English.

was revoked.

(Contributed by Loke Weng Chee, Acting Clerk of the Legislative Assembly.)

Trinidad and Tobago (Constitutional Amendments).—By the Trinidad and Tobago (Constitution) (Amendment) Order in Council, 1956 (S.I. 1956, No. 835), dated 1st June, a number of amendments were made to the Constitution Order in Council of 1950, the provisions of which were described in a previous volume (see THE TABLE Vol. XIX, pp. 106-114). The most important changes are listed below: unless otherwise stated, the sections quoted are those of the principal (1950) Order.

Executive Council: Composition: The composition of the Council set out in s. 4 is amended so as to consist of the Governor, a Chief Minister, two (formerly three) *ex-officio* Members and seven (formerly five) elected Members. There is no longer provision for one Nominated Member. The Chief Minister and Elected Members are elected by the Legislative Council (ss. 6 and 8).

Chief Minister: To the former provisions of s. 12, which provided for the appointment of Temporary Members, an additional provision is made for the appointment of an Acting Chief Minister should the Chief Minister be ill or absent from the Colony. Provision is also made under s. 13 for the removal of a Chief Minister.

Ministerial Salaries: by s. 22 of the Order, the Chief Minister is paid $12,960 p.a., Ministers $11,520 p.a., and Members of the Executive Council other than *ex-officio* Members or Ministers $6,960 p.a. (all these salaries being in lieu of any parliamentary salary).

Parliamentary Secretaries: By a new s. 26A, four Elected Members of the Legislative Council, not being Members of the Executive Council or Speaker or Deputy Speaker, may be appointed Parliamentary Secretaries, and charged by the Governor with assisting a Minister in his duties. They are paid a salary of $6,960 p.a. (in lieu of parliamentary salary).

Legislative Council: Composition: The Legislative Council, under s. 29 of the Order, consists of two (formerly three) *ex-officio* Members, five Nominated Members (unchanged) and twenty-four (formerly eighteen) Elected Members, making thirty-one Members in all, or thirty-two if a Speaker is elected from outside the Council's membership (see next paragraph). Questions of Elected Membership are decided under s. 40 by the Supreme Court.

Speaker: The Speaker, formerly appointed by the Governor, is now, under s. 30, elected by the Council from within or outside its own Membership. His salary is $7,200 p.a. (in lieu of parliamentary salary). He has a casting vote, but not an original vote (s. 54): formerly he had neither.

Quorum: An amendment to s. 53 raises the quorum from nine to eleven.

Prorogation or dissolution: By an amendment to s. 62 the Governor may only prorogue or dissolve the Council after consultation with the Chief Minister.

Other provisions:

Certain amendments were also made to Part VI of the Order relating to the Public Service Commission, and a new Part VI provided for the creation of a Police Service Commission.

Under s. 41 of the 1956 Order the Governor is given power, before the date of the first sitting of the new Legislative Council, to amend the Council's Standing Orders. The results of the exercise of this power are shown on p. 168.

Zanzibar (Constitutional).—The former provisions of the Councils Decree (see THE TABLE, Vol. XIV, pp. 107-110) were repealed by the Councils Decree, 1956 (No. 1 of 1956) to which the Sultan gave assent on 21st March. The principal changes made are as follows:

Privy Council: (ss. 4-7). A Privy Council is established for the purpose of advising the Sultan when so requested by him. It consists of the British Resident, the Attorney-General, and not more than three other persons appointed by the Sultan ("Appointed Members").

Executive Council: This now consists of the British Resident as President (s. 14), four *ex-officio* Members, three Official Members holding public office and three Representative Members not holding public office. All Official and Representative Members are appointed by the Sultan on the advice of the British Resident (s. 9). Temporary Members may be appointed in the room of (*a*) *ex-officio* Members discharging more than one function entitling them to sit as such, (*b*) incapacitated Official or Representative Members, (*c*) Representative Members appointed temporarily to public office, or (*d*) any Member absent from the Protectorate (s. 11). The quorum of the Council is increased from two to four (excluding the Chair).

It is to be observed that the Sultan no longer presides over the Executive Council, and it is the British Resident, not the Sultan, who formally consults the Council, submits questions to them, and may in certain conditions act in opposition to them (ss. 14-17).

Legislative Council: This now consists of the British Resident as President, four *ex-officio* Members, nine Official Members holding public office and twelve Representative Members not holding public office. Official and Representative Members are appointed in the same way as those of the Executive Council (s. 23), and each must be at least twenty-one years of age and a Zanzibar or British subject or a British protected person. Tenure of office of Official and Representative Members is limited to three years, with provision for earlier termination if necessary (s. 26) and questions of Membership are determined by the Resident in Council (s. 27). Temporary appoint-

ments may be made in both cases (s. 28), and persons other than Members may be summoned by the Resident to attend meetings of the Council, but without the power to vote (s. 29).

Legislation and Procedure: Rules are laid down in Part V of the Ordinance (ss. 32-46) governing the general legislative power of the Sultan and Council (s. 31), the introduction of bills (which may not make any financial alteration without the Resident's consent) (s. 33) voting (s. 34)—it is noteworthy that the Resident now no longer has a deiiberative vote, but only a casting vote—quorum (increased from 3 to 7) (s. 35), English as the official language, with provision for interpretation (s. 40), and the keeping of the Minutes (s. 41) by a Clerk appointed by the Resident (s. 43). Not more than twelve months shall intervene between the end of one session and the beginning of another (s. 44).

Privileges: Part VI of the Ordinance (ss. 47-73) lays down a detailed code of powers, privileges and immunities of the Council, its officers and witnesses. In addition, a penalty not exceeding five hundred shillings is imposed upon anyone who without qualification sits or votes in respect of each day on which he does so.

Oaths: In a schedule to the Ordinance, detailed forms are set out for the Oaths to be taken by Members of the Executive Council, the Clerk of the Executive Council, Interpreters employed in the Legislative Council, Members of the Legislative Council and the Clerk of the Legislative Council, respectively.

2. General Parliamentary Usage

House of Commons (Access to the precincts).—The question of police action in allegedly preventing the access of constituents to their Members at the House of Commons was raised in 1956 as previously in 1955 (see THE TABLE, Vol. XXIV, pp. 133-5), though not, on this occasion, on the ground of privilege.

On 1st November, while a division was taking place at about 10.30 p.m., Mr. George Craddock (Bradford, South), seated and covered averred that mounted police were charging into people outside and inflicting physical injury, and asked what action could be taken. Mr. Speaker observed that no action could be taken in the middle of a division, since the matter was not a point of order.

Accordingly, after the conclusion of the division and on the motion for the adjournment, Mr. Craddock said that he had himself interviewed a girl who had been nearly crushed by a police horse on the pavement, and a young man who had gone to her rescue and had been thrown over a wall and beaten by the police. He asked that something be done at once to correct the position. Mr. Craddock's speech was at once contradicted by Mr. E. H. C. Leather (Somerset, North), who said that he had himself seen the police exercising the most extraordinary restraint in view of the very great provocation of

a large number of people, who were organised Communist groups and out to make trouble.

After a number of further heated exchanges—for it must be pointed out that this incident occurred during the period of fighting in Egypt and at a later hour on the same day as the events referred to on p. 149—Mr. Wedgewood Benn (Bristol, South East) made reference to

> . . . a matter which surely concerns you, Mr. Speaker, because it is governed by the Sessional Order of the House, in which the House orders the Commissioner of Police to keep open the streets of the Metropolis leading to Westminster for the purpose of maintaining the privileges of Parliament.
>
> As I understand, the reason the roads to the Palace of Westminster are to be kept open is not only so that hon. Members may come to the House, but also that their constituents may come to the House. . . .
>
> . . . I hope, Mr. Speaker, that you will not be content simply to let the Home Secretary reply, but that you will lay down a ruling stating what must be done by the Commissioner of Police in carrying out the Sessional Order.

Mr. Speaker pointed out that it was the House, not himself, which laid down the Sessional Order. In conclusion, the Home Secretary (Major Lloyd-George) undertook to look into the substance of the complaints (558 *Hans.*, cc. 1744-51).

On 6th November, the first day of the following Session, the House proceeded, in its accustomed manner, to agree to certain Sessional Orders and Resolutions before entering upon the consideration of Her Majesty's Gracious Speech. These Orders and Resolutions are normally agreed to without any discussion; but on this occasion debate arose on the sixth of them, namely:

> That the Commissioner of the Police of the Metropolis do take care that during the Session of Parliament the passages through the streets leading to this House be kept free and open, and that no obstruction be permitted to hinder the passage of Members to and from this House, and that no disorder be allowed in Westminster Hall, or in the passages leading to this House, during the Sitting of Parliament, and that there be no annoyance therein or thereabouts; and that the Serjeant-at-Arms attending this House do communicate this Order to the Commissioner aforesaid.

It is not necessary to summarise the greater part of the debate, which touched upon such matters as the use of mounted police in controlling crowds; but in his concluding speech the Under-Secretary of State for the Home Department (Mr. Deedes) addressed himself specifically to the incident of 1st November in the following words:

> As to Thursday's affair, on which the hon. Gentleman the Member for Paddington, North (Mr. Parkin), asked one or two specific questions, and about which my right hon. and gallant Friend gave an assurance, last week, that he would make an inquiry into what occurred, I can say that there has been a full inquiry into the events of that evening. They occurred when the Sessional Order was in force. My right hon. and gallant Friend is satisfied that the action taken by the police then was necessary to ensure compliance with the Sessional Order and that no undue force was used in dispersing demonstrators. . . .
>
> . . . The police have no knowledge of the incident to which the hon.

Member referred on the Motion for the Adjournment last week, and about which an inquiry was made. (560 *Hans.*, c. 2-14.)

House of Commons (Parliamentary Papers: Supply to Members). On 22nd March, Mr. G. R. Strauss (Vauxhall) asked the Chancellor of the Exchequer

whether he will review the Treasury ruling that limits the free issue of Acts of Parliament to hon. Members on application to the Vote Office to those Acts passed in the present and immediately preceding Parliament.

The Financial Secretary to the Treasury (Mr. H. Brooke) replied:

Acts of Parliament passed in the current and the two preceding Sessions are available free to hon. Members in the Vote Office. This practice is based on a statement made to the House on 18th February, 1924, and it appears to give a reasonable degree of satisfaction, for no hon. Member has asked a Question about it from that day to this.

Mr. Strauss thereupon averred that it was not now possible to obtain without payment copies of the Transport Act, 1953, in respect of which an amending bill was before the House. Mr. Brooke, while promising to look into the matter, observed that numbers of copies of the Statutes were available on loan in different parts of the building; to this Mr. Strauss objected that this was of little use when a Member had to have a certain Act with him in a Committee room in order to discuss details of an amending bill. Mr. Brooke undertook to examine whether anything further could be done. (550 *Hans.*, cc. 1463-5).

A similar complaint was made on 31st May by Mr. Hector Hughes (Aberdeen, N.), who had tried to obtain from the Vote Office two comparatively recent Command Papers and an Act of 1911, all relating to a bill then before the House. Mr. Speaker, observing that it would not be possible for the Vote Office to have every conceivable document which Members might think necessary for consideration of the subject in hand, asked Mr. Hughes to come and see him personally. In response to further complaints from Mr. Hughes, Mr. Strauss and others that the officials in the Vote Office were in any case restricted by the Treasury ruling, Mr. Speaker said

I shall certainly consider this matter again in the light of such evidence as hon. Members supply to me, and I hope that hon. Members who have encountered these difficulties will be kind enough to write to me telling me the documents for which they asked and those which they were unable to obtain. If I have some basis of fact on which I can proceed I can deal, I hope, with the organisational problem which the Vote Office faces, and also with any objections which may come from the Treasury or other quarters. (553 *Hans.*, cc. 437-9.)

On 17th July, Mr. Henry Brooke made the following announcement:

The present rule provides that a Member may obtain free on application to the Vote Office, a copy of any Act of Parliament or other Parliamentary

Paper of the current or the two preceding Sessions. I am arranging to have this rule altered so that when an hon. Member considers it necessary to have, for the discharge of his Parliamentary duties, any older Act of Parliament or Parliamentary Papers, he shall be able to obtain one copy free of charge on application to the Vote Office.

Acts and Papers of the current and two preceding Sessions will continue to be available at the Vote Office on demand; I would ask hon. Members to give the Vote Office a little notice—say 12 hours—when they require older ones. Should the Act or other Papers asked for be out of print, reprinting will be undertaken if the demand for copies is sufficient to justify the expenditure involved.

A Member may obtain, on application to the Controller of the Stationery Office, a copy of any non-Parliamentary publication of the current Session reasonably required for the discharge of his Parliamentary duties. I am arranging that this rule also shall be extended to apply to older publications, provided that copies are available.

I hope that these new arrangements will fully meet the general convenience, and that the House will permit me, at the same time, to appeal to hon. Members to exercise due economy in asking for publications old and new, and, in particular, not to ask to be supplied with expensive publications, as, for instance, all the bound volumes of Hansard, unless, of course, they make considerable use of them. (556 *Hans.*, cc. 1044-5.)

Saskatchewan (Time of meeting of Assembly).—On 9th February, a Select Committee was appointed

to consider with Mr. Speaker Standing Order 2 respecting the time for the meeting of the Assembly on each sitting day, pursuant to the recommendation of the Assembly dated 21st February, 1955, and to report with all convenient speed. (*Journals*, LV, p. 11.)

The Committee reported the following day, recommending that the Assembly should meet at 2.30 instead of 3 p.m. and asked for an extension of its terms of reference to permit its reconsideration of the times referred in S.O.s 5 and 5(*a*) (which deal with the suspension and adjournment of sittings) and S.O. 25 (which allows a debate to be continued, on ministerial motion after notice, beyond the normal hour of rising until 2 a.m., and then to be decided upon). The Report was agreed to. (*Ibid*, p. 15.)

On 14th February the Committee, in a Second Report, recommended that afternoon sittings be terminated at 5.30 p.m. (instead of 6 p.m. as heretofore), that night sittings should begin at 7.30 p.m. (instead of 8 p.m.), and that the time mentioned in S.O. 25 should be advanced to 1 a.m. No change was recommended in the hour of adjournment of night sittings, *viz.*, 10 p.m. The Report was agreed to by the Assembly. (*Ibid*, p. 24.)

South Australia: Legislative Council (Hour of Meeting).—The Legislative Council, on 4th October, 1956 (Min. of Proc., p. 49), adopted a recommendation of its Standing Orders Committee (Parl. Paper No. 48 of 1956-57) to amend Standing Order No. 50 to provide for the alteration of the meeting time of the Council from 2 p.m.

to 2.15 p.m. on Tuesdays, Wednesdays and Thursdays in each week of the Session. The Governor approved the alteration on 11th October, 1956 (Min. of Proc., p. 57), and the first meeting of the Council at the amended hour was held on 17th October, 1956 (Min. of Proc., pp. 57, 59).

(*Contributed by the Clerk of the Parliaments.*)

Bihar: Legislative Assembly (Swearing-in Ceremony).—Under Article 188 of the Constitution of India, every Member of the Assembly has to make and subscribe an oath or affirmation in the prescribed form before taking his seat in the House. The Members make and subscribe oath or affirmation before the Acting Speaker appointed by the Governor under Article 180 of the Constitution of India. To fulfil this essential requirement of the Constitution, the first day of meeting of a new Assembly after the General Elections is devoted to the administration of the oath to the Members.

On this day, five minutes before the time fixed for the meeting of the Assembly, the bell begins to ring calling the Members to take their seats in the House. After all the Members have taken their seats, the Secretary reads out the order of the Governor issued under Article 188 of the Constitution of India whereby the Members are requested to take their oath before the Acting Speaker. The Secretary then conducts the Acting Speaker, who is usually the senior Member of the House, to the Chair. The Acting Speaker thereafter requests the Members to make and subscribe oath or affirmation and asks the Secretary to call out the names. The Secretary first calls out the names of the Chief Minister and his other colleagues in the Cabinet. Thereafter, he calls out the names of the other Members according to the constituencies they represent. A Member finds on his seat a set of forms of the oath or affirmation both in Hindu and English. He reads out the particular form of oath or affirmation which he chooses and then signs his name in the Roll of Members which lies on the Table of the House. Having signed the Roll he walks up to the dais, shakes hand with the Acting Speaker and resumes his seat.

(*Contributed by S. A. Hyder, B.A., Additional Assistant Secretary to the Legislative Assembly.*)

Northern Rhodesia (Divisions; correspondence of voice and vote).—On 7th December, in committee on the Legal Practitioners Bill, on a division being called on the question for postponing a clause, only three votes were recorded for the Noes. The Chairman observed that some members had not recorded their vote in accordance with their voice, and said that having voted No by voice they must vote No in the division. In reply to Mr. Gaunt (Midland), who

expressed the opinion that Members were at liberty to change their minds during the three minutes which elapsed between voice and vote, the Chairman said:

I am sorry, the hon. Member has misinterpreted. The rule is that a Member votes in accordance with his voice. I am not able, of course, to say normally what persons have raised their voice against or in favour and I have to leave it to hon. Members. It is quite clear that in this case the votes have not been recorded in accordance with their voices. I am therefore going to ask again for those who are of that opinion to stand in their places.

A vote was then taken by sitting and standing, and the clause was postponed by 21 votes to 3. The Chairman undertook to give a considered ruling on what had occurred (90 *Hans.*, cc. 422-3).

Later in the same sitting, Mr. Speaker said that he would himself give the required ruling. Having read the passage from Erskine May to the effect that a Member's voice was binding on his vote (although the voice itself might be corrected at the second call) he said:

We do not have a second call and therefore that does not apply. I want it to be quite clear that the Speaker is conscious of the fallibility of the human ear and realises that there may be acoustical peculiarities in this Chamber or even that there may be certain reduplicatory qualities in a particular Member's voice, but he does ask that hon. Members will not expect him to believe that "no voices" have been multiplied infinitely so as to become a positive quantity!

On being asked what steps he himself would take if he were particularly conscious that an individual Member had voted against his vocal decision, Mr. Speaker replied:

I should—unless my attention were called to it by some hon. Member or by some factor—not be aware of the fact. The kind of factor that might call my attention to it would be if an hon. Member, for instance, called for a division. Then I know that he has voted with the minority, and therefore he must, in the division, vote with the minority. Or if there is any other factor of that kind which calls the attention of the Speaker to the fact of a Member's voice having been recorded in a certain way, then he must take cognizance of it, otherwise not. On the other hand I must call the attention of hon. Members to the fact that any Member of the Council has the right to object to the vote in a division of any other Member if he is aware of the fact that it is not in accordance with his voice. (*Ibid.*, cc. 432-4.)

Northern Rhodesia (References to Elected Members).—On 23rd March, Mr. Speaker gave a ruling concerning references to elected Members. He observed that it had for a long time been usual to refer to such Members by the names of their constituencies, not only in debate but also when making appointments to Committees; the only exception to the practice had been in the records of divisions, where names were used. He said:

In other legislatures it is normal to restrict the use of constituencies to debates and not at other times. Our practice has, I feel, been the result of

a wrong interpretation of Standing Rule and Order 28 (XIX). This Rule which deals with debates only has been given a very wide range and has been applied in many occasions outside its real and intended scope.

Observing that the selection of Members for committee work was based on individual qualifications (except where limited local questions were being considered) he felt that the automatic replacement of a vacancy by the succeeding Member for the same constituency might not always be suitable. He concluded:

I have not the slightest doubt as to the validity of appointments made under either practice, but I consider that we should follow the normal practice elsewhere and have appointments as they arise from time to time, recorded on an individual basis. (87 *Hans.*, cc. 726-7.)

3. PRIVILEGE

India (Publication of Proceedings).—There was no law in India defining the privilege available to publications made in good faith of reports of proceedings of Legislatures whether in a newspaper or by wireless telegraphy. The Parliamentary Proceedings (Protection of Publication) Act, 1956 (No. 24 of 1956) was accordingly enacted to make provision for the purpose. The relevant sections of the Act are quoted below:

3. (1) Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice.

(2) Nothing in sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.

4. This Act shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station situate within the territories to which this Act extends as it applies in relation to reports or matters published in a newspaper.

(*Contributed by the Secretary of the Rajya Sabha.*)

Bihar: Legislative Assembly (Leave to attend Court as witness).—The House of Commons of the United Kingdom grants leave to its Members when they are summoned as witnesses in Courts of Justice. Following this precedent, the Bihar Legislative Assembly has made a provision in its Rules of Procedure and Conduct of business (Rule 63) for granting leave of absence to a Member of the Assembly if he has been served with summons by any Court of Law having jurisdiction in any part of the Union as a witness in a case pending before it and has to remain absent on that account from a meeting or meetings of the Assembly. The Member applies for the permission and his application is read out to the House by the Speaker as soon as may be after such an application is received by him. The Speaker puts the question in the following form:

Is it the pleasure of the House that permission be granted to such and such a Member for remaining absent from the meetings of the Assembly for such and such a period for appearing as a witness in such and such a court?

If no one dissents, the Speaker announces:

Permission to remain absent is granted.

In case of any dissentient voice the Speaker takes the sense of the House and thereupon declares the determination of the House.

It appears that the Bihar Legislative Assembly was the first of the State Assemblies in India which made such a provision in its Rules of Procedure.

(*Contributed by S. A. Hyder, B.A., Additional Assistant Secretary to the Legislative Assembly.*)

Madras: Legislative Assembly (Refusal to answer a question not a breach of Privilege).—On 10th August, in reply to a question about the expenditure incurred by Government on account of the stay of Ministers and Heads of Departments at Ootacamund, a hill station, the Minister replied that the time and labour involved in the collection of the particulars would not be commensurate with the public interest that it might serve.

A member raised a question as to whether it was in order for the Minister to refuse to give the information sought for by Members. The Speaker ruled that it would not constitute a breach of privilege, on the grounds that neither under the Madras Legislative Assembly Rules nor the Rules of the Lok Sabha, nor even under the Standing Orders of the House of Commons, there was any obligation on the part of a Minister to reply to a question. The Minister was only morally bound to reply, but could always say that the question could not be answered on the ground of public interest. It was then open to the Member, under the practice existing in the House of Commons, to cross-examine the Minister on that matter. Also, according to May, an answer to a question could not be insisted upon, if the answer be refused by a Minister on the ground of the public interest, nor could the question be replaced upon the notice paper. (L.A. Deb., Vol. XXXIV, No. 2, pp. 142-4.)

(*Contributed by the Secretary to the State Legislature.*)

Madras: Legislative Assembly (Failure to implement an assurance).—On 26th December, Shri M. Kalyanasundaram, M.L.A., wrote to the Deputy Speaker in the absence of the Speaker that there had been a gross contempt of the House in that an assurance given by the Minister for Agriculture on 25th October, 1956, to enact legislation for regulating the service conditions of beedi workers before the House was to be adjourned and subsequently dissolved, had not so far been implemented. The Member requested that the matter might be referred to a Committee of Privileges.

On 27th December, it was ruled out of order by the Deputy Speaker on the ground that omission to implement an assurance was not one of the offences which would amount to contempt of the House, and that it was for the Committee on Government Assurances to examine and report to the House whether there was any inordinate delay in the implementation of assurances. (L.A. Deb., Vol. XXXVII, No. 9, pp. 603-6.)

(*Contributed by the Secretary to the State Legislature.*)

Northern Rhodesia (Powers and Privileges).—The Legislative Council (Powers and Privileges) Bill was presented on 28th June (88 N.R. *Hans.*, c. 7), referred to a Select Committee on 5th July (*Ibid*, c. 155), and read the third time and passed on 22nd August (*Ibid*, 1703; Act No. 34 of 1956).

In terms of the Northern Rhodesia (Legislative Council) Orders in Council, 1945 to 1954, the privileges, immunities, and powers of the Legislative Council and its Members may not exceed those of the House of Commons.

The Ordinance follows the lines common to those of other colonial legislatures reviewed in THE TABLE in recent volumes (*e.g.*, Vol. XXI, p. 133; XXII, p. 160; XXIV, p. 157). It secures freedom of speech in the Council, regulates admissions to the precincts of the Council, empowers the calling of witnesses and lays down their duties and privileges, provides against contempt of the Council, and lays down penalties for such offences. Power is taken to reprimand and suspend Members and to reprimand at the Bar non-members for contempt. No prosecution may be instituted for an offence under the Ordinance except by the Attorney-General upon information given to him in writing by the Speaker.

Section 14(2) provides that no public officer shall produce before the Council or a Committee any paper, book, record or document or give evidence which relates to the correspondence of any naval, military, air force or civil department or to any matter affecting the public service " except with the general or special consent of the Governor ". An attempt to amend this to allow such documents or evidence to be produced " unless the Governor otherwise directed " was defeated.

(*Contributed by the Speaker of the Legislative Council.*)

Northern Rhodesia (Public statements by Members of Select Committees).—On 21st August, on the motion for the Adojurnment, Mr. Gaunt (Midland) drew attention to the position of members of select committees and the question whether it was in order for them to address public meetings and correspondence to the press before the committee had reported. Without naming any specific Member, he said:

I think some hon. Members are disturbed, and the public is disturbed, and

I certainly am disturbed, at a member of the select committee addressing a public meeting and also addressing correspondence to the Press concerning the very matters with which he has been appointed by this House to inquire into.

Mr. Rendall (Ndola), who at once acknowledged that he was the Member concerned, said:

When I addressed a meeting, which was not a public meeting as stated by the hon. Member, and to which we were invited by the European Mine-workers' Union, I was invited to speak, as also was the hon. Member for Luanshya. Previous to this, Sir, I had asked permission of the chairman of the select committee if it was in order for me to speak at a public meeting. His answer to me was this, that I could speak, but I could not quote as evidence anything that had been given to us in the select committee, which I did not, Sir.

A discursive debate followed, in which many other matters relating to the select committee in question (on the Trade Unions and Trade Disputes Bill) were raised. The debate was concluded on an undertaking being given by Mr. Speaker that he would give a considered ruling on the point which has been described (88 *Hans.*, cc. 1645-58).

On 24th August, Mr. Speaker ruled as follows:

I would remind hon. Members that the duty of a select committee, to which a Bill has been referred, is to consider its details (its principles having been agreed to in Council at its second reading) by going through it clause by clause and making recommendations thereon in the light of the evidence put before it during its deliberations. In one respect, therefore, it may be said that the whole Bill comes under review by the select committee. On the other hand it must be rememberd that the principles of the Bill have been decided on and may or may not be discussed in committee and evidence taken thereon.

It is very definite that no Member of a select committee may refer in public, or in any way publish, what has occurred in a select committee until its report has been laid on the Table. There is no question as to this point which is covered by Standing Order 128.

There is, however, the question whether a member of a select committee can refer in public to any matter in a Bill which is then being discussed by the committee of which he is a member. Generally speaking, I would say that it is wiser for such a member to avoid all public references to a Bill so that there can be no questioning of his conduct. There might conceivably be circumstances which a member considered justified his not following that normal rule. I cannot deal with hypothetical cases here but in view of what I have said, such a member would act with the knowledge that his action might be challenged in this Council, and that the Members would decide whether his judgment had been correct.

It might be argued that, since the principles of the Bill had been settled in the full Council in public debate, there could be no objection to any Member discussing those principles in public. Sometimes, however, clauses of the Bill, such as clause 2 of the Trade Unions and Trade Disputes (Amendment) Bill, involve the whole principle of the Bill and the select committee may take evidence and discuss such a clause, and therefore the principles. It is then extremely difficult for a Member to maintain that, in speaking, he took no cognizance of the evidence or discussions; and it is therefore dangerous for him to discuss the matter outside the committee. (*Ibid.*, 1800-1).

4. The Chair

Australian Commonwealth: House of Representatives (Death of Speaker during Adjournment).—The death of the Hon. Archie Galbraith Cameron, Speaker of the House of Representatives, occurred on 9th August, during the period of the parliamentary winter adjournment. On the day before his death, Speaker Cameron, acting under authority granted to him in the adjournment resolution, summoned the House to its next meeting on 29th August.

Although the Chairman of Committees had been authorised, by resolution of the House of 14th March, to take the Chair as Deputy Speaker during the absence of the Speaker through illness, the circumstances of the Speaker's death had not been provided for in the resolution and therefore, upon reassembly of the House on 29th August, the Clerk reported the death of Mr. Speaker Cameron and the House immediately proceeded to elect a new Speaker. Two candidates were proposed—Mr. John McLeay (Liberal, South Australia) and the Hon. N. J. O. Makin (Labour, South Australia). After conducting a ballot as provided under Standing Order No. 11, Mr. McLeay was duly declared elected, having secured 58 of the 97 votes cast (V. & P. No. 51, p. 259).

The sitting of the House was suspended until fifteen minutes to five o'clock in the afternoon, when Members accompanied Mr. Speaker McLeay to present himself to the Administrator of the Government of the Commonwealth (the Governor-General being absent from Australia).

On returning to the House, a motion of condolence in connection with the death of the late Speaker was agreed to after Members had spoken to it (*Hans.*, pp. 7-12) and, as a mark of respect, the House then adjourned until the following day. (*See also* THE TABLE, Vol. XXIV, p. 34.)

(*Contributed by the Clerk of the House of Representatives.*)

Jamaica (Temporary President and Speaker).—By the Jamaica (Constitution) Order in Council, 1956 (see p. 133), a change is made in the procedure for filling the Chair of both Houses in the absence of its usual occupant. Formerly, if the President or Speaker was absent, the Chair was taken by the senior in precedence of the Unofficial Members (or, in the House of Representatives, of the non-Members of the Executive Council) present. Provision is now made for the Chair to be taken by an Unofficial Member (or non-Member of the Executive Council) elected for the purpose.

5. Order

House of Commons (Sitting suspended owing to grave disorder).—On 1st November, the main business arranged for the day was the

discussion of an Opposition motion of censure upon the action of the Government in resorting to armed force against Egypt; before this debate was entered upon, a statement on the progress of the military operations was made by the Minister of Defence (Mr. Anthony Head). This statement led to the asking of a number of questions, some of which appeared to Mr. Speaker to fall more appropriately for discussion in the forthcoming debate upon the motion. His expression of this view gave rise to dissension, and Mr. Speaker, having been submitted to constant interruption, said:

> I have to inform the House that if it will not listen to me, I shall suspend the Sitting. [Hon. Members: "Hear, hear."] That appears to some hon. Members to be a desirable course. I am certainly not going to have the Chair put in the position of not being heard in this House of Commons. The Sitting is suspended for half an hour.

Mr. Speaker thereupon exercised his powers under S.O. No. 24 and suspended the sitting. Upon resuming the Chair half an hour later, he said:

> I would just like to say a word to the House. I understand and sympathise with the fact that on the issue which is about to be discussed opinions in the House are sharply divided and that hon. Members on both sides of the House feel a considerable degree of tension and excitement. With all that I sympathise. I am too old a Member of this House not to have endured the same feeling myself, but, at the same time, I am now by your leave elected to a position in which I have certain duties to discharge, and I hope that the remainder of this debate will proceed in a manner which is creditable to the House. That is my concern.
>
> I would say—and I am the judge of what is relevant—that a large amount at least of what has been asked hitherto would be relevant to the debate, and I should certainly never rule it out of order on the ground of irrelevancy. I understand that there are points of elucidation still in the Minister's statement which it is desired to elucidate and that I certainly would allow; but I have to say to the House quite frankly that my sense of my responsibility is so great that if disorder of this kind persists—I am sure that it will not now—I shall have no option but to adjourn the House. (558 *Hans.*, cc. 1619-26.)

House of Commons (reflections in debate upon a Colonial Judge). Certain reflections made in the House of Commons in 1949 on remarks made by Mr. M. D. Lyon, Chief Justice of the Seychelles, formed the basis of an article in an earlier volume of THE TABLE (Vol. XVIII, pp. 264-9). Chief Justice Lyon's actions were again called into question in the House in 1956, when on 25th July Mr. Eric Fletcher (Islington) asked the Secretary of State for the Colonies:

> What action he has taken regarding the petition sent to him, signed by 50 leading citizens of the Seychelles, pleading that Her Majesty's Government will refrain from appointing Mr. M. D. Lyon for a third term as Chief Justice of the Seychelles.

The Secretary of State (Mr. Lennox-Boyd) replied:

I received the petition on 6th November, 1954. There was no question of reappointment: the petitioners asked that Mr. Lyon should not return to the territory for a third tour of duy. The petitioners were informed by letter on 10th December, 1954, that after careful consideration I was unable to accede to their request.

Mr. Fletcher, in a supplementary question, criticised Chief Justice Lyon's personal character and conduct in terms which prompted another Member to ask Mr. Speaker whether an hon. Member ought to abuse the character of a person, in privileged circumstances, without giving any evidence; Mr. Speaker replied that it was not a point of order, but a question of discretion on the part of the hon. Member. The Secretary of State, in the course of further answers, said:

I venture to suggest that question and answer in the House of Commons on matters touching individual honour of this kind of an official whose only spokesman in the House is myself, is not the best way of arriving at conclusions. . . . In regard to this case, the fact that the subject of the question is a chief justice clearly puts him in a category which hon. Members ought to remember when asking questions. [Hon. Members: "Why?"] By long tradition there is a particular drill for inquiries into the conduct of judges or chief justices, either in this country or in the Colonies.

Mr. Shinwell (Easington), rising to a point of order, observed that Mr. Fletcher's question had been accepted at the Table, and asked whether the Secretary of State was therefore justified in questioning the propriety of what was contained in it. Mr. Speaker replied:

The Queston was in order, and it was allowed. I am bound to say that some of the supplementary questions were couched in terms rather different from the Question on the Paper. Though there was nothing out of order that entitled me to intervene, it is my experience in the House, and I am sure it is that of the right hon. Gentleman, that every action has its equal and opposite reaction, and that if violent language is used on one side of the House it is apt to be countered by language of a similar character on the other. There has been nothing out of order. The Question was a proper Question for the Paper; otherwise it would not have appeared there. (557 *Hans.*, cc. 416-20.)

Further reference was made to this matter the following day, upon the raising of a matter of privilege concerning a search-warrant issued by Mr. Lyon, which is noticed elsewhere (see p. 105). Following upon Mr. Speaker's observation that "in so far as this has been a fault of administration, it is a matter about which the House can deal with the Colonial Secretary" (p. 106), Mr. Bevan (Ebbw Vale) asked:

Do we now understand from what you have said, Sir, that an action taken by a chief justice, in furtherance of what he considers to be his duty as a judge, in signing a search warrant can be regarded as an administrative action by the Colonial Secretary? Does it not carry the matter to an extent that is almost without precedent, that an action by a member of the judiciary in the discharge of what he considers to be his work and functions as a member of the judiciary can now be regarded by the House of Commons as an administrative act by the Minister himself?

To this Mr. Speaker replied that if there were complaints about administrative actions which followed the issue of the warrant, that was a matter on which the Colonial Secretary could be challenged in so far as he was responsible.

In the course of further questions and answers, it became clear that doubt existed on two points. On the one hand, Mr. Speaker, when asked whether there was any reason why the activities of the Chief Justice should not be criticised in debate, said:

> With due regard to the language that is Parliamentary and proper in this House, I do not see that there is any bar in advance that I can suggest to hon. Members. I may not be right about this, and I should like some assistance. Colonial judges are sometimes in two different categories, as I understand. Some are appointed by Her Majesty, in which case the normal rule is that a Motion is put down if hon. Members seek to attack them. Others are merely appointed by the right hon. Gentleman the Secretary of State for the Colonies. I do not know into which category this gentleman falls.

The Secretary of State confirmed that he too, was a little uncertain of the position. Secondly, in answer to a question by the Leader of the Opposition (Mr. Gaitskell) whether the issue of the search warrant would have been made by the Chief Justice in his judicial capacity, or administratively, the Secretary of State answered:

> That is the first time that this particular question has been put. I will communicate immediately with the Governor of the Seychelles on that point and, I hope, be in a position to answer any question of fact that any hon. or right hon. Gentleman may ask during the discussion on Wednesday. I understand that the search of this gentleman's house was made on a warrant issued on the application of the police without Government direction but, as I say, I will get all the details I can in order to be able to enlighten the House.

Mr. Speaker, for his part, undertook to give a considered ruling on the status of the Chief Justice, and the admissibility of criticism of him in debate (557 *Hans.*, cc. 652-60).

On 30th July, before the commencement of public business, Mr. Speaker gave his promised ruling. Having referred to the remarks which had been made in the House concerning Mr. Lyon by Mr. Rees-Williams in 1949 (see THE TABLE, Vol. XVIII, pp. 264-6), he went on to say:

> This criticism of a judge here might not have been permitted except on a substantive Motion, and this made me think that there was, in the view of the Colonial Office, something in the status of the Chief Justice in the Seychelles which distinguished him from a judge here. I could see that there were bound to be such differences.
>
> High Court judges here are, by the Act of Settlement, removable only by an Address from both Houses of Parliament. Their salaries are charged on the Consolidated Fund. They are thus rendered independent of the Executive. This is a wise provision of our Constitution, because it has often been the duty of the courts to give judgments adverse to the claims of the Executive—notably by the issue of the writ of *habeas corpus*.
>
> The appointment of the Chief Justice of the Seychelles was by a document under the Public Seal of the Colony, similar in form to Letters Patent. This

was signed by the Governor in the name of His Majesty on 10th December, 1948. It is important, I think, to look at the powers which exist for his removal. In law, he holds office at the pleasure of the Crown, but, in fact, the procedure for his removal is governed by Colonial Regulations 63, 68 and 76.

These Regulations provide for the formulation of charges of misconduct, etc., and for their investigation by a judicial commission. Then, if the Governor is satisfied that the judge should be dismissed, Regulation 63 lays down that the question of dismissal or of inflicting any other penalties upon the judge must be referred by the Secretary of State for the Colonies to the Judicial Committee of the Privy Council, unless the judge in question requests that it should not be so referred.

It seems to me that the true purpose of these Regulations is to endeavour to maintain the independence of the judiciary against the Executive. It follows, therefore, I think, that the Colonial Secretary has not a free hand in dismissing the Chief Justice.

The only precedent which I can find, which seems to bear on this matter, occurred on 27th June, 1912. There was a debate on the Adjournment in which the hon. Member who had the Floor said of an Indian judge:

"... I do declare of this particular judge who passed this judgment, that his political feelings are so strong that——"

Mr. Speaker Lowther intervened and said:

"The hon. Member, if he is going to attack the judiciary in India, should bear in mind the rule which obtains in this country. If an attack is made on the judiciary here it must be made in due form after notice and on a separate Motion. The hon. Member referred just now to the criticism passed upon Mr. Justice Grantham. That was passed after due notice had been given and on a special Motion calling his action in question. I think the same procedure might properly be applied to judges in other parts of the Empire." [Official Report, 27th June, 1912; Vol. XL, c. 622.]

Therefore, for the purposes of the Ruling which I have been asked to give, I rest myself on the deep constitutional principle of the independence of the judiciary from the Executive. It is the Executive which hon. Members are entitled to attack, on Supply, and the Executive only. I must rule that the complaint against the Chief Justice must be by way of Motion and should not be discussed on the Consolidated Fund Bill.

On being asked by the Deputy Leader of the Opposition (Mr. James Griffiths) whether it would be in order for a debate to proceed on the question of the petition mentioned in Mr. Fletcher's original question, and for Members to urge the Secretary of State to take action on the basis of the petition, Mr. Speaker replied:

I think that the action of the Secretary of State in refusing to grant the prayer of the petition is a proper subject for debate but, as I have said, criticism of the Chief Justice as such would not be proper. If the debate could be conducted without infringing the Rule about a Motion being necessary in respect of the Chief Justice, it would be in order. However, hon. Members may think this over and reflect that what I am saying now is rather like the judgment of Portia in "The Merchant of Venice", when she said that Shylock could have his pound of flesh but must not shed any blood with it. (577 *Hans.*, cc. 921-4.)

Saskatchewan (Quotation of newspaper articles in support of repetitious arguments).—On 3rd April, in Committee of Supply, during consideration of the Estimates of the Department of High-

ways and Transportation, the Chairman ruled that Mr. Loptson was not in order when, after repeatedly making allegations reflecting upon the Department, which allegations were repeatedly answered by the Hon. Mr. Douglas (Rosetown), he sought to read from newspaper editorials in denial of statements made by the Minister in his replies.

Mr. Loptson having appealed from the Chairman's ruling, Mr. Speaker resumed the Chair, and the Chairman of the Committee of Supply thereupon reported the matter to Mr. Speaker. Mr. Speaker received the report, and, having put the question: Shall the ruling of the Chairman be confirmed?—it was agreed to by 30 votes to 9. (*Journals*, LV, pp. 147-8.)

6. Procedure

Western Australia: Legislative Council (Seconding of Adjournment Motions).—Amendments made to S.O.s Nos. 409 and 411 in November, 1956 (Amendment List No. 4) dispensed with the need for motions for the adjournment of debates to be seconded.

Western Australia: Legislative Council (Adjournment until Christmas Day).—On 19th December, a Member took the unusual step of adjourning the second reading debate on a Bill until Christmas Day (Min. of Proc., 1956, p. 252; *Hans.*, p. 3525). The Bill concerned was a ninety-clause re-enactment of the Public Service Act and provided for some major changes in the Public Service administrative system.

At the time, there was a large volume of business on the Notice Paper, and as the House usually rises not later than the middle of December, tempers were becoming frayed; at the previous sitting, Bills to amend the Constitution Act and the Electoral Act had been defeated on the motion for the first reading.

However, the House rose for the recess in the early hours of Saturday, 22nd December, so that no further debate on the Bill was possible.

(*Contributed by the Clerk of the Parliaments.*)

Union of South Africa: Senate (Change in method of Voting).—Under the provisions of S.O. No. 165(2), divisions were formerly taken by calling upon the "Contents" and "Not-contents" respectively to rise in their places, their names being then called out by the Clerk and taken down by the Clerk-Assistant. By an amendment to this Standing Order and S.O. No. 166, adopted by the Senate on 23rd January, the Chair is now enjoined to direct the "Contents" to the right and "Not-contents" to the left of the Chair and appoint tellers for each side; the latter have the duty of recording the names as well as counting the members. Should fewer than five Senators appear on one side, the Chair forthwith declares the resolu-

tion of the House or Committee, in which case the names of the Senators voting in the minority are recorded in the Minutes.

7. COMMITTEES

House of Commons (Quorum of a Select Committee).—Apart from the date and hour of first meeting (which is fixed by the senior member of the committee), the dates and hours of meeting of a select committee are fixed by resolution of the committee itself. If, however, a committee is compelled to adjourn through lack of a quorum, or cannot sit owing to the failure of a quorum to assemble, the Chairman has discretion to adjourn the committee to a future date.

This was done on 19th April, when a meeting of the Select Committee on House of Commons Accommodation, etc., was attended by only two Members, three being the quorum, and the Chairman accordingly adjourned the Committee till 3rd May (Minutes of Proceedings of the Committee, H.C. 426 (1955-56), p. 6). On 14th June, however, a further incident of this nature, affecting the same committee, was complicated by the fact that the Chairman himself was not present at the appointed hour of meeting (*ibid*); and, neither of the two members present having the authority to adjourn the Committee, it became necessary to move a motion in the House to revive the Committee and appoint a future day of sitting. This was done by the Chairman on 27th June (555 *Hans.*, c. 655).

The Committee became finally defunct on 1st November, when no Member attended at the time appointed for its meeting (H.C. 426 (1955-56), p. 7), and no attempt was made during the remaining four days of the session to revive it.

Western Australia: Legislative Council (Membership of Committees).—An amendment made to S.O. No. 34 in November, 1956 (Amendment List No. 4), provided that vacancies occurring in committees during a recess could be filled temporarily by the President, or in his absence the Deputy President, in consultation with the Leader of the House. A further amendment to the same S.O. provided for the automatic vacation of his seat in a Committee by a Member failing to attend three consecutive meetings of the Committee without leave of absence.

Bihar: Legislative Assembly (Work of Committee on Government Assurances).—Rules 254-258 of the Rules of Procedure and Conduct of Business in the Bihar Legislative Assembly provide for the constitution and functions of the Committee on Government Assurances. The main important functions of the Committee are:

to scrutinise the assurances, promises, undertakings, etc., given by the Ministers, from time to time, on the floor of the House and to report on—

(*a*) the extent to which such assurances promises, undertakings, etc., have been implemented; and

(*b*) where implemented whether such implementation has taken place within the minimum time necessary for the purpose.

The first Committee on Government Assurances under these Rules was constituted by the Speaker on 20th October, 1955. The Committee consisted of 15 members, including the Chairman who was also the Deputy Speaker of the Assembly. Under the rules the term of office of the members of the Committee is for one year only, and therefore, on the expiry of the term of the First Committee, a Second Committee was constituted by the Speaker on 20th October, 1956; but with the same personnel. The Committee has held altogether eight sittings and has scrutinised 467 assurances, promises, undertakings, etc., given by the Ministers on the floor of the Assembly during the years 1954-1956.

The Committee has presented two Reports to the House (L.A. Proc., 1956, Vol. IX, No. 56, p. 23; Vol. XI, No. 23, p. 78). Some of the main recommendations of the Committee are—

(1) A maximum period of two months should be fixed for the implementation of an assurance. Where, however, it is not possible for a department of Government to comply with this requirement, it should report to the Committee giving the reasons for the delay so that the Committee could judge how far it was beyond the power of the department to implement the assurance within the specified period or in an adequate manner.

(2) It is not adequate to give answers to assurances in a general manner. The action taken by Government should be specified and complete in all respects.

(3) The responsibility of the Government does not end by merely laying down instructions, but they should follow them up by asking the subordinate authorities to furnish particulars in order to satisfy that instructions are being properly observed.

(4) Whenever it is not possible to implement an assurance the reasons therefore or the difficulties experienced in that connection should be stated.

(*Contributed by S. A. Hyder, B.A., Additional Assistant Secretary to the Legislative Assembly.*)

Bihar: Legislative Assembly (Work of Committee on Subordinate Legislation).—With the extension of the activities of the State in spheres where such activities did not extend before, the need for social and economic legislation has also considerably increased. This has led to an unexpected increase in the quantum of such legislation. While the principal objects of these legislation can be reduced to the form of statutes, details that are subsidiary and procedural are left to be worked out by the Executive without taking the time of the Legislature; and these matters of details and procedure are worked out under the power given to the Executive in the statute itself for the purpose of carrying out the wishes of the legislators expressed in the statute. This is done by the Executive by issuing "regulations", "rules", "sub-rules" and "bye-laws", and when they are actually framed they derive the same force as that of a statute enacted by the Legislature, provided of course they are

within the scope of the power the statute delegates to the Executive to frame them. To keep effective control over this subsidiary form of legislation, the Bihar Legislative Assembly has laid down a procedure to examine such pieces of subordinate or delegated legislation through a Committee on Subordinate Legislation (see Chapter XXIII of its Rules of Procedure and Conduct of Business).

The functions of the Committee are to scrutinise and report to the House whether the powers delegated by the Legislature to the Executive have been properly exercised within the framwork of the statute delegating such powers. The Committee has, in particular, to consider:

(i) whether the rules made by the Executive are in accordance with the general objects of the statute pursuant to which they have been made;
(ii) whether the rules contain such matters as in the opinion of the Committee should more properly be dealt with in a statute of the Legislature;
(iii) whether the rules contain imposition of taxation;
(iv) whether the rules directly or indirectly bar the jurisdiction of Court;
(v) whether the rules give retrospective effect to any of the provisions in respect of which the statute does not expressly give such power;
(vi) whether the rules involve expenditure from the Consolidated Fund or the Public Revenue;
(vii) whether the rules appear to make some unusual or unexpected use of the powers given by the statute pursuant to which they are made;
(viii) whether there appears to have been unjustifiable delay in the publication of the rules or laying them before the Legislature;
(ix) whether for any reason the form and purport of the rules call for any elucidation.

The new Rules of Procedure and Conduct of Business in the Assembly came into force on 20th October, 1955, and on the same day the First Committee on Subordinate Legislation was constituted by the Speaker. It consisted of ten members, including the Chairman, who was a member of the party in opposition in the Assembly. The life of the Committee was for one year. After the expiry of the term of the First Committee, the Second Committee was constituted on 20th October, 1956. Eight members of this Committee were the members of the First Committee. Only two were newcomers. The Chairman of the First Committee was also renominated as the Chairman of the Second Committee. The Committee altogether held nine sittings. In these sittings the Committee scrutinised 14 sets of rules and 29 regulations framed by the Executive. Some of the defects pointed out by the Committee in these rules have been accepted by the Departments of Government concerned and the rules are being revised accordingly.

The Committee has presented two Reports to the House (L.A. Proc. 1956, Vol. IX, No. 55, p. 30; Vol. XI, No. 22), and some of its main recommendations are as follows:

(1) That in future the Bills containing provisions for making rules, etc., shall lay down that such rules shall be laid on the Table of the House as soon as possible.

(2) That all the rules shall be laid on the Table of the House for a uniform and total period of 14 days before the date of their final publication.

Provided that where it is not deemed expedient to lay any rule on the Table before the date of publication, such rules may be laid as soon as possible after publication. An explanatory note should, however, accompany such rules at the time they are so laid explaining why it was not deemed expedient to lay these rules on the Table of the House before they were published.

(3) That in future the Bills authorising delegation of rule-making power shall contain express provisions that the rules made thereunder shall be subject to such modifications as the House may like to make.

(4) That the rules, etc., framed by the Executive or the amendment made therein shall be serially numbered in pursuance of Rule 249 of the Rules of Procedure and Conduct of Business in the Assembly.

(*Contributed by S. A. Hyder, B.A., Additional Assistant Secretary to the Legislative Assembly.*)

Federation of Rhodesia and Nyasaland (Functions of Sessional Committees).—On 15th March, 1956, Standing Order No. 181 was amended by leaving out paragraphs (*a*) and (*b*) of sub-section (1) and by inserting the following new paragraphs in place thereof:

(*a*) The Library Committee, to advise Mr. Speaker on the conduct and management of the Parliamentary Library; and which shall consist of three members.

(*b*) The Committee on Standing Rules and Orders, to consider all proposals for the amendment of standing orders, matters concerning staff and such other matters as Mr. Speaker may refer to them; and which shall consist of five members. (V. & P., 1955, p. 259.)

The effect of these amendments was (*a*) to substitute a Library Committee for the old Printing Committee (which had been empowered under the old Standing Order to "decide what manuscript papers and returns presented to the House from time to time shall be printed, and in what form"), and (*b*) to empower the Committee on Standing Rules and Orders to consider matters other than staff matters referred to them by Mr. Speaker.

(*Contributed by the Clerk of the Federal Assembly.*)

8. Standing Orders

Tasmania: Legislative Council (Revision of Standing Orders).—On 3rd May a Report (No. 23 of 1956) was brought up from a Select Committee which had been appointed with the same Membership for three successive sessions (V. and P., 4th November, 1954, 13th April, 1955, and 14th March, 1956) to inquire into any necessary amendments and additions to, and revision of the Standing Orders. A revised series of Standing Orders was appended to the Report.

The most substantial alterations made to the Standing Orders are summarised in the Committee's Report, as follows:

No. 16: Increases the number of deputy-chairmen [from two] to three.

No. 23C and No. 23D: Regulate the means of moving the adjournment to discuss a matter of urgent public importance.

No. 39 and No. 40: Require a Deputy-Chairman of Committees to take the Chair in order of seniority.

No. 88: Provides that Motions cannot be withdrawn if there is one dissentient voice.

No. 113: Being repealed, will now permit adjournment of a Debate on the " Previous Question ".

No. 119 and No. 120: Change the form of Motion to leave out words, to read " the words be so left out ".

No. 155: Prohibits the publishing or recording of offensive words when same have been objected to in Debate and directed to be taken down.

No. 190A and No. 190B: Provide for calling off a Division in certain cases.

No. 201: Makes a change in the vote of the Chairman—he to have a deliberative vote instead of a casting vote.

No. 217A and No. 217B: Establish Standing Committees on Privileges and on Standing Orders, respectively.

No. 229: Modifies the requirement for a Quorum in a Select Committee [a majority vote of the whole Committee being required for the adoption of a Report].

No. 232: Grants to the Chairman of a Select Committee a deliberative vote, as in the proposal for the Chairman of the Committees of the whole Council (*see* S.O. No. 201, above).

No. 239A: Authorises a Select Committee to delegate one or more of its members to make investigations, and submit information.

No. 248A: Withholds evidence when tabled, from persons in certain cases.

No. 254A: Give a clear opportunity for rescinding a Council Resolution for a Joint Committee, to permit a Select Committee to be appointed instead.

Nos. 258, 259, 259A, 261, 261A: Amend the procedure of a Joint Committee, and are in accordance with similar Standing Orders of the House of Assembly, or with proposed Amendments of the Assembly Standing Orders Committee.

No. 377A: Restricts the availability of tabled documents and files to perusal by members only, in certain cases.

No. 394, No. 394A and No. 394B: Provide for steps to be taken in charges of Contempt, and conforms with the provisions of the Parliamentary Privilege Act.

The Report went on to say:

Adverting to the Amendment to Standing Order No. 201 under which the Chairman of Committees shall have a deliberative vote only, for the reason among others, that his electoral division should not be disfranchised on a matter in Committee which concerns his electors, your Committee is of the opinion that the same right should be afforded to Mr. President when presiding in the Council.

To give effect to the suggested deliberative vote by the President, it would be necessary to amend the Constitution Act, 1934, section 20 of which provides that the President has a casting vote only.

The Amendment to Standing Order No. 125 prohibiting the publication of " offensive words " in certain cases, may require some legislative provision to ensure that the Standing Order is effective in the manner intended.

The Report was agreed to by the Council, and the proposed Standing Orders adopted, without any amendment (V. & P., 5th September, 1956).

Union of South Africa: House of Assembly (Standing Rules and Orders).—1. *Enlargement of Standing Rules and Orders Committee.*

—On 23rd January the Committee on Standing Rules and Orders reported a recommendation that S.O. No. 13 be amended so as to increase the maximum number of its members from thirteen to sixteen. The report was adopted. (V. & P., p. 53.)

2. *Amendments to Standing Orders.*—On 1st March the Committee on Standing Rules and Orders reported that it had considered and adopted certain proposals for amending the Standing Orders, and recommended:

(1) That the amendments to the Standing Orders scheduled in the Report be adopted; and
(2) that Mr. Speaker be authorised to reprint the Standing Orders with the amendments approved of and such consequential amendments as may be necessary.

Notice of objection to the adoption of the Report having been received, it was considered on 14th March and adopted with a further amendment. (V. & P., pp. 211, 226 and 280.)

The following are the changes which were made in the Standing Orders, *viz.*:

(i) *Limitation of Speech.* (S.O. No. 63.)

When Mr. Speaker is in the Chair, members may not exceed 40 minutes except—

(*a*) The Prime Minister and the Leader of the Opposition and Ministers and members in charge of bills or motions, who are not restricted in regard to the length of time they may speak, and
(*b*) one Minister or member (excluding the Prime Minister and the Leader of the Opposition) speaking first in reply, who may not exceed one hour: Provided that on a Government bill or motion Mr. Speaker may grant this privilege to one other member of the Opposition Parties.

(ii) *Previous Question.* (S.O. No. 79.)

This Standing Order was repealed.

(iii) *Budget Debate and Taxation Proposals.* (S.O.s Nos. 104, 118, 121 and 122.)

The motion to go into Committee of Supply on the annual estimates of expenditure has been combined with the motion to go into Committee of Ways and Means on taxation proposals, the debate on the combined motion being limited to four days as provided by S.O. No. 104 for the Budget debate.

At the end of the Minister's Budget speech he gives notice of his taxation proposals, and during the four days' budget debate which follows the specific taxation proposals as well as taxation generally

can be discussed. When the motion is adopted a day is appointed for Committee of Supply and a day for Committee of Ways and Means.

(iv) *Limitation of debate on Part Appropriation Bills.* (S.O. No. 117.)

On the third reading no speech may exceed 30 minutes.

(v) *Introduction of Bills.* (S.O. No. 162.)

The debate on the motion for leave to introduce a bill is limited to one hour, no speech exceeding 10 minutes.

3. *Changes in practice.*—On 6th February and 16th April the Committee on Standing Rules and Orders adopted the following changes in the practice of the House, *viz.*:

(1) *Governor-General's recommendations.*—Recommendations by the Governor-General under S.O.s Nos. 100, 102 and 118 are not formally announced in the House but are conveyed by the responsible Minister to the Clerk at the Table for entry in the Votes and Proceedings.

(2) *Motions, as amended.*—In cases where the House has decided, after a division, to insert words in a motion in substitution of words omitted, Mr. Speaker has the *discretion* to announce the decision of the House forthwith instead of again putting the motion, as amended, to the House.

The cases contemplated are where all the words after the word "That" have been omitted and the House has decided to substitute certain other words.

(3) *Discussion of matters of public importance.*—On a motion by a Minister (after notice):

That the House discuss the following matter, *viz.*: ..... a full discussion of the matter is allowed, subject to the ordinary rules of debate: provided that—

(*a*) the rule of anticipation will not apply,
(*b*) no amendment can be moved, and
(*c*) when the Minister has made his reply he must withdraw the motion.

(This procedure was followed on 14th May when the Minister of Native Affairs after notice moved: "That the House discuss the following matter, *viz.*: The Report of the Commission for the Socio-Economic Development of the Bantu Areas within the Union of South Africa". After a debate extending into the third day the motion was withdrawn. (V. & P., pp. 496, 499 and 503.))

(*Contributed by the Clerk of the House of Assembly.*)

India: Lok Sabha (Amendments to Standing Orders).—Further amendments to the Fourth Edition of the Rules of Procedure and

Conduct of Business in the Lok Sabha were made by order of Mr. Speaker on four occasions in 1956, *viz.*, 26th April (Bulletin, Part II, No. 3136), 26th May (*ibid*, No. 3274), 23rd August (*ibid*, No. 3530) and 24th December (*ibid*, No. 3935). A great number of the amendments are of a verbal or drafting nature, but the effect of the more substantial among them is summarised below.

Lobby: This is defined in Rule 2 as "the covered corridor immediately adjoining the Chamber and coterminous with it".

Commencement of Sitting: The hour of commencement of the sitting is retarded from 10.45 a.m. to 11 a.m. (Rule 12.)

Procedure on Bills: (1) Rules 115 and 116 are amended so as to provide for the consideration by the House of bills committed to Joint Committees.

(2) Amendments made to Rules 147 and 149, relating to the withdrawal of bills, provide (i) an additional ground for withdrawal, namely, that the bill is to be replaced subsequently by another bill which includes all or any of its provisions in addition to other provisions, and (ii) that where it is proposed to withdraw a bill which originated in the Rajya Sabha, leave must first be sought from that House.

(3) Provision is made by an amendment to Rule 165 for the retention in the custody of the House of a verified copy of every bill assented to by the President.

(4) The former Rule 166, which dealt very briefly with the procedure adopted when a bill passed by both Houses is returned by the President with a request for reconsideration, is replaced by an amended Rule 166 and additional Rules 166A to 166Y, in which detailed provision is made for such matters as notice of motions for reconsideration, the scope of the debate, the procedure when both Houses disagree with the Presidential recommendation or with each other, the procedural differentiation in respect of bills originating in the Lok Sabha and the Rajya Sabha, and the authentication of bills passed again after reconsideration.

(5) With respect to bills seeking to amend the Constitution, by an amendment to Rule 169, a two-thirds majority is no longer required on a vote for referring the bill to a committee or for circulating it for the purpose of eliciting opinion. Such a majority is, however, required for a motion for taking such a bill into consideration when reported from committee.

Motions: A new Rule 322A provides that a member may move for the debate on a motion to be adjourned at any time after the motion has been made.

Amendments: New Rules 326A and 327A provide (i) that a day's notice is required for amendment to a motion, except with the Speaker's permission, and (ii) that the Speaker may put amendments in such order as he may think fit.

Committees: In the Fourth Edition of the Rules of Procedure,

much duplication existed in the sections referring to committees with regard to such matters as quorum, the filling of casual vacancies, the election of the chairman, the taking of evidence and the presentation of the committee's report. Provision is accordingly made by a new Rule 382A that

> Except for matters for which special provision is made in the rules relating to any particular Parliamentary Committee, the general rules in this Chapter shall apply to all Parliamentary Committees; and if and so far as any provision in the special rules relating to a Parliamentary Committee is inconsistent with the general rules, the former rules shall prevail,

and wholesale deletions and excisions are consequentially made in the rules relating to individual committees. Thus, the rules relating to each committee are concerned only with its individual functions and any special powers or procedures which it may possess; matters of procedure common to all Committees are set forth together in the section of the Rules (Nos. 356 to 382A) headed " Parliamentary Committees ".

Publication of documents connected with the business of the House: By an amendment to Rule 395, the decision of any question whether a document is connected with the business of the House is referred to the Speaker, whose decision is final.

Madhya Pradesh: Vidhan Sabha (Continuation of Standing Orders).—Section 32 of the States Reorganisation Act, 1956 (see pp. 76-82) reads as follows:

> Until rules are made under clause (1) of article 208 by the Legislative Assembly of a new State, the rules as to procedure and conduct of business in force immediately before the appointed day with respect to the Legislative Assembly of the corresponding State shall have effect in relation to the Legislative Assembly of the new State subject to such modifications and adaptations as may be made therein by the Speaker.

No rules of procedure under clause (1) of article 208 of the Constitution of India having yet been made by the Legislative Assembly of the new State of Madhya Pradesh, the rules of the old State of Madhya Pradesh therefore have effect in relation to the Legislative Assembly in the new State. Modifications in the said Rules were, however, made by the Speaker, under the provisions of Section 32, on 27th December; they consist of the deletion of the former Rules 63 and 64, which provided for the existence and functions of a Standing Committee for the consideration of Government Bills.

(*Contributed by the Secretary of the Vidhan Sabha.*)

East Pakistan (Governor's Amendments to Rules of Procedure).—Under Article 217 and the Fourth Schedule of the Constitution of the Islamic Republic of Pakistan, the Rules of Procedure of the former East Bengal Provincial Legislative Assembly in force immediately before Constitution Day became the Rules of the East

Pakistan Legislative Assembly, with certain amendments consequent upon the provisions of the Constitution made by the Governor. The salient features in the Governor's amendments are (*a*) the provision of the appointment of an Imam to the Assembly, like the Chaplain to the Speaker of the House of Commons of the United Kingdom Parliament (Rule 2A); (*b*) the determination of priority of notices of Bills and Resolutions after consultation with the Leader of the House and the Leader of the Opposition in place of fixing such priorities by means of ballot (Rule 20(2)); and (*c*) the supply of a Calendar of the Legislature to the Members at the time of presentation of the budget (Rule 120A).

(*Contributed by the Secretary to the Legislative Assembly.*)

Southern Rhodesia (Amendments to Standing Orders).—A number of amendments to the Standing Orders were made in 1956 as a result of Reports brought up on 21st March and 1st August from the Committee on Standing Rules and Orders by Mr. Speaker, as Chairman of the Committee (V. & P., 1955-56, p. 261; *ibid*, 1956-57, p. 63). No notice of objection being given within a stated period on either occasion, they were adopted without amendment. Their purport is listed below.

Vacancy in office of Speaker or Deputy Speaker

S.O. 14 has been amended to read—

(1) Whenever a vacancy through any cause shall have taken place in the office of Speaker, the Clerk shall report it to the House, whereupon the Deputy Speaker shall take the Chair as Speaker. When the House proceeds to the election of a new Speaker, which shall be carried out in the manner hereinbefore provided, the Clerk shall act as chairman for the purpose of that election.

(2) Whenever a vacancy through any cause shall have taken place in the office of Deputy Speaker and Chairman of Committees, Mr. Speaker or, in his absence, the Clerk, shall report it to the House, whereupon the House shall forthwith proceed to the election of a new Deputy Speaker and Chairman of Committees.

The old Standing Order required the Clerk to report to the House a vacancy in either office and for the election of a successor to either office to be made at once, the Clerk presiding. Under the new Standing Order the report of a vacancy in the Speakership will be made by the Clerk, and the Deputy Speaker will then take the Chair until the House is ready to proceed to the election of a new Speaker. This election need not take place at once as formerly. For the purpose of this election, the Clerk will preside, as the Deputy Speaker may be a candidate for the post (the Constitution provides that a Speaker may be elected from outside the House).

The report of a vacancy in the Deputy Speakership will now be made by the Speaker and a new Deputy Speaker (who must be a

Member) elected at once, the Speaker presiding for the purpose of the election.

In future, therefore, the procedure as set out on pages 41 and 42 of Vol. XXIV of THE TABLE will be slightly changed.

Deputy Chairman of Committees

S.O. 19 has been amended to provide for the appointment of a Deputy Chairman of Committees, who will have all the powers of the Chairman, except his powers as Deputy Speaker.

Adjournment of the House

The Standing Orders governing the daily and urgency adjournments have now been separated. In regard to the former there is no change, but in regard to the urgency adjournment motion the earlier practice of entering upon the debate before public business starts has been changed. In future, though leave must be claimed before public business commences, if leave is granted the motion is postponed until 4.15 p.m., to enable Ministers to brief themselves on the subject to be raised and also to enable the House to commence the business on the order paper which Members are expecting. The urgency debate lapses at 5.55 p.m. if not concluded earlier.

Government Precedence

S.O. 42 provides that Government business has precedence on Mondays, Thursdays and Fridays. In recent years a sessional order has been adopted to sit on only four days a week. An amendment to this Standing Order gives the Prime Minister the right, when such a sessional order is adopted, to arrange the order paper on Tuesdays to compensate for the right lost on Monday, which has so far been the day chosen as the non-sitting day, though this could be Friday.

Withdrawal of Motions or Amendments

An addition to S.O. 56 makes it clear that a motion or amendment to which an amendment has been moved may not be withdrawn until the amendment has been disposed of. This has been our practice for many years.

Censuring of Members

The House has not exercised the power of censure given it in S.O. 92. Reference to this form of punishment has been removed from the Standing Order.

Words taken down.

The Standing Order concerning the right of a Member to move a motion that objectionable words be taken down has been repealed. It has not been used here.

Reading of Bills

Amendments have been made to S.O. Nos. 136, 139 and 157 to provide that a bill is read by reading the short title only. S.O. 136 provided that, on motion made, and put, the House could direct the Clerk to read the Bill at length, and S.O. 157 that the short title only was read for the third reading " unless the House shall otherwise direct ". In fact, the House has not ordered a Bill to be read at length or " otherwise directed ".

Amendment on second or third reading of bill

A new Standing Order has been adopted to expedite proceedings if an amendment to the motion for the second or third reading of a bill is defeated. Following the House of Commons practice (S.O. 33) if the word " now " is retained, Mr. Speaker will direct the Clerk to read the bill a second (or the third) time, thus avoiding a possible further division.

Ballot for Members of Select Committee

S.O. 199, providing for a ballot to decide the membership of a select committee, has been repealed. It has not been used here.

Sittings of Select Committees when House adjourned

To enable a select committee to sit when the House is adjourned, S.O. 212 required the consent of *all* members. An amendment now requires the consent of the majority.

Witness Expenses: Select Committees

The rates of expenses payable to witnesses appearing before select committees, fixed many years ago, were laid down in S.O. 219. By an amendment to this Standing Order, the rates may now be determined by Mr. Speaker.

Rules and practice of House of Commons

S.O. 255 laid down that in cases not provided for in the Standing Orders, resort should be had to the rules and practice of the House of Commons at Westminster; as set out in the 11th (1906) edition of May's *Parliamentary Practice*.

This Standing Order has been repealed and replaced by one which distinguishes between cases of doubt and cases not provided for, and which omits reference to the 11th edition of May, thus enabling presiding officers to refer to later editions of this valuable treatise. The Commons practice is to be followed in cases of doubt, but in cases not provided for, while the Commons practice must be followed, no restriction which the House of Commons has introduced by Standing

Order is deemed to extend to this House until this House has provided by Standing Order for such restriction.

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

Northern Rhodesia (Revision of Standing Rules and Orders).—A Select Committee which had been appointed on 13th June, 1955, "to review the Standing Rules and Orders and to make recommendations thereon and on any matters incidental thereto", reported to the Legislative Council on 21st March, 1956 (87 *Hans.*, cc. 552-68) and its report was adopted with amendments on 23rd March (*ibid.*, cc. 725-6). The Committee considered that the Council had reached a stage in its development when the existing rules and orders had become inadequate, and its report consisted of completely new Standing Orders covering both public and private business. They came into operation at the opening of the new session of the Council on 28th June, 1956. In general the orders are based upon the practice of the House of Commons, though necessarily with many adaptations to suit the very much smaller assembly.

(*Contributed by the Speaker of the Legislative Council.*)

Singapore (Replacement of Governor's Standing Orders).—On 29th June, 1955, the Legislative Assembly passed the following resolution:

That the Standing Orders Committee do consider and report on any amendments to the Standing Orders of the Legislative Assembly which the Committee may deem necessary. (L.A. *Hans.*, Vol. I, cc. 396-7.)

The Committee duly presented to the Assembly their first report (Sessional Paper No. L.A. 13 of 1955) on 29th September, 1955, recommending certain amendments to the Standing Orders governing Financial Procedure. The report of the Committee was adopted by a resolution of the Assembly on 10th February, 1956, and the amendments made to the Standing Orders. (*Ibid.*, cc. 1623-9.)

The Committee presented their Second and Final Report (Sessional Paper No. L.A. 5 of 1956) on 28th May, 1956. On 6th December, 1956, the Assembly passed the following resolution in respect of this report:

That the Second and Final Report of the Standing Orders Committee, as contained in Sessional Paper No. L.A. 5 of 1956, be adopted;

that pursuant to section 54 of the Singapore Colony Order in Council, 1955, the First Standing Orders of the Assembly made by the Governor on the 14th day of April, 1955, as amended by the Assembly on 10th February, 1956, be revoked with effect from 1st January, 1957;

that pursuant to section 54 of the Singapore Colony Order in Council, 1955, the Standing Orders as contained in Appendix II of the aforesaid Second and Final Report of the Standing Orders Committee be made as Standing Orders

of this Assembly with effect from 1st January, 1957. (L.A. *Hans.*, Vol. 2, cc. 1169-70.)

(*Contributed by Loke Weng Chee, Acting Clerk of the Legislative Assembly.*)

Trinidad and Tobago (Amendments to Standing Orders).—By s. 50(1) of the Trinidad and Tobago (Constitution) Order in Council, as amended by s. 41 of the 1956 Order in Council (see also p. 138) the Governor is empowered to make the first Standing Orders of the Legislative Council, which are then subject to revocation or amendment by the Council itself. This power was exercised by the Governor, in respect of the new Legislative Council, on 25th October, in an Order setting forth a schedule of amendments to the Standing Orders of the previously existing Legislative Council. The principal changes made are as follows (the numbers of Standing Orders quoted referring to the Standing Orders as renumbered under the Governor's Order):

Motion for the adjournment: Provision is made, should the business be concluded before 6 p.m. (the hour appointed for the termination of a sitting), for a debate on the adjournment on a subject initiated by a private Member after three days' notice to the Speaker (S.O. 5).

Quorum: The quorum is increased from nine to eleven excluding the Chair. The interval between the calling of a count and the count itself is reduced from fifteen to ten minutes (S.O. 10).

Election of Speaker and Chief Minister: Provision is made for the election of a Speaker (S.O. 12) and the election or removal of a Chief Minister (S.O. 14), by ballot if the motion is contested. These Officers were formerly not elective.

Questions: Twenty-one clear days' notice must be given of all questions, whether oral or written, unless the Speaker's leave is given on the ground of urgency (S.O. 25). Ministers are expressly exempted from answering questions if the publication of such answer would be contrary to the public interest; Members are limited to three oral questions each per day; and the time for questions each day is limited to half an hour (S.O. 27).

Private Members' Business: Private Members' business is given precedence on the fourth Friday of every month (S.O. 28).

Motions: A seconder is required for all motions except those moved as Government business or in committee (S.O. 35).

Anticipation: The rule of the House of Commons that the Chair shall have regard to the probability of a matter anticipated being brought before the Council within a reasonable time is applied by S.O. 38.

Amendments: By S.O. 39, the various forms of amendment are specified in detail: on an amendment to leave out words, the question is put in the form "that the words proposed to be left out be left

out of the question". Amendments are to be called in the order in which they relate to the text of the motion, and provision is made for "saving" of future amendments. No amendment can raise a question which, under the Standing Orders, may only be raised by a substantive motion after notice.

Closure: A motion for closure is not carried unless eleven or more Members have voted in support of it, and may only be accepted if the Speaker (or, in Committee, the Speaker or Deputy Speaker) is in the Chair (S.O. 40).

Debate: Reference to a matter *sub judice* is specifically forbidden, nor may a Member attempt to reconsider any question upon which the Council has already come to a decision, use Her Majesty's or the Governor's name to influence the Council, call the conduct of the Royal Family into question, or criticise the Governor except on a substantive motion (S.O. 43).

Time limit of Speeches: Apart from the movers of motions, Members are limited to 45 minutes in respect of any speech, except where extension is specifically granted by the Council (S.O. 47).

Voting: The Speaker, who formerly had no vote at all, now has a casting vote (S.O. 48).

Order: When a Member has been named, the responsibility of moving that he be suspended is laid specifically on the senior Member of the Executive Council present.

Finance and Estimates Committee: The quorum is increased from seven to nine (S.O.s 53 to 54).

Committee for special purposes: The quorum is increased from five to seven (S.O. 56).

Procedure in Committee: By an amendment to S.O. No. 62, no amendment may be made to an earlier part of a bill after a decision has been taken on a later part. Provision is also made for motions "that the Committee do not proceed further with" a bill.

Private Bills: The period within which a copy of a Private Bill must be lodged with the Clerk after leave to proceed has been given is reduced under S.O. 65 from six months to three.

Report of Debates: By a new S.O. 69, the official report of the Council's proceedings, which shall be as nearly as possible verbatim, is prepared under the supervision of the Clerk.

9. Financial Procedure

Bombay: Legislative Assembly (Composition of Financial Committees).—By a Bombay Legislative Department Notification (No. 7657), dated 19th November, the membership of both the Committee on Public Accounts and the Committee on Estimates was increased from 15 to 21 Members. Rules 134 and 137 of the Legislative Assembly were amended accordingly.

Mysore (Public Accounts Committee: Membership).—Two notifications amending the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly (No. 15898/L.A., dated 22nd December) and the Legislative Council (No. 2512/L.C. dated 22nd December) had as their salient feature the inclusion of 3 members of the Legislative Council also in the Public Accounts Committee of the Legislative Assembly, thus bringing the total membership of the Committee to twelve.

(*Contributed by the Secretary of the Legislature.*)

East Pakistan (Refusal by Mr. Speaker of permission to present Budget).—On 22nd May, before the Finance Minister, Mr. Abu Hossain Sarkar, rose to present the Budget for 1956-57, two members of the Assembly, Mr. Sheikh Mujibar Rahman and Mr. Mirza Gholam Hafez raised points of order to the effect (*a*) that under the Procedure Rules of the House, the Budget for a financial year must be presented in the preceding financial year, (*b*) that under the Constitution of the Islamic Republic of Pakistan which came into force with effect from the 23rd March, 1956, the procedure of the Assembly shall, until rules have been framed by the Assembly, be regulated by the rules in force immediately before the coming into force of the Constitution subject to such amendments as may be made therein by the Governor, and (*c*) that, since the Assembly had not framed any rule nor the Governor had made any amendment in this regard, the Budget could not be presented in the midst of the financial year 1956-57. They further pointed out that the number of days allotted for the general discussion and voting on demands for grants were much less than what is contemplated in the Rules of Procedure.

It was also said that the Rules of Procedure provided that voting on demand for grant should take place on such days *not exceeding* 15 *days as the Governor in consultation with the Speaker may allot for the purpose*, but that the days actually allotted were only 5 days, both for general discussion as well as for voting on demands for grants.

It was also pointed out that under the Rules of Procedure, after the presentation of the Budget, general discussions shall not, ordinarily, begin within 3 days.

Mr. Speaker upheld the points of order and concluded by saying—

> The Rule says the Budget Calendar shall be settled in consultation with the Speaker. But it is my misfortune that I was not taken into confidence nor was I consulted. [Voices: "Shame, shame.] Therefore, in my opinion, whatever may be the position—whether a friend is killed or a foe is raised—that is not my concern, the programme is an infringement of the Rules and it constitutes a contempt of the House. Therefore, I refuse permission to the Finance Minister to present the Budget. [Great uproar in the House.]
>
> The House stands adjourned *sine die*.

(E.P. *Hans.*, 22nd May, 1956, Vol. XIII, p. 65.)
(*Contributed by the Secretary of the Assembly.*)

10. BILLS, PETITIONS, ETC.

House of Commons (Debate on clause whose principle has already been decided upon in debate on amendments).—Standing Order No. 45 reads as follows:

If, during the consideration of a Bill in a committee of the whole House, the chairman is of opinion that the principle of a clause and any matters arising thereon have been adequately discussed in the course of debate on the amendments proposed thereto, he may, after the last amendment selected has been disposed of, state that he is of this opinion and shall then forthwith put the question, " That the clause (or the clause as amended) stand part of the Bill ".

On 29th May, at the conclusion of the debate upon the last of a series of amendments which had been moved to Clause 1 of the Death Penalty (Abolition) Bill, the Chairman (Sir Charles Mac-Andrew) announced his intention of putting forthwith the question that the clause stand part of the bill.

Mr. J. E. S. Simon (Middlesbrough, W.), observing that the main principle of the Clause had been discussed on the Second Reading of the bill, went on to say that:

During the course of the Committee stage an amendment has been moved and accepted which excepts from the clause a certain class of murder, namely, murder committed while a sentence of life imprisonment is already being served. That is a most important exception. In my respectful submission, it strikes at the very principle and basis of this clause. It is an exception to the principles of the clause itself and strikes at the very root of most of the arguments, which were arguments relating to deterrence, urged in support of the Bill and the clause on Second Reading.

As I understood them, the arguments were that capital punishment can never be a deterrent, and it was on that basis, as I understood, that the House passed the Second Reading of the Bill. The Committee having now made an exception of this sort to the clause, it is quite apparent that the Committee came to the conclusion that at any rate in one type of murder, capital punishment was a deterrent.

In those circumstances I suggest, with very great respect, Sir Charles, that the principle of the clause as amended, and particularly matters arising thereon, has not been sufficiently discussed. With very great respect, I ask you to reconsider your ruling, and to rule that the clause should be debated on the question, " That the clause, as amended, stand part of the Bill ".

The Chairman said:

I have listened very carefully to what the hon. and learned Gentleman has said. Really, what the hon. and learned Member would like is for Standing Order No. 45 to be altered, and that if a clause has been amended it should not apply. Is not that the point?

Mr. Simon replied:

I rely on the terms of the Standing Order itself,

" . . . that the principle of a clause and any matters arising thereon . . ."

The principle of the clause unamended was discussed, but an utterly new principle arose in view of the amendment, and it is because of that that I ask you, Sir Charles, to say that the matter should be debated.

The Chairman said:

> If the hon. and learned Gentleman had read on a little further he would have seen that it is a matter of opinion. The words are, "he is of this opinion" . . . when I am wrong I am always willing to reverse my decision, but I have no intention of doing so this time. (553 *Hans.*, cc. 165-7.)

II. ELECTORAL

Ceylon (Electoral Provisions).—The Parliamentary Elections (Amendment) Act, 1956 (No. 16 of 1956), gives effect to some of the recommendations of the Select Committee appointed by the House of Representatives to report on Amendments that are considered necessary to the Ceylon (Parliamentary Elections) Order in Council, 1946.

The more important sections of this Act are sections 2, 8, 14, 15, 16 and 19. The remaining sections deal chiefly with administrative matters connected with elections.

Section 2 provides for an electoral district to be so divided into polling districts that each polling district should not ordinarily contain more than 1,500 voters.

Section 8. Two new sections 22A and 22B are added to the Order in Council by this section. The new section 22A provides that the register of electors for each electoral district and the lists prepared for the purpose of revising these registers, which up to now were in English, shall be in the language of the majority of the people of that district and in the English language, and that where there is a linguistic minority exceeding 20 per cent. in any electoral district, in the language of that minority as well. The substance of the new new section 22B is treated below.

Sections 15, 16, 19 *of the Act, and New Section* 22B *of the Order in Council.* Under the provisions of the Order in Council, a person who prints, publishes or otherwise distributes any handbill, advertisement placard or poster which refers to an election and does not bear upon its face the names and addresses of its printer and publisher, or being a candidate or election agent knowingly makes the declaration as to election expenses falsely, is guilty of a corrupt practice and on conviction becomes incapable for a period of seven years of being registered as an elector or of voting at an election or of being elected or appointed as a Senator or Member of Parliament, and if he has been elected or appointed as a Senator or Member of Parliament, his election or appointment shall be vacated.

The Amending Act by these sections has made these offences illegal practices and removed the incapacity to which a person convicted of such offences would have been subject. The new Section 22B of the Order in Council enables such a person to make an application to the registering officer of an electoral district to have his name entered in the register of electors.

Section 14. This gives effect to the recommendation of the Select Committee that in order to prevent unruly conduct near polling stations, canvassing for votes, soliciting votes, etc., distribution or exhibition of notices or signs relating to the election and the use of sound amplifying instruments in the neighbourhood of a polling station should be prohibited and the police empowered to take such steps as may be necessary for their prevention.

(*Contributed by B. Coswatte, Clerk-Assistant of the House of Representatives.*)

India (Electoral Rolls and registration).—Under the Representation of the People Act, 1950, as originally enacted, provision had been made for the preparation of separate electoral rolls for Parliamentary constituencies and for Assembly constituencies in every State, despite the fact that each Parliamentary constituency consisted of an integral number of Assembly constituencies. By the terms of the Representation of the People (Amendment) Act, 1956 (No. 2 of 1956), a new section 13D (reproduced below) has now been inserted in the 1950 Act, making the electoral roll for an Assembly constituency the unit and providing that the electoral roll for a Parliamentary constituency shall consist of the appropriate number of component units merely put together:

Section 13D. The electoral roll for every Parliamentary constituency shall consist of the electoral rolls of so much of the Assembly constituencies or, as the case may be, electoral college constituencies as are comprised within that Parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any Parliamentary constituency.

Section 19 of the Representation of the People Act, 1950, as originally enacted, laid down two conditions for registration in any constituency, namely, (*a*) the person should have been ordinarily resident in the constituency for not less than 180 days during the preceding calendar year, and (*b*) he should not have been less than 21 years of age on 1st March of the year in which the roll was prepared or revised. By the same amending Act, section 19 has now been amended by omitting the reference to the qualifying period of 180 days and by relating "ordinary residence" to the "qualifying date" instead of to any "qualifying period".

Other changes made by the amending Act relate, among other things, to (i) the provisions regarding the administrative machinery for the preparation and revision of the electoral rolls, (ii) the preparation and revision of electoral rolls, (iii) the inclusion of names in electoral rolls, etc.

Special provision was also made by the Representation of the People (Third Amendment) Act, 1956 (No. 60 of 1956) and the Representation of the People (Fourth Amendment) Act, 1956 (No. 72 of 1956) for inclusion of displaced persons who had been newly

registered as citizens of India in the electoral rolls before the last General Elections.

(*Contributed by the Secretary of the Rajya Sabha.*)

India (Conduct of Elections).—The Representation of the People (Second Amendment) Act, 1956 (No. 27 of 1956), introduced a number of changes in the Representation of the People Act, 1951 (No. 43 of 1951). The more important of those changes are detailed below.

Section 30 of the principal Act empowered the Central Government to fix the various dates for the general elections. This section has been amended in order to vest the said power in the Election Commission, as under the Constitution the superintendence, direction and control of elections are vested in the Commission.

The requirement as to deposit by a candidate in the case of an election to the Council of States or in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State has been done away with.

Section 36 of the principal Act has been amended so as to make the scrutiny of nominations by the Returning Officer simpler and less technical.

The provisions relating to election expense as contained in sections 76, 77 and 78 of the principal Act were found in actual practice to be unnecessarily complicated. These provisions have accordingly been simplified by revising these sections. The operation of these provisions has been limited to the elections to the House of the People and the State Legislative Assemblies. The duty of maintaining regular and separate accounts of all election expenses at these elections has been thrown primarily on the candidate himself. Only the contesting candidates will be required to lodge an account of the expenses.

Section 86 of the principal Act, which provided for three-member election tribunals, has been amended so as to provide for single-member tribunals. Provision has also been made for appeal against the decision of a tribunal to the High Court of the State in which the tribunal is situated (new section 116A).

Sections 123, 124 and 125 relating to corrupt practices and electoral offences have been extensively amended. Illegal practices have been completely done away with and the classification of corrupt practices into major and minor corrupt practices has also been abolished. Under the amended provisions there is only one class of corrupt practices now. (See section 123.)

Opportunity has also been taken to make a number of other amendments in the electoral law with a view to simplifying the election procedure in the light of the experienced gained during the first General Elections.

(*Contributed by the Secretary of the Rajya Sabha.*)

Federation of Rhodesia and Nyasaland (Electoral Law).—Pending the enactment of a Federal franchise law, elections for the Federal Assembly held in Southern Rhodesia and Northern Rhodesia are governed by the electoral law in force in those Territories as at the date of the coming into force of the Constitution, subject to such modifications as may be introduced by the Governor-General (Constitution, Art. 11).

The Territorial laws contained certain provisions, the effect of which was to permit the removal of the names of persons from the voters' roll after a certain period of absence from the electoral district concerned. The Federal Electoral Laws Amendment Act, 1955 (Act No. 19) provided that the absence of a person from an electoral district in those Territories would not disqualify him from having his name retained on the roll in certain circumstances.

The Act was due to expire on 31st December, 1956, and the Federal Electoral Laws Amendment (Extension) Act, 1956 (Act No. 13) extended the duration of the 1955 Act to 31st December, 1957.

(*Contributed by the Clerk of the Federal Assembly.*)

Northern Rhodesia (Electoral Qualifications).—Sections 10 and 11 of the Legislative Council Ordinance (Cap. 2) lay down the residential and means qualifications for registration as a voter. Section 10(3) provides that a voter is not entitled to have his name retained on the register of voters in an electoral area if for a continuous period of twelve months he has ceased to reside "in that electoral area". Section 16 lays down that a candidate for election to the Legislative Council shall be qualified for registration as a voter, and section 19A stipulates that the seat of a Member shall become vacant if he ceases to be qualified for election as a Member.

With the coming of federation these provisions led to difficulties. A Minister in the Federal Government needed to live in Salisbury (Southern Rhodesia). He might therefore lose the residential qualification for the constituency he represented or indeed for any constituency in Northern Rhodesia; and since he might no longer have any source of income within the Territory he might lose the means qualification. An elected Member becoming a portfolio holder in the Northern Rhodesia Government would not be handicapped to the same extent by having to live at the capital, Lusaka, but would not be able to vote in his own constituency.

The Legislative Council (Amendment) Ordinance (No. 10 of 1956) rectified these anomalies for Federal Ministers and Northern Rhodesia portfolio holders and at the same time provided that (i) the seat of a Member of the Legislative Council should not become vacant if he became disqualified for registration as a voter or otherwise ceased to be qualified for election as a Member by reason only of

absence from his electoral area by a change of residence within the Federation, and (ii) that the period of absence of one year should be extended to two years for any voter who during his period of absence from his electoral area had resided continuously in Southern Rhodesia or Nyasaland and who made application to the appropriate registering officer.

(*Contributed by the Speaker of the Legislative Council.*)

Nigeria: Northern Region (Electoral).—The Northern House of Assembly (Elected Members) Electoral Regulations, 1956 (N.R.L.N. 249 of 1956), which introduced direct elections, in urban areas only, for the first time, were brought into effect with single-member constituencies. The size of the House of Assembly was increased from 90 to 131 Elected Members. The number of Nominated Members was reduced from 10 to 5, though the number of Official Members remained the same as before.

The elections which took place in October and November were peaceful and orderly, particularly in the urban areas where it was thought that, due to the concentration of more politically-minded communities, there would be some difficulty. The new experiment was carried out successfully and direct elections have now become a reality.

(*Contributed by the Clerk to the Northern Regional Legislature of Nigeria.*)

12. Emoluments and Amenities

New South Wales (Members' Salaries and Allowances).—On 3rd July the Premier of New South Wales (the Honourable J. J. Cahill) informed the Legislative Assembly that, following upon representations by the all-parties Amenities Committee for an increase in the remuneration of Members, the Government had decided to appoint Mr. E. S. Wolfenden, Consulting Actuary, as Arbitrator to undertake an inquiry and report on the appropriate rates for Members of Parliament, Ministers of the Crown, and holders of Parliamentary Offices.

Mr. Wolfenden's report was duly tabled on 30th August, as the result of which the Parliamentary Allowances and Salaries Bill was introduced in the Legislative Assembly (1956 *Hans.*, cc. 2629-36). This Bill, in addition to increasing the remuneration of Members, introduced two radical provisions, as far as this State is concerned, *viz.*, a living-away from home allowance for Members of the Legislative Council, and an electoral allowance for Members of the Legislative Assembly. Royal Assent was given to the bill on 12th October (Act No. 22, 1956).

(*Contributed by the Clerk of the Parliaments.*)

Union of South Africa (Subsistence and Travelling Allowance for Members).—On the recommendation of the Committee on Standing Rules and Orders of the House of Assembly, and in the case of the Senate, the Sessional Committee on Internal Arrangements, a travelling and subsistence allowance, payable for the duration of a session, was granted to all members of Parliament (excluding Ministers of the Crown and the Speaker) with effect from the 1956 session and on the following basis, *viz.*:

(*a*) members who reside at their places of permanent residence whilst attending a session of Parliament, £1 10s. per day; and

(*b*) other members, £3 per day.

The allowance was first paid to members on 6th July, 1956, the funds being obtained by means of Governor-General's Special Warrants and subsequently included in the Estimates of Additional Expenditure for 1956-57.

During 1957, provision was made by the South Africa Act Amendment Act, 1957 (No. 2, 1957) for the payment of this allowance to members, but it is interesting to note that it has to be specially voted each year in the Estimates of Expenditure, whereas the ordinary Parliamentary allowance payable to members forms a direct charge on the Consolidated Revenue Fund and consequently cannot be discussed in Committee of Supply.

The following is an extract from the booklet entitled "Members' Allowances and General Facilities" of the House of Assembly, governing the payment of this allowance:

(1) *Rates of Allowance.*—Under section 56 of the South Africa Act, 1909, as amended, a travelling and subsistence allowance is payable monthly to every Member of Parliament (excluding Ministers and the Speaker) for the period from the *first day* up to and including the *last day* on which a Member actually attends a session and, in terms of a determination by Mr. Speaker, is at the following rates, viz.:

(*a*) Members who reside at their places of permanent residence whilst attending a session of Parliament, £1 10s. per day; and

(*b*) other Members, £3 per day.

In the case of a Member not residing at his place of permanent residence and who is absent owing to illness at the commencement or towards the end of a session, the allowance shall, after receipt by the Clerk of the House of a medical certificate and notification in writing of the day of arrival at or departure from Cape Town, as the case may be, be payable from the date of that Member's arrival or from the first day of a session, whichever is the later day, up to and including the date of his departure or the last day of the session, whichever is the earlier day.

For income tax purposes the full amount of the travelling and subsistence allowance is deemed to represent payments made to meet expenditure incurred by Members in connection with their official duties.

(2) *Deductions.*—For any period of absence for which the statutory deduction of £6 per day is made from the Parliamentary allowance of a Member, the amount of £1 10s. or £3 per day, as the case may be, is also deducted from the travelling and subsistence allowance of the Member.

(*Contributed by the Clerk of the House of Assembly.*)

Andhra Pradesh (Deputy Speaker's Salary and Allowance).— Under s. 5 of the Andhra Payment of Salaries and Removal of Disqualifications (Second Amendment) Act, 1955 (Andhra Act XX of 1955), a provision was made to pay a salary of Rs. 500 per mensem and a consolidated house-rent allowance of Rs. 250 per mensem to the Deputy Speaker, and the said Act came into force from 1st January, 1956.

(*Contributed by the Secretary to the Legislature.*)

Federation of Rhodesia and Nyasaland (Ministers' Salaries).— The Ministers' Salaries and Allowances Act, 1957 (No. 4, 1957) made certain changes in the remuneration and allowances of Ministers, the effect of which is summarised below:

(*a*) *Remuneration*

Prime Minister: Taxable Salary of £4,000 p.a. (formerly £3,250 p.a.), with tax free allowance of £1,000 p.a. (unchanged).

Cabinet Ministers: Taxable salary of £3,250 p.a. (formerly £2,750 p.a.) with tax free allowance of £500 p.a. (unchanged).

(*b*) *Other allowances*

Prime Minister: (i) Fully furnished house, equipped and staffed, rent free and tax free (formerly, this house was not tax free, *i.e.*, its value as quarters was assessable for taxation).

(ii) Free upkeep and running of official car (unchanged).

(iii) Travelling and subsistence at rates applicable to Ministers while travelling on official duty (unchanged).

Cabinet Ministers: (i) Furnished accommodation provided for those who require it at £17 10s. per month, plus rent for furniture (unchanged).

(ii) As for Prime Minister.

(iii) As for Prime Minister.

These changes were founded on the recommendations of a Report of the Select Committee on the Remuneration and Allowances of Ministers of the Crown, which was presented to the House on 29th November, 1956 (Fed. A 11). The Committee's recommendations were not carried out in two particulars:

(*a*) *Accommodation of Cabinet Ministers:* Paragraph 4(ii)(*d*) of the Report recommended:

That he should be provided with furnished accommodation for which he should pay rent on the same terms as senior Civil Servants for comparable Government accommodation in Salisbury.

This recommendation had been made as a result of information being given to the Committee which led them to believe that the top rent paid by Civil Servants for Government accommodation was £17 10s. a month, when in fact considerably more was paid. The rent paid by Ministers is, therefore, "subsidised", which is in accordance with the desires of the Committee, who did not wish to raise rents paid by Ministers.

(*b*) *Date of Increment:* Paragraph 6 of the Report recommended that any increases should be back dated to 1st July, 1956. This was not adopted, and the Act came into operation on 1st January, 1957.

(*Contributed by the Clerk-Assistant of the Federal Assembly.*)

Southern Rhodesia (Members' Allowances).—By the Ministers, Speakers and Members of Parliament (Salaries and Allowances) Amendment Act, 1956 (c. 23 of 1956), the subsistence allowance paid to Members was increased from £2 2s. to £3 3s. a day.

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

Nyasaland (Members' Salaries and Allowances).—Up till 1955, Members of Legislative Council received the following salaries and allowances:

(*a*) A salary of £150 p.a.;
(*b*) A duty allowance of £10 per month;
(*c*) An allowance of £2 for each night necessarily spent away from home in attending Council or any Committee of Council (including time necessarily spent travelling to and from meetings);
(*d*) An allowance of £3 for each day or part of a day spent in attending any meeting of Council or any Committee of Council;
(*e*) An allowance of 6s. per night for each night necessarily spent away from home when travelling for the purpose of meeting constituents;
(*f*) An allowance of 1s. a mile when travelling to and from any meeting of Council or any Committee of Council.

An increase was found to be necessary in view of the fact that Members of Legislative Council were spending more and more of their time on Council business; enabling legislation was accordingly introduced in 1955, which received Assent as an Ordinance (No. 18 of 1955) on 14th July. The actual rates now in force were laid down by the Governor in Council on 9th May, 1956 (Government Notice No. 89 of 1956), and are as follows:

(*a*) A salary of £600 a year;
(*b*) An allowance of £2 for each night necessarily spent away from home in attending Council or in necessary travelling to and

from any meeting of the Council or to any Committee of the Council;

(*c*) An allowance of £3 for each day or part of a day spent in attending any meeting of the Council or of any Committee of the Council;

(*d*) A duty allowance at the rate of £20 a month;

(*e*) An allowance of 1s. a mile in respect of the use of a Member's own car when travelling by the shortest route to and from any meeting of Council or any Committee of Council.

(*Contributed by the Clerk to the Legislative Council.*)

XXIV. SOME RULINGS BY THE CHAIR IN THE HOUSE OF COMMONS, 1955-56

The following index to some points of Parliamentary Procedure, as well as Rulings by the Chair, given in the House of Commons during the First Session of the Forty-first Parliament of the United Kingdom of Great Britain and Northern Ireland (4 and 5 Eliz. II) is taken from Volumes 542 to 558 of the Commons *Hansard*, 5th Series, covering the period from 7th June, 1955, to 5th November, 1956.

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 Members should address the Chair), are not included, nor are isolated remarks by the Chair or rulings having reference solely to the text of individual Bills. It must be remembered that this is an index, and that full reference to the text of *Hansard* itself is generally advisable if the ruling is to be quoted as an authority.

XXV. EXPRESSIONS IN PARLIAMENT, 1956

The following is a list of examples occurring in 1956 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, *e.g.*, where an inference of dishonesty is made against members without the actual use of any such word as "dishonesty", "lie", or "untruth". Unless any other explanation is offered, the expressions used normally refer to Members or Members' speeches.

Allowed

"Adventurers". (13 *Madras L.C. Deb.*, 2nd March.)
"blindly and stupidly said". (98 *Can. Com. Hans.*, 1268.)
"childish". *India L.S. Deb.*, 28th July.)
"end your careers as rapists and get back to a position of respect for the customs and usages of Parliament" (addressed to Chairman of Committee and government). (98 *Can. Com. Hans.*, 4300.)
"flattery". (168 *U.P.L.A. Proc.*, 136.)
"gang". (1 *Singapore Hans.*, No. 25, c. 1514.)
"hardened criminals". (1956 *Nigerian H.R. Hans.*, 869.)
"ignorant". (1956 *Nigerian H.R. Hans.*, 2607.)
"irresponsible". (37 *U.P.L.A. Deb.*, No. 8, 26th December.)

"nonsense". (*W. Bengal L.A. Proc.*, 31st July.)
"riding roughshod over the House". (98 *Can. Com. Hans.*, 1624.)
"scandal". (13 *Madras L.C. Deb.*, 24th March.)
"shadow" (referring to government party). (14 *W. Bengal L.A. Deb.*, 450.)
"stupid". (*India L.S. Deb.*, 14th May.)
"trained seals" (referring to government supporters generally). (98 *Can. Com. Hans.*, 3895-7.)
"trick". (14 *W. Bengal L.A. Deb.*, 544.)

Disallowed

"Assembly has degraded . . . to a classroom, and the schoolboys playing cheap politics". (2 *Singapore Hans.*, No. 11, c. 806.)
"Aurat Hakim Ghazab Khuda" ("A woman administrator is a curse of God"). (*India L.S. Deb.*, 24th August.)
"back-door law". (181 *U.P.L.A. Proc.*)
"bad manners". (167 *U.P.L.A. Proc.*, p. 318.)
"Barbarous". (*Indian L.S. Deb.*, 22nd December.)
"bought by Liberal money". (98 *Can. Com.*, 4217.)
"bleating". (1956 *Trinidad Hans.*, 1202.)
"'bludging' on operators of . . . bus services". (1956 *N.S.W., L.A. Hans.*, 2158.)
"cast pearls before the hen". (*India L.S. Deb.*, 2nd May.)
"clever distortion of facts". (2 *Singapore Hans.*, 570.)
"clown". (1 *Pak. N.A. Deb.*, No. 9, p. 649.)
"cowardly". (69 *Kenya Hans.*, 1326.)
"crocodile tears". (1956 *Trinidad Hans.*, 955.)
"daketi karnewale ya chilam bharnewale" ("dacoits or hookah-fillers"). (164 *U.P.L.A. Proc.*, 554.)
"damn". (2 *Pak. N.A. Deb.*, No. 5, p. 406; 1956 *Trinidad Hans.*, c. 1051.)
"damn fools". (*Jamaica H.R. Hans.*, 30th November.)
"damned thief". (*Jamaica H.R. Hans.*, 28th November.)
"deceit". (560 *Com. Hans.*, 1377.)
"deliberately deceived". (98 *Can. Com. Hans.*, 4462.)
"deliberately distorted the facts". (98 *Can. Com. Hans.*, 5382.)
"deliberately false". (*India L.S. Deb.*, 7th March.)
"deliberately misleading". (309 *N.Z Hans.*, 993-1111; 1956 *Trinidad Hans.*, 972.)
"deliberately misrepresented". (98 *Can. Com. Hans.*, 4149.)
"deliberately trying to deceive the Chair". (310 *N.Z. Hans.*, 2283.)
"devoid of brain". (XI/56 *Bihar L.A. Deb.*, No. 15.)
"disgraceful". (1 *Pak. N.A. Deb.*, No. 6, p. 344; *ibid.*, No. 7, p. 412; 1956 *Trinidad Hans.*, 911.)

"dishonest" (with reference to provisions of a bill). (*India L.S. Deb.*, 25th August.)
"dishonesty", "rank dishonesty" (of a party). (91 *S.A. Assem.*, 3507, 3514-5.)
"doubted whether the hon. Member could write at all, but that if his expression took literary form it would probably be writing epithets on lavatory walls". (560 *Com. Hans.*, 1081.)
"failed to discharge their duties in a *bona fide* manner". (XI/56 *Bihar L.A. Deb.*, No. 21.)
"false" (1 *Pak. C.A. Deb.*, No. 2, p. 41; 1956 *Bombay Deb.*, 31, p. 856.)
"fraud and robbery". (1 *Pak. N.A. Deb.*, No. 10, pp. 734-5.)
"giggle and laugh". (1956 *N.S.W., L.A. Hans.*, 2506.)
"grossly ignorant". (308 *N.Z. Hans.*, 186.)
"half truths". (309 *N.Z. Hans.*, 1113.)
"hammer the Treasury Benches". (*India L.S. Deb.*, 25th April.)
"hypocrite", "hypocrisy". (1956 *N.S.W., L.A. Hans.*, 2333; 2 *Singapore Hans.*, No. 8, c. 501; 1956 *Trinidad Hans.*, 477.)
"idling away". (179 *U.P.L.A. Proc.*, 397.)
"if you are awake". (308 *N.Z. Hans.*, 196.)
"impudence". (X/56 *Bihar L.A. Deb.*, No. 3.)
"indulges in favouritism" (of Deputy Speaker). (XI/56 *Bihar L.A. Deb.*, 13th September.)
"Kabul men sabhi ghore hi ghore hon aisi bat nahin hai, vahan gadhe bhi vai" ("It is not true that everyone in Kabul is a horse; there are donkeys also"). (177 *U.P.L.A. Proc.*, 32.)
"King of Goondas". (*India L.S. Deb.*, 24th April.)
"licks his shoes". (309 *N.Z Hans.*, 1170.)
"lie", "liar", "lying" (with or without intensifying adverbs). (558 *Com. Hans.*, 1421; 562 *ibid.*, 1500; 40 *N.I. Com. Hans.*, 2322; 98 *Can. Com. Hans.*, 1485; 5392-3, 7572; 308 *N.Z. Hans.*, 254; *India L.S. Deb.*, 21st November and 22nd December; 30 *Madras L.A. Deb.*, No. 5; 37 *ibid.*, No. 9; 6 *Rhod. and Nyas. Hans.*, 1462; 1 *Singapore Hans.*, 1523-4; 2 *ibid.*, 169.)
"light-hearted levity". (*India L.S. Deb.*, 24th April.)
"loot". (*India L.S. Deb.*, 25th April.)
"mad". (X/56 *Bihar L.A. Deb.*, No. 3.)
"making a bawdy-house of this place". (98 *Can. Com. Hans.*, 5861.)
"meanest and most despicable travesty of debate". (1956-57 *S. Aust. Assem. Hans.*, 1209.)
"Member for Tanglin Club". (1 *Singapore Hans.*, No. 25, c. 1515.)
"mentally insolvent". (170 *U.P.L.A. Proc.*, 222.)
"mischief". (1956 *Bombay Deb.*, 31, p. 1956.)
"misleading". (1956 *Trinidad Hans.*, 477.)

"misled the House and gave the House false information". (92 *S.A. Assem. Hans.*, 7677.)
"mouse". (1 *Singapore Hans.*, No. 29, c. 1861.)
"murderer". (558 *Com. Hans.*, 1746.)
"no moral courage". (173 *U.P.L.A. Proc.*, 347.)
"no more regard for truth than a tomcat has for a marriage licence". (98 *Can. Com. Hans.*, 5383-4.)
"plot to discredit the government". (XI/56 *Bihar L.A. Proc.*, No. 11.)
"posh". (6 *Rhod. and Nyas. Hans.*, 345.)
"prevarication" (with reference to statesmen of a Commonwealth country). (560 *Com. Hans.*, 1505.)
"rat". (98 *Can. Com.*, 1510, 1514-15.)
"robbing the State railways". (1956-57 *S. Aust. Assem. Hans.*, 461.)
"rogues and vagabonds". (1956 *Nigeria H.R. Hans.*, 2514.)
"rubbish". (308 *N.Z. Hans.*, 372.)
"running dogs". (2 *Singapore Hans.*, No. 6, c. 318.)
"sabotage efforts". (98 *Can. Com. Hans.*, 3442.)
"sanctimoniously hypocritical". (548 *Com. Hans.*, 2387.)
"scandalous remarks". (91 *S.A. Assem. Hans.*, 3905.)
"scoundrels". (*India L.S. Deb.*, 22nd February.)
"selfishness". (178 *U.P.L.A. Proc.*, 308-9.)
"shamefacedness". (174 *U.P.L.A. Proc.*, 58.)
"shamelessness". (164 *U.P.L.A. Proc.*, 553.)
"Shut up!" (557 *Com. Hans.*, 1663-4.)
"stooges". (1 *Singapore Hans.*, No. 32, c. 2038; 2 *ibid.*, No. 6, c. 318; 1956 *Trinidad Hans.*, 923, 1084.)
"stooping to pretty low motives". (98 *Can. Com. Hans.*, 820.)
"Tell the truth!" (308 *N.Z Hans.*, 1552.)
"theft, robbery or dacoity". (*India L.S. Deb.*, 2nd May.)
"traitorous defeatist". (558 *Com. Hans.*, 1905.)
"trash". (164 *U.P.L.A. Proc.*, p. 22.)
"two-faced politician". (1956 *Nigeria H.R. Hans.*, 2599.)
"tyrannical laws". (92 *S.A. Assem. Hans.*, 5984.)
"ungentlemanly". (*India R.S. Deb.*, 20th December.)
"untrue", "not true", "not a vestige of truth". (308 *N.Z. Hans.*, 363, 744; 309 *ibid.*, 2646; 310 *ibid.*, 1900; 87 *N. Rhod. Hans.*, 449.)
"utter audacity or foolhardiness". (X/57 *Bihar L.A. Deb.*, No. 3.)
"volley-ball" (with reference to a question). (*India L.S. Deb.*, 11th September.)
"warped". (2 *Singapore Hans.*, No. 16, c. 1150.)
"went broke". (5 *Rhod. and Nyas. Hans.*, 2729.)
"wilful perversion of facts". (2 *Singapore Hans.*, No. 8, c. 570.)

"worthless". (XI/56 *Bihar L.A. Deb.*, No. 15.)
"wretch". (*Jamaica H.R. Hans.*, 30th November.)
"wretched" (referring to an Act). (30 *S. Rhod. Hans.*, 945.)

Borderline

"shut up" (not unparliamentary, but use of the phrase deprecated). (*India L.S. Deb.*, 25th April and 18th July.)

XXVI. REVIEW

Responsible Government in South Australia, by Gordon D. Combe, M.C., *Clerk of the House of Assembly of South Australia*

This sumptuous volume has been officially produced by the Government of South Australia to commemorate a hundred years of Responsible Government in the State of South Australia. It contains a comprehensive historical review both of the period, from 1836 to 1857, leading up to the attainment of Responsible Government, and also of the development of Responsible Government during the hundred years after 1857. There are also, in Part III, short biographies of the Premiers of South Australia and the Presiding Officers of the two Houses; a brief history (in Part IV) of the Parliament Buildings; and in Part V complete lists of the Ministers and the Members and Officers of the two Houses. It will be seen, therefore, that the book will be for many years to come a definitive work of reference for parliamentary studies in South Australia.

The historical sections of the book contain, as one would expect from the pen of any Member of the Society, a comprehensive and balanced account of the development of democratic government in South Australia. More, they also contain a wealth of illuminating and entertaining anecdotes. Turning over these pages, one cannot escape the feeling that the pioneers of parliamentary government behaved in a manner more exuberant and more richly human than somehow seems permissible to their staider successors. We learn, for example, from Mr. Combe that the Act of the Imperial Parliament which enabled the democratic constitution to be set up in South Australia could not be found when the ship arrived after its long voyage from London. After a search, it was discovered that someone had put this important constitutional statute in the ship's dirty linen bag for safety and had subsequently forgotten its whereabouts.

Again, an unsuccessful candidate in the first general election in the State issued, after the election, the following remarkable address to the "liberal independent electors" who had rejected him:

"Fellow colonists—I thank you for the very hearty support you rendered me in the late contest, and though your efforts were not crowned with success, the defeat was, under the circumstances, rather a credit than a disgrace. I did wish to have been returned 'on the shoulders of the working men' exercising the franchise soberly and discreetly, but I had no ambition to owe my election to the worthless votes of a drunken mob. [The successful candidate] calls his return the triumph of 'principle over prejudice'. I call it the triumph of beer over brains."

It is interesting to the reviewer at Westminster to note that the crisis in relations between the Lords and Commons which produced the Parliament Act of 1911 had an almost exact and simultaneous parallel in a crisis of relations between the two Houses of South Australia. The Labour Government, led by Mr. Verram, after its budget had been thrown out by the Legislative Council, twice introduced, in 1910 and 1911, the Council Veto Bill, which would have enabled bills passed by the House of Assembly, but rejected by the Legislative Council, to have received the Royal Assent as in London under the Parliament Act. When the Council Veto Bill had been defeated for the second time in the Legislative Council, Verram appealed to the Secretary of State in London asking for Imperial legislation to prevent the Legislative Council from thus thwarting the will of the House. The Government in London, however, in spite of having recently resorted almost to the ultimate resources of the British constitution to force the Parliament Bill through the Lords, refused to pass similar legislation for the benefit of the Government of South Australia. The Verram Government were therefore forced to hold a general election, at which they were resoundingly defeated.

For the general student of history, however, possibly the most interesting part of the book is that which describes the early difficulties of the Government of the original Province of South Australia between 1836 and 1857. The complaints of the colonies were strikingly similar to those of the American Colonists eighty years before; and so far as it is possible to judge from the details given, the main cause of these troubles was the inescapable difficulty of satisfactorily dividing responsibility between the central Government in London, and those who were responsible for carrying out its behests on the spot in Australia, six months and half the world away.

So far as certainty can be predicated of human institutions, it is certain that there will be, in years to come, many more centenaries of Responsible Government in various parts of the Commonwealth. In the completeness of its text, the quality of its writing and the high standard of its production, this volume could well serve as a model

for anyone who wishes to produce a commemorative book to mark the completion of a hundred years of democratic government in his country.

XXVII. 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:

The Colonial Office. By *Sir Charles Jeffries*, K.C.M.G., O.B.E. George Allen and Unwin, Ltd. 15s.

An Asian Prime Minister's Story. By *Sir John Kotelawala*. Harrap. 15s.

Questions in the House: The History of a Unique Institution. By *Patrick Howarth*. The Bodley Head. 18s.

Sir Robert Walpole: The Making of a Statesman. By *J. H. Plumb*. Cresset Press. 30s.

Modern Political Parties. By *Sigmund Neuman (Editor)*. University of Chicago. 56s. 6d.

How People Vote: A Study of Electoral Behaviour in Greenwich. By *M. Benney, A. P. Gray and R. H. Pear*. Routledge and Kegan Paul. 25s.

The Civil Service. Some Human Aspects. By *Frank Dunnill*. George Allen and Unwin. 18s.

Private Members' Bills in the British Parliament. By *P. A. Bromhead*. Routledge and Kegan Paul. 25s.

The Conservative Party of Canada, 1920-49. By *John R. Williams*. Cambridge University Press. 45s.

A Parliamentary Dictionary. By *L. A. Abraham and S. C. Hawtrey*. Butterworths. 21s.

Democracy in World Politics. By *Lester Pearson*. Oxford University Press. 15s.

The Approach to Self-Government. By *Sir Ivor Jennings*. Cambridge University Press. 16s.

Federation and Constitutional Change. By *William S. Livingstone*. Oxford University Press. 42s.

Law and Orders. By *Sir Carleton Kemp Allen*. Stevens and Sons. 42s.

Reports on the Indian General Elections, 1951-52. By *S. V. Kogekar and R. L. Park*. Popular Book Depot, Bombay.

Parliament in India. By *W. H. Morris-Jones*. Longmans. 35s.

Essays on the Constitution of Pakistan. By *K. J. Newman*. Pakistan Co-operative Book Society, Ltd., Dacca. Rs. 12.8.

The British Statute Book. By *Christopher Hughes*. Hutchinsons. 10s. 6d.

XXVIII. LIST OF MEMBERS

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XXIX. 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 individual records in subsequent issues of THE TABLE.

Chandra, Rup, B.Sc., LL.B., H.J.S.—Secretary of the Legislature, Uttar Pradesh; *b.* 1904; *ed.* Allahabad University and Agra College; practised Law from 1927 to 1932; joined the U.P. Judicial Service, and was confirmed in the Higher Judicial Service as District and Sessions Judge in 1956; Custodian Evacuee Properties U.P. 1950-57; appointed to present position in March, 1957.

Cumberbatch, H. O. St. C.—Clerk of the House of Assembly, Barbados, B.W.I.; *b.* 1922; *ed.* Harrison College and Codrington College, Barbados; *m.* 1949 (2 *s.*, 1 *d.*); solicitor, partner in law firm of Haynes and Griffith, 1950 to date; appointed to present position, 1955.

Laforest, G. E. L.—Clerk of the Legislative Council of Trinidad and Tobago; *b.* 10th November, 1909; joined the Civil Service of Trinidad and Tobago, 1929; *m.* 1940; appointed Assistant-Clerk, Legislative Council, 1951; appointed to present position, 1st January, 1957.

Mithal, Devaki Nandan, M.A., LL.B.—Secretary of the Legislative Assembly, Uttar Pradesh; *b.* 1913; *ed.* Meerut, Allahabad and Lucknow; joined the U.P. Legislative Assembly Secretariat in 1936; appointed to present position in 1956.

***Natarajan, C. D., M.A., B.L.**—Secretary to the Madras Legislative Council; *b.* 14th May, 1915; *ed.* Pachaiappa's College and Law College, Madras; Advocate, Madras High Court, 1940-46;

* Barrister-at-Law or Advocate.

joined the Madras Judicial Service as District Munsif, 23rd September, 1946; Presidency Magistrate, Madras, 1952-54; appointed as Under-Secretary, Law Department, Government of Madras, 12th November, 1954; appointed to present position, 31st December, 1955.

Rahman, Enayetur.—Secretary of the Bihar Legislative Assembly; *b.* December, 1912, at Motihari, District Champaran; graduate with Distinction; Gold Medallist in Law; held judicial service from 24th June, 1940, to 24th December, 1952, in the capacity of Munsif and Sub-Judge; Deputy Secretary, Legislative Assembly, Bihar, from 25th December, 1952, to 31st March, 1957; appointed to present position, 1st April, 1957.

Rahman, S. M.—Secretary of the East Pakistan Assembly; appointed to Bengal Civil Service (Judicial), 1942; Subordinate Judge, 1951; Assistant Session Judge, 1953; Private Secretary to the Chief Minister, East Pakistan, 1955; appointed to present position, 1956.

Singh, Raghunath, M.Sc., LL.B.—Deputy Secretary to the Madhya Pradesh Legislative Assembly; *b.* 27th November, 1906, at Sadhora; M.Sc., Allahabad; LL.B., Agra; joined Civil Service in Gwalior State in 1931, serving in various posts and finally as Secretary to the Gwalior State Legislative Assembly in 1948; Secretary to the Madhya Bharat Legislative Assembly, 1948-56; appointed to present position on merger of Madhya Bharat with Madhya Pradesh, November, 1956.

Williams, Thomas, O.B.E., E.D.—Speaker of the Legislative Council of Northern Rhodesia; *b.* 26th September, 1893; *ed.* Normanton Grammar School; Leeds University (B.A.); Witwatersrand (B. Com.); served in M.G.C., France, 1916-19 (Lieut.); S.A. Staff Corps, 1940-3 (Major); Principal, Teachers' Coll. and Hon. Professor of Education, Witwatersrand (1936-49); Chairman, Committee to investigate European Education, N.R., 1948; Director of European Education, N.R., 1950-5; Clerk of Legislative Council of Northern Rhodesia, 1955-6; appointed to present position, 14th November, 1956.

CONSOLIDATED INDEX TO VOLUMES I-XXV

NOTE.—*The detailed entries under the names of Countries relate only to such constitutional matters as cannot be readily indexed under Subject headings; cross-references to the latter are provided, but without details of sub-headings, volumes and page numbers. Where the cross-reference is to a general Article appearing under a Subject heading, it is followed by (Art.) or (Arts.), as the case may be.*

ABBREVIATIONS

(Art.) = Article in which information is collated relating to a number of countries.
(Com.) = House of Commons (U.K. if not otherwise specified).
C.W.H. = Committee of the whole House.
Ex.Co. = Executive Council.
Jt. = Joint.
Q. = Question(s).
R.A. = Royal Assent.
S/C = Select Committee.
S.O. = Standing Order.
1 R = First Reading. 2 R = Second Reading. 3 R = Third Reading.